

1. INTRODUCTION

1.1 Purpose and Structure of This Report

The purpose of this report is to highlight and analyse discrimination and inequality in Sudan and to recommend steps aimed at combating discrimination and promoting equality. The report explores long-recognised human rights problems, while also seeking to shed light upon less well-known patterns of discrimination in the country. The report brings together – for the first time – evidence of the lived experience of discrimination and inequalities of many different forms with an analysis of the laws, policies, practices and institutions established to address them.

The report comprises four parts. **Part 1** sets out its purpose and structure, and the conceptual framework which has guided the work and the research methodology. It also provides basic information about Sudan, its history and current political and economic situation.

Part 2 presents patterns of discrimination and inequality, beginning with those patterns where actual or perceived opposition to the current regime is a key factor in causing and perpetuating inequality: inequalities based on religion or belief, race and ethnicity and political opinion. This part then reviews the situation of women, who suffer discrimination both as a consequence of government policy, and the actions of private actors. It then turns to groups experiencing discrimination and inequality on the basis of their disability, sexual orientation and health status.

Part 3 begins by reviewing the main international legal obligations of Sudan in the field of equality and non-discrimination within the frameworks of the United Nations and the African Union human rights systems. It then discusses Sudanese national law related to equality and non-discrimination, starting with the Interim National Constitution before examining national legislation. Part 3 also reviews state policies relevant to equality. The potential for the realisation of the rights to equality and non-discrimination is illustrated through a review of judicial practice, and a review of the operation of government and independent bodies responsible for the implementation of human rights laws.

Part 4 contains the report's conclusions and recommendations, which are based on the analysis of patterns of inequality and discrimination examined in Part 2 and the assessment of Sudanese legislation and state policies in Part 3.

1.2 Conceptual Framework and Research Methodology

This report takes as its conceptual framework the unified human rights perspective on equality, which emphasises the integral role of equality in the enjoyment of all human rights, and seeks to overcome fragmentation in the field of equality law and policies. The unified human rights framework on equality is a holistic approach which recognises both the uniqueness of each different type of inequality and the overarching aspects of different inequalities. The unified framework brings together:

- a. types of inequalities based on different grounds, such as race, gender, religion, nationality, disability, sexual orientation and gender identity, among others;
- b. types of inequalities in different areas of civil, political, social, cultural and economic life, including employment, education, provision of goods and services, among others; and
- c. status inequalities and socio-economic inequalities.

The Unified Human Rights Framework on Equality

The unified human rights framework on equality is expressed in the Declaration of Principles on Equality, adopted in 2008, signed initially by 128 and subsequently by thousands of experts and activists on equality and human rights from all over the world. The principles formulated and agreed by the experts are based on concepts and jurisprudence developed in international, regional and national legal contexts.

Since its adoption, the Declaration has been used as the basis for those developing anti-discrimination legislation in a number of countries and has received increasing support at the international and regional levels. In 2008, the UN Committee on Economic, Social and Cultural Rights (CESCR) made use of a number of key concepts from the Declaration in its *General Comment 20: Non-discrimination in economic, social and cultural rights*. In 2011, the Parliamentary Assembly of the Council of Europe adopted a Recommendation call-

ing on the 47 Council of Europe member states to take the Declaration into account when developing equality law and policy.

Principle 1 of the Declaration defines the right to equality:

The right to equality is the right of all human beings to be equal in dignity, to be treated with respect and consideration and to participate on an equal basis with others in any area of economic, social, political, cultural or civil life. All human beings are equal before the law and have the right to equal protection and benefit of the law.¹

Thus defined, the right to equality has a broad scope, and its content is richer than that of the right to non-discrimination. The right to equality has as its elements the equal enjoyment of all human rights, as well as the equal protection and benefit of the law. Most importantly, it encompasses equal participation in all areas of life in which human rights apply. This holistic approach to equality recognises the interconnectedness of disadvantages arising in different contexts, which makes it necessary to take a comprehensive approach to inequalities in all areas of life.

This report takes the right to equality, as expressed in the Declaration, as the baseline against which it assesses the presence or degrees of inequality. It goes beyond poorer notions of equality found in many legal systems, by understanding equality not only as a right to be free from all forms of discrimination, but also as a right to substantive equality in practice. As discussed below, this motivates our analysis of disadvantages affecting different groups beyond those which arise as a result of discernible acts of discrimination. From this perspective, many societal inequalities relevant to human rights are seen as a consequence of historic disadvantage, while insisting that the right to equality requires states to address unfair inequalities, however “innocuous” their cause. Thus the unified framework makes *de facto* unfair inequalities, whether or not they result from discrimination, a relevant subject for this report.

Regarding the relationship between the rights to equality and non-discrimination, the Declaration construes the right to non-discrimination as sub-

1 *Declaration of Principles on Equality*, The Equal Rights Trust, London, 2008, Principle 1, p. 5.

sumed in the right to equality.² Thus, when examining the situation of a particular group of persons, the report looks both at examples of discrimination and at inequality in participation in areas such as employment or public life, differential access to goods and services and socio-economic disadvantage.

The unified human rights framework on equality makes it desirable and possible to provide a general legal definition of discrimination covering all types of discrimination. Principle 5 of the Declaration offers such a definition:

Discrimination must be prohibited where it is on grounds of race, colour, ethnicity, descent, sex, pregnancy, maternity, civil, family or carer status, language, religion or belief, political or other opinion, birth, national or social origin, nationality, economic status, association with a national minority, sexual orientation, gender identity, age, disability, health status, genetic or other predisposition toward illness or a combination of any of these grounds, or on the basis of characteristics associated with any of these grounds.

Discrimination based on any other ground must be prohibited where such discrimination

- 1. causes or perpetuates systemic disadvantage;*
- 2. undermines human dignity; or*
- 3. adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on the prohibited grounds stated above.*

Discrimination must also be prohibited when it is on the ground of the association of a person with other persons to whom a prohibited ground applies or the perception, whether accurate or otherwise, of a person as having a characteristic associated with a prohibited ground.

2 *Ibid.*, Principle 4, p. 6.

Discrimination may be direct or indirect.

Direct discrimination occurs when for a reason related to one or more prohibited grounds a person or group of persons is treated less favourably than another person or another group of persons is, has been, or would be treated in a comparable situation; or when for a reason related to one or more prohibited grounds a person or group of persons is subjected to a detriment. Direct discrimination may be permitted only very exceptionally, when it can be justified against strictly defined criteria.

Indirect discrimination occurs when a provision, criterion or practice would put persons having a status or a characteristic associated with one or more prohibited grounds at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

Harassment constitutes discrimination when unwanted conduct related to any prohibited ground takes place with the purpose or effect of violating the dignity of a person or of creating an intimidating, hostile, degrading, humiliating or offensive environment.

An act of discrimination may be committed intentionally or unintentionally.³

This definition takes a broad view regarding the list of **protected characteristics**. It contains both a list of explicitly prohibited grounds of discrimination and a “test” for the inclusion of further grounds, according to which “candi-

3 *Ibid.*, Principle 5, pp. 6–7.

date grounds” should meet at least one of three listed conditions.⁴ Thus, the definition provides a foundation for tackling the full complexity of the problem to be addressed – a person’s lived experience of discrimination. It recognises that a single person may experience discrimination on a “combination” of subtly interacting grounds, or on grounds not previously recognised as “prohibited”, and that the cumulative impact of discrimination on different grounds can be bigger than the sum of its parts. The unified perspective acknowledges that the phenomenon of discrimination must be addressed holistically, if it is to be effectively challenged.

The definition of discrimination, reflecting best practice in outlawing discrimination on grounds that have come to be regarded as unfair in modern society, provides the basis for our consideration of the range of identity-based groups included in the report. Thus, the report examines discrimination on grounds of religion or belief, race and ethnicity, political opinion, gender, disability, sexual orientation and health status. Furthermore, the report examines some patterns of discrimination – such as the discrimination suffered by women involved in political activism – which do not fall within one specified ground, but which it is felt need to be covered because they are important forms of multiple discrimination. Furthermore, analysis of certain types of discrimination, notably those suffered by children, non-citizens and IDPs is interwoven throughout the report, rather than considered separately. This is not because they are less important or widespread, but because they appear to be strongly defined by one or more of the major protected characteristics covered in the report, particularly gender, ethnicity and religion.

The Declaration defines three forms of **prohibited conduct** which constitute discrimination: direct discrimination, indirect discrimination and harassment.

4 Petrova, D., “The Declaration of Principles on Equality: A Contribution to International Human Rights”, in *Declaration of Principles on Equality*, The Equal Rights Trust, London, 2008, p. 34: “The definition of discrimination in Principle 5 includes an extended list of ‘prohibited grounds’ of discrimination, omitting the expression ‘or other status’ which follows the list of characteristics in Article 2 of the Universal Declaration of Human Rights. While intending to avoid abuse of anti-discrimination law by claiming discrimination on any number of irrelevant or spurious grounds, the definition nonetheless contains the possibility of extending the list of ‘prohibited grounds’ and includes three criteria, each of which would be sufficient to recognise a further characteristic as a ‘prohibited ground’. This approach is inspired by the solution to the open versus closed list of ‘prohibited grounds’ dilemma provided by the South African Promotion of Equality and Prevention of Unfair Discrimination Act (2000).”

All three concepts reflect current expert opinion on the definitions of the different forms of discrimination in international human rights and equality law.⁵ They are used throughout Part 2 to assess the patterns of discrimination identified by the research against the state's obligation to respect the right to non-discrimination, and in Part 3 as a basis against which to assess the adequacy of legal provisions intended to protect people from discrimination.

The report also relies on a number of other important concepts and definitions contained in the Declaration of Principles on Equality. Thus, the report employs the definition of **reasonable accommodation** provided in Principle 13 of the Declaration:

To achieve full and effective equality it may be necessary to require public and private sector organisations to provide reasonable accommodation for different capabilities of individuals related to one or more prohibited grounds.

Accommodation means the necessary and appropriate modifications and adjustments, including anticipatory measures, to facilitate the ability of every individual to participate in any area of economic, social, political, cultural or civil life on an equal basis with others. It should not be an obligation to accommodate difference where this would impose a disproportionate or undue burden on the provider.⁶

In line with international law in this area, the approach taken in the report is that a denial of reasonable accommodation constitutes discrimination.⁷

5 See, for example, United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, Para 2, of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. E/C.12/GC/20, 2009, Para 10.

6 See above, note 1, Principle 13, pp. 10–11.

7 See, for example, Convention on the Rights of Persons with Disabilities, G.A. Res. A/RES/61/106, 2006, Article 2; United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 5: Persons with Disabilities*, UN Doc. E/1995/22, 1995, Para 15: “disability-based discrimination” includes the denial of “reasonable accommodation based on disability which has the effect of nullifying or impairing the recognition, enjoyment or exercise of economic, social or cultural rights”.

Reflecting an emerging international consensus on this issue, the concept of reasonable accommodation “is extrapolated to cover other forms of disadvantage beyond disability, as well as, more generally, differences which hamper the ability of individuals to participate in any area of economic, social, political, cultural or civil life”.⁸ Thus, in the context of this report, it is accepted that the duty of reasonable accommodation can arise in respect of grounds other than disability.

Similarly, the report employs the understanding of **positive action** provided in Principle 3 of the Declaration. As with other principles in the Declaration, this principle draws upon emerging approaches in international and regional human rights law, in this case with regard to the concepts of special measures in the various instruments,⁹ whereby “it should be noted that the Declaration captures the growing tendency of interpreting “special measures” as part of, rather than an exception to, equal treatment”.¹⁰ Principle 3 states:

To be effective, the right to equality requires positive action.

*Positive action, which includes a range of legislative, administrative and policy measures to overcome past disadvantage and to accelerate progress towards equality of particular groups, is a necessary element within the right to equality.*¹¹

The notion of positive action plays an important role in the unified perspective on equality, and, therefore, in the approach of this report. As previously discussed, the right to equality extends beyond a right to be free from discrimination and contains an element of participation on an equal basis with others in all areas of life regulated by law. Positive action is key to addressing

8 See above, note 4, p. 39.

9 See, for example, International Convention on the Elimination of All Forms of Racial Discrimination, G.A. Res. 2106 (XX), 1965, Article 1(4); Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, 1979, Article 4(1); and Organisation of African Unity, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, OAU Doc. CAB/LEG/66.6, 2000, Article 2(1)(d).

10 See above, note 4, p. 32.

11 See above, note 1, Principle 3, p. 5.

those inequalities which are not attributable solely to discrimination. Having identified patterns of substantive inequality in Part 2, Part 3 of this report analyses the adequacy of positive action measures to address these.

The review of laws and policies in Part 3 of this report is based on an assessment against those parts of the Declaration which set out the **obligations of the state** with regard to the rights to equality and non-discrimination, including in particular Principle 11. In this regard, the Declaration applies the understanding of state obligations in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights, as explained, *inter alia*, in General Comment 3 of the CESCR and General Comment 31 of the UN Human Rights Committee. As stated in the commentary on the Declaration:

By analogy with the interpretation of States' obligations set out in General Comment 3 of the UN Committee on Economic, Social and Cultural Rights, States are required to take all necessary steps, including legislation, to give effect to the right to equality in the domestic order and in their international cooperation programmes. The right to full and effective equality may be difficult to fulfil; however, the State does not have an excuse for failing to take concrete steps in this direction. The requirement to take such steps is unqualified and of immediate effect. A failure to comply with this obligation cannot be justified by reference to cultural, economic, political, security, social or other factors.¹²

Application of the Unified Human Rights Framework on Equality

Applying the unified human rights framework on equality has a number of implications for the content, structure and methodology of this report. The **first implication** is reflected in the subject and scope of the report – the presentation of inequality on a number of different grounds in the same study. While it is clearly beyond the scope of the report to provide a detailed analysis of discrimination and inequality arising on every ground,

12 See above, note 4, p. 38.

the aim has been to present what appear to be the most significant patterns of discrimination and inequality found in the Sudanese context. In respect of certain grounds, it has not been possible to include every group which is vulnerable to discrimination and inequality on that ground: the examination of racial and ethnic discrimination, for example, does not look at the position of all of Sudan's ethnic groups, but instead makes use of case studies involving specific communities to illustrate important patterns of racial and ethnic discrimination.

Presenting patterns of discrimination and inequality alongside each other also requires a specific weighing of the sources of evidence. To some extent, Part 2 of the report relies on pre-existing research into inequalities affecting particular groups, and disaggregated data on the position of different groups in particular areas of life, which was available in some areas, but limited in others. For example, there is a lack of credible and recent statistical data on the levels of participation of different ethnic groups in employment, making it difficult to establish the levels of substantive inequality in this area. In this and other areas where pre-existing research was unavailable, the Equal Rights Trust has relied more heavily on direct testimony from individual victims, or interviews with professionals working on behalf of particular groups. The evidence obtained through field research and desk research has been assessed and contextualised, with a view to presenting patterns of discrimination and disadvantage in a way which is as representative of Sudanese reality as possible. In so doing, it is hoped that the report also illuminates the links between inequalities on different grounds, through identifying overarching issues, instances of multiple discrimination and common experiences.

The **second implication** of applying the unified human rights framework relates to the material scope of application of the right to equality, which encompasses all areas of life regulated by law. The report seeks to cover, in respect to the selected groups and categories of people, their experience of inequality across a range of areas of life, such as interactions with the state, personal safety, employment, education and healthcare. But in this respect, too, the evidence is uneven: there is little evidence of discrimination or inequality in particular areas of life for certain disadvantaged groups, either because persons within these groups do not experience disadvantage in a particular area of life, or because evidence of such disadvantage was not forthcoming in the course of the research. For example, the report contains only limited evidence

of discrimination on grounds of sexual orientation in areas other than the administration of justice and exposure to discriminatory violence. As same-sex sexual activity is prohibited in Sudan, and stigma against sexual minorities is very high, there are few openly gay, lesbian and bisexual people, and thus no analysis of sexual minorities' experience in education or employment could be undertaken.

The **third implication** of applying the unified framework is to require an analysis of both violations of the right to non-discrimination and the right to equality. The report takes the right to equality, as defined in the Declaration of Principles on Equality, as the standard against which it assesses the degree of inequality. Thus, the report investigates historically-generated patterns of substantive inequality by looking at the element of "participation on an equal basis with others in economic, social, political, cultural or civil life", thereby extending beyond experiences of discrimination.

The **fourth implication** of this approach is the presentation of factual patterns of discrimination and inequality alongside an analysis of the legal and policy framework related to equality, which results in the report's basic logical structure. The existence and enforcement of laws and policies prohibiting discrimination and promoting equality is a critical factor – though by no means the only one – in ensuring enjoyment of these rights. As protecting people from discrimination by enacting such laws is a key state obligation in respect of these rights, we seek to match an assessment of the lived experience of discrimination and inequality with a review of Sudan's legal and policy framework, in order to establish how well the state has met its obligation.

The analysis of patterns of discrimination in Part 2 of the report gives rise to significant concerns about the adequacy of laws and policies designed to address discrimination and inequality in Sudan. Part 3 of this report assesses the legal and policy framework in the light of the Declaration's principles relating to access to justice for discrimination victims, evidence and proof in discrimination proceedings, and other elements of enforcement of equality rights.¹³ While the necessity of effective enforcement of the rights to non-discrimination and equality is illustrated by the findings in Part 2 of this report,

13 See above, note 1.

these issues are discussed in more detail in Part 3, and Part 4 formulates recommendations about legal and policy reform, implementation and enforcement. Thus, it is hoped that the information contained in Part 2 provides a strong evidence base for analysing the effectiveness of the laws and policies discussed in Part 3, and therefore ensuring that the conclusions and recommendations in Part 4 are relevant and robust.

Research Methodology

This report is the outcome of a long engagement by the Equal Rights Trust in Sudan. Between 2010 and 2014, the Equal Rights Trust and the Sudanese Organisation for Research and Development (SORD) worked in partnership on a project designed to empower civil society to combat discrimination and inequality in Sudan. Throughout this project, the partners undertook research on discrimination and inequality by gathering direct testimony, as well as by reviewing research conducted by others. The Equal Rights Trust has also worked with the Journalists for Human Rights network, supporting its efforts to promote human rights in Sudan, emphasising the importance of non-discrimination and equality in this struggle. In the context of this work, the Trust had further opportunities to consult and conduct research on patterns of discrimination and inequality in Sudan. We have also independently reviewed existing literature on discrimination and inequality on different grounds, and analysed and assessed the legal and policy framework related to non-discrimination and equality in Sudan. Drafts of this report were the subject of an extensive validation exercise, in which its findings and conclusions were exposed to scrutiny by experts and stakeholders from civil society, academia and the media.

The Equal Rights Trust and its partners undertook research on discrimination and inequality through semi-structured interviews, focus groups, roundtables and consultations with organisations working with those exposed to discrimination in Sudan, as well as through reviewing publications and data produced by others. Research for Part 2 of the report also included desk-based research of existing sources, helping to identify the major patterns of discrimination in Sudan. In 2011, we commissioned researchers to undertake in-depth field research in five of Sudan's states: Kassala, Khartoum, River Nile, South Darfur and White Nile. In Kassala, interviews were conducted in New Halfa and Kassala city, involving a total of 52 persons. In Khartoum, a total of

63 persons participated in focus groups and interviews in Omdurman, Soba and the south of the city. In River Nile state, 69 persons participated in focus groups or individual interviews, in Shandi, Almatama and Altaragma. In South Darfur, 19 persons were interviewed in Rihaid Albirdy and Nyala. In White Nile, research involving 57 persons was undertaken in three localities: Kosti, Rabak and Azilait. In total, 260 persons shared their experience during our field research in the five states, with a slight gender imbalance favouring women (145 women against 115 men).

Following this phase of field research, the Equal Rights Trust undertook interviews and consultations at various points throughout 2012 and 2013, meeting with human rights defenders, NGOs, academics and journalists working on human rights issues, at events held both inside and outside Sudan. A further 20+ interviews and two focus groups were conducted during a validation visit by Equal Rights Trust staff to Khartoum in early 2014.

Throughout the report, in presenting the first-hand testimony of victims of discrimination, certain names have been withheld, to ensure the personal safety of those interviewed, or respect their wishes for confidentiality. Information on the identities of all persons whose names have been withheld is kept on file by the Equal Rights Trust.

Alongside the field research, desk research continued throughout 2011, 2012 and 2013. This involved a review of relevant literature on discrimination and inequality in Sudan, including reports by both the government and NGOs to UN treaty bodies and the Universal Periodic Review process; government and intergovernmental data and reports; and research published by international and national NGOs, academics and media organisations. The literature review covered relevant aspects of human rights and equality, as well as a number of related issues in fields such as development studies, economics and conflict studies. Given the need to look beyond discrimination and assess equality of participation, traditional methods of human rights documentation were complemented by sociological research, in particular related to employment, education and healthcare.

Wherever possible, statistical data was relied on to improve understanding of inequalities. It should be stressed however that accurate and up-to-date statistical data on Sudan is extremely limited, given that no national census has

been conducted since before the secession of South Sudan in 2011. The result is that many of the figures on Sudan which are available, whether produced by the state or by intergovernmental organisations, relate to the pre-secession situation, and thus to a country with a larger and more diverse population than Sudan today. Where available, statistics collected post-2011 have been used; where such data was not available, the authors have attempted to derive figures applicable to Sudan through the use of regional and state-level breakdowns. In many cases however, it has not been possible to find or derive accurate and up-to-date figures. Where statistical data has been used, it has come from reports and publications produced by the government, complemented by and compared to data from the World Bank, the World Health Organisation, the United Nations Development Programme, the United Nations Educational, Scientific and Cultural Organisation and other sources. The scarcity of relevant statistical data – in particular data disaggregated by protected characteristics such as gender, ethnicity, age or religion – presented a challenge to effective quantitative research on discrimination and inequality. This in itself is a cause for concern, as the government should ensure the collection of disaggregated data to allow it to assess and address inequalities.¹⁴

Legal research on law and policy for Part 3 was undertaken by the Equal Rights Trust, with assistance from SORD. Research on Sudan's international legal obligations benefited from the United Nations Treaty Collection database¹⁵ and the website of the Office of the High Commissioner for Human

14 States have an obligation to collect data on different groups in certain areas of life under the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, an obligation which is frequently invoked by treaty bodies when reviewing state compliance. See, for example, the United Nations Committee on the Elimination of Racial Discrimination, *General Recommendation 24: Reporting of persons belonging to different races, national/ethnic groups, or indigenous peoples (Art. 1)*, UN Doc. A/54/18, annex V, 1999, Para 1, in which the Committee states: “[I]t is essential that States parties provide as far as possible the Committee with information on the presence within their territory of [races, national or ethnic groups or indigenous peoples].” Under the Declaration of Principles of Equality, the obligation to collect disaggregated data covers all characteristics relevant to identifying structural disadvantage. Principle 24 states: “To give full effect to the right to equality States must collect and publicise information, including relevant statistical data, in order to identify inequalities, discriminatory practices and patterns of disadvantage, and to analyse the effectiveness of measures to promote equality.” (See *Declaration of Principles on Equality*, The Equal Rights Trust, London, 2008, Principle 24, p. 14.)

15 United Nations, *United Nations Treaty Series Online Collection*, available at: <http://treaties.un.org/pages/UNTSONline.aspx?id=1>.

Rights.¹⁶ Research on Sudanese laws, including the Constitution and national legislation, consisted of reviewing primary sources, accessed via the website of the Sudanese Ministry of Justice. Research on government policies was undertaken through review of state reports to the UN treaty bodies and documents gathered from government websites. Research on the role, functions and operations of the National Human Rights Commission was undertaken by review of the relevant legislation, together with commentaries and reports produced by the Commission and by independent organisations.

In order to ensure the accuracy of the report's findings and conclusions, a draft of this report was exposed to a validation process. In early 2014, the Equal Rights Trust visited Sudan to present and discuss a draft of the report with interested parties from civil society, government, academia, the media and other fields. In these meetings, and in correspondence thereafter, the report was subjected to critical evaluation by a range of stakeholders, with the aim of validating its findings and conclusions. The comments, criticisms and other feedback from these stakeholders were incorporated into the draft.

As part of its validation process, on 20 January 2014, the Equal Rights Trust met with the Advisory Council for Human Rights, a government agency which brings together representatives of all government ministries and which is hosted and chaired by the Ministry of Justice. During the meeting, the Council representatives discussed the draft report, provided initial feedback and agreed to provide detailed feedback in writing after the meeting, following consultation with other government departments and agencies, as necessary. In February and March 2014, we wrote to the Council, reiterating our request for feedback on the draft report, but at the time of publication, no further comments had been received. We also sought to meet with the National Human Rights Commission, but were unable to schedule a meeting either in person or via telephone, despite numerous attempts. Nevertheless, we have sought wherever possible to reflect the initial feedback provided by the Advisory Council, and to include the government's perspective on the issues discussed in the report, based on policies and public statements, including in particular official reports to UN treaty bodies.

16 Office of the High Commissioner for Human Rights, available at: <http://www.ohchr.org/EN/Pages/WelcomePage.aspx>.

Scope and Limitations of the Report

It is not possible for any report to provide an exhaustive account of discrimination and inequality in a given country, and this report is no exception. The reality of discrimination and inequality is such that experiences are as many and varied as the population of Sudan itself. Each person will have their own experiences of discrimination and inequality, arising in different areas of life, in different circumstances, in interaction with different persons, institutions or organisations and as a result of any aspect of their identity, or any combination of these aspects. For these reasons, the aim of Part 2 of this report is to provide a broad overview of the principal patterns of discrimination and inequality felt to be most significant in the Sudanese context. Analysis of certain types of discrimination, notably those suffered by **children, non-citizens and IDPs**, is interwoven in the report, rather than presented separately. The decision to not devote separate sections to these groups is motivated not by their lesser significance in the country context, but by our opinion that, from the point of view of equality and non-discrimination law, discrimination against these groups appears to be strongly defined by one or more of the major protected characteristics covered in the report, particularly **gender, ethnicity and religion**. For example, the discrimination against ethnic minority girls from the periphery is better understood through the prism of ethnicity and gender, rather than age.

As noted above, the research for this report was severely constrained by a lack of disaggregated statistical data pertaining to the situation of certain groups, and certain areas of life. Consequently, certain issues, which would usually fall within the scope of a report addressing equality and discrimination, do not feature in the report at all. Further, the absence of disaggregated data in relation to certain areas of life, such as housing, education, employment, criminal justice, etc., has limited the extent to which the authors have been able to discuss inequalities in all areas of life for every group we have covered in the report. For example, while the report discusses the experiences of some groups in the education system, or employment, it has not been possible to examine all groups' experiences in these areas of life.

These omissions should not be interpreted as an indication that there is no disadvantage in the omitted areas, or in respect to the omitted groups. Rather, the decision not to include an assessment of discrimination or inequality in a particular area or for a particular group was motivated simply by a lack of

evidence during the desk and field research stages of producing this report. Indeed, a lack of evidence in respect of a particular group could in itself indicate a gap in protection and/or missing articulation of experience in the terms of unfair inequality.

Finally, while the desk research for this report involved an extensive review of relevant literature in both Arabic and English, the majority of sources which are directly quoted or referenced are English-language publications. This is a result of the scarcity of Arabic language sources and the prevailing availability – particularly online – of research on discrimination and inequality in Sudan in English, and should not be interpreted otherwise.

1.3 Country Context

The Republic of the Sudan (Sudan) is a large country located in Northeast Africa. Divided into east and west by the River Nile, Sudan comprises 18 states over a total area of 1,886,068 sq km, making it the 16th largest country in the world. Sudan is bordered by Egypt to the north, Libya to the northwest, Chad to the west, South Sudan to the south, and Eritrea and Ethiopia to the east. To the northeast, Sudan has a coastline of 853 km on the Red Sea. The capital city is Khartoum, home to over 5 million people.

Until 2011, Sudan covered territory which currently makes up both present-day Sudan and the Republic of South Sudan. Following decades of conflict between forces from the north and south of Sudan, an agreement was reached between the two sides in 2005. One of the conditions of this agreement was the holding of a referendum on independence for South Sudan, which was eventually held in January 2011, and in which 98.83% of those participating voted in favour of independence.¹⁷ South Sudan officially became an independent state on 9 July 2011, with 10 former Sudanese states forming part of the new nation.

There are no accurate figures on the population of Sudan following the secession of South Sudan and estimates differ. The government of Sudan has stated that, prior to the secession of South Sudan, the population of the territory which

17 BBC News, "South Sudan backs independence – results", *BBC News*, 7 February 2011.

constitutes present-day Sudan was 30,900,000 people in 2008.¹⁸ Data for 2013 produced by the Population Division of the UN Department of Economic and Social Affairs estimated that approximately 37,964,000 reside in post-secession Sudan.¹⁹ The Central Intelligence Agency World Factbook, which estimates current population based on census and other survey data and makes projections based on “assumptions about future trends” provided a July 2014 figure of 35,482,233,²⁰ while the World Population Review provided a 2014 estimate of 38,186,902, based on population growth trends in the country.²¹

Throughout its ancient and contemporary history, Sudan has been characterised by its immense diversity. Figures from 1999 indicate that pre-secession Sudan consisted of an estimated 600 ethnic groups speaking about 300 languages and dialects.²² Unfortunately, no credible estimates exist for the number of ethnic groups in the Republic of Sudan today, as no census has been conducted since before the secession. Dr Mohammed Yousif of the Department of Social Anthropology at the University of Khartoum told the Equal Rights Trust that it is “extremely difficult if not impossible” to find up-to-date statistics on the country’s ethnic make-up, in part because any attempt at classification was actively resisted by the authorities at the time of the last census in April 2008.²³ Major ethnic groups, in addition to those who claim to be Arabs, include the Nubians in the far north, the Beja in eastern Sudan, the Fur in Darfur and western states, the Nuba in South Kordofan state and the Ingessana in southern Blue Nile.²⁴ Other large ethnic groups include the Kababish of Northern Kordofan; the Ja’alin and Shaigiyya, which are settled tribes along the rivers; and the semi-nomadic Baggara of Southern Kordofan and Darfur.²⁵

18 United Nations Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant, Fourth periodic reports of States parties: Sudan*, UN Doc. CCPR/C/SDN/4, 16 October 2012, Para 3.

19 United Nations, Division of Economic and Social Affairs, Population Division, *Population, Development and the Environment 2013*, 2013.

20 Central Intelligence Agency, *World Factbook: Sudan*, 2014.

21 World Population Review, *Sudan Population 2014*, 2014, available at: <http://worldpopulation-review.com/countries/sudan-population/>.

22 Sudanese Studies Centre, *Ethnicity, Race Relations and Human Rights*, 1999, p. 182.

23 Equal Rights Trust interview with Prof Mohammed Yousif, 19 January 2014, Khartoum.

24 *Ibid.*

25 Sudanese Studies Centre, *Disadvantaged Areas and Self Determination*, 1999, p. 169.

A number of ethnic groups have suffered – and in some cases continue to suffer – as a result of armed conflict in their homelands. The Fur, Masalit and Zaghawa people have historically inhabited the western region of Darfur. Though each is a distinct group, they are strongly connected through shared ancestry and common cultural practices.²⁶ The conflict in the Darfur region, which started in 2003 and continues today, despite a 2011 peace agreement, caused huge loss of life and resulted in the biggest humanitarian crisis in the country since the end of the North-South war in 2005.²⁷ Sources indicate that the Nuba, who originate in the Nuba Mountains in South Kordofan state, were persecuted by successive regimes, and that they continue to be discriminated against on grounds of race and colour.²⁸ Today, the Nuba Mountains are the focus of a major armed conflict, with devastating consequences for the Nuba people.

Previous and on-going wars especially in the regions of Darfur, South Kordofan and Blue Nile have resulted in increased migration and internal displacement to the areas in and around Khartoum and other regional cities. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), in 2014 there are 1.8 million internally displaced persons in the country.²⁹ The UNHCR also estimates that there are between 300,000 and 350,000 people of South Sudanese origin who are at risk of statelessness.³⁰ In addition, and despite being a refugee-generating country, Sudan also hosts refugees from neighbouring countries. According to UNHCR planning figures, a total of 215,810 refugees, people in refugee-like situations, asylum seekers and other persons of concern reside in the country.³¹

According to United Nations Development Programme (UNDP) estimates, Muslims comprise 97% of the population of post-secession Sudan,³² while President Omar al-Bashir announced in October 2011 that 98% of the popu-

26 Cultural Survival, “The Peoples of Darfur”, *Cultural Survival Quarterly*, Volume 3.2.

27 *Ibid.*

28 *Ibid.*

29 United Nations High Commissioner for Refugees, *2014 UNHCR country operations profile – Sudan*.

30 *Ibid.*

31 *Ibid.*

32 United Nations Development Programme, *About Sudan*, available at: <http://www.sd.undp.org/content/sudan/en/home/countryinfo/>.

lation was Muslim.³³ No credible data is available on the numbers or denominations of non-Muslim minorities in post-secession Sudan. However, in its 2012 report to the UN Human Rights Committee, the government stated that “Christianity and traditional beliefs have a substantial number of followers” in the country, and that institutions “belonging to over 10 Christian denominations” are active in the country.³⁴ The Interim National Constitution – adopted before secession, but still in effect in Sudan today – states that legislation having effect only in the north of the country “shall have as its sources of legislation Islamic Sharia and the consensus of the people”.³⁵

Sudan has two official state languages: Arabic and English.³⁶ The Constitution states that Arabic is a “widely spoken national language” and the “major language at the national level”. In practical terms, Arabic is the common language of government and business, and in urban life throughout the country. Various ethnic groups have their own languages, and the Constitution states that “[a]ll indigenous languages of the Sudan are national languages and shall be respected, developed and promoted”.³⁷ It is notable that almost all non-Arabic speaking groups use one or more versions of Arabic to conduct official business or for communication with other groups.

The country’s economy largely depends on agriculture, which accounts for around one third of Gross Domestic Product. Oil production started in the late 1990s and contributed substantially to boosting the economy. However, with the secession of South Sudan in 2011, Sudan lost its access to a number of oil fields, and with them an estimated 36.5% of its oil revenue.³⁸ World Bank estimates of Sudan’s GDP for 2013 stood at \$66.55 billion (in current US\$),³⁹ with Gross National Income per capita in the

33 United Nations Human Rights Council, *Written statement submitted by the Jubilee Campaign, a non-governmental organisation in special consultative status*, 31 August 2012, A/HRC/21/NGO/25, p. 2.

34 See above, note 18, Para 141.

35 Interim National Constitution 2005, Article 7 and Article 5(1).

36 *Ibid.*, Article 8.

37 *Ibid.*, Article 8(1).

38 Sudan Tribune, “Sudan’s economic uncertainty grows ahead of succession”, *sudantribune.com*, 15 June 2011.

39 World Bank, *Data: Sudan*, 2014.

same year at \$1,130.00.⁴⁰ This places Sudan in the lower middle income group of countries.

In 2013, the Human Development Index value for Sudan was 0.473, putting it at 166th place out of 187 countries ranked.⁴¹ According to the UNDP's 2012 Sudan National Human Development Report, "[w]hile the human development trend over time at the country level in Sudan shows signs of recovery and growth (...) significant disparities exist between Sudan's states and regions".⁴² Sudan's Gini Income coefficient for 2013, measuring inequality in the distribution of wealth, was 35.3.⁴³ The ratio of the average earnings of the richest 20% to those of the poorest 20% was 6.2.⁴⁴ According to the UNDP office in Sudan, estimates indicate that in 2012, 46.5% of the Sudanese population fell below the consumption poverty line,⁴⁵ but a much smaller proportion – 8.5% – were categorised as being in "multi-dimensional poverty".⁴⁶ In this latter respect, Sudan fares significantly better than its sub-Saharan neighbours, though worse than its northern neighbour, Egypt.⁴⁷

Outcomes in education and healthcare reflect the country's low level of development. According to the Sudan National Human Development Report produced by the UNDP, gross enrolment in primary education was "just two-thirds of the school age population" in 2009-2010.⁴⁸ There was also a significant regional disparity: in 2008, enrolment in Khartoum State was in excess of 85%, compared to less than 50% in South Kordofan.⁴⁹ In respect of health outcomes, UNDP indicates an increase in life expectancy at birth from 49.3 years to 60.2 between 1980 and 2007, an increase of 10.9 years, a rate of im-

40 *Ibid.*

41 United Nations Development Programme, *Human Development Report 2014: Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience*, 2014, p. 162.

42 United Nations Development Programme, *Sudan National Human Development Report 2012: Geography of peace: Putting Human Development at the Centre of Peace in Sudan*, 2012, p. 34.

43 See above, note 41, p. 170.

44 *Ibid.*, p. 170.

45 See above, note 42, p. 39.

46 *Ibid.*, p. 40.

47 *Ibid.*, p. 41.

48 *Ibid.*, p. 36.

49 *Ibid.*, p. 37.

provement which is significant but nevertheless falls behind Sudan's neighbours Egypt and Ethiopia.⁵⁰ According to the UNDP Human Development Report 2014, in 2013, life expectancy at birth in Sudan reached 62.1 years.⁵¹

Recent History

Sudan declared its independence from the Anglo-Egyptian condominium in December 1955, and the British and Egyptian governments recognised Sudan as independent shortly afterwards, on 1 January 1956. Sudan became a member of the United Nations in 1957. The first post-independence parliamentary elections took place in 1958. However, a military coup on the day before the new parliament was due to convene led the elected Prime Minister, Abdallah Khalil, to transfer power to the coup leader General Ibrahim Abboud.

In October 1964, democracy was restored following a popular uprising against the regime. A provisional government was formed, and a new parliament was elected in 1965. The Constitution of 1964 guaranteed, *inter alia*, freedom of expression and belief under Article 5(2). However, despite a constitutional court ruling to the contrary, parliament passed an amendment to Article 5, severely limiting freedom of expression and belief. Members of Parliament representing the Sudanese Communist Party were then dismissed from parliament on account of their alleged atheism. This led in turn to a communist-backed coup by members of the armed forces under the command of Jaafar Nimeiry, who took power in May 1969. The Constitution was suspended and Nimeiry ruled by Presidential Order. By 1971, all political parties were banned with the exception of the ruling party. A new Permanent Constitution was introduced in 1973, which acknowledged basic human rights and established the rule of law as an abiding principle for governance.

Civil conflict between northern and southern Sudan had begun before independence and continued throughout the 1950s and 1960s. In 1972, the government and southern rebel groups signed the Addis Ababa peace agreement, establishing the Southern Sudan Autonomous Region. The relative peace ushered in by the Addis Ababa agreement did not last long however, and by the early 1980s, the ruling regime in Khartoum was showing signs of the growing

50 *Ibid.*, p. 38.

51 See above, note 41, p. 162.

influence of regional and national Islamist movements which advocated for the introduction of an Islamic constitution, an aspiration which drew apart the northern and southern parts of Sudan.

In 1983, President Nimeiry declared Sudan an Islamic state, thus breaching the Addis Ababa agreement. This was a critical juncture in Sudan's political and constitutional development, as the ideology providing the basis for governance and legislation shifted radically to reflect Islamic principles and the pre-eminence of sharia law. A package of new laws, widely known as the "September laws" of 1983, introduced principles based on sharia law into the Sudanese legal system. These laws did not spare Muslims who attempted to oppose them by peaceful means. Partly in response to these changes, in September 1983, the civil war between North and South began once again, with the formation of the Sudan People's Liberation Army (SPLA) in the South which declared resolute opposition to the September laws. The regime in the North responded by declaring *jihad* (holy war) against the SPLA.

From 1983 onwards, the country's political and human rights situation became increasingly characterised by conflict and volatility. In 1989, another Islamic Movement coup established the regime of Omar al-Bashir, a strong supporter of the application of sharia laws. The North-South war continued unabated until 2005, when the al-Bashir regime was persuaded by the international community and the strength of the SPLA on the ground to sign a Comprehensive Peace Agreement (CPA), bringing an end to the war. The CPA granted the people of South Sudan the right to vote for or against independence from Sudan. A referendum on self-determination was held in January 2011, resulting in an overwhelming vote in favour of independence. The new nation of South Sudan was born in July 2011, and Sudan's geography and demography changed.

The CPA also established the Interim National Constitution 2005, which remains in force in Sudan today, despite the secession of South Sudan. For the first time in the country's history, the Constitution contained a comprehensive Bill of Rights which includes an extensive set of provisions on a wide range of internationally-recognised human rights. The Bill of Rights has been widely praised by Sudanese legal scholars who see its introduction as a significant

event in Sudan's constitutional history.⁵² Significantly, the 2005 Constitution recognised international treaties ratified by Sudan as forming part of the Bill of Rights, making such treaties binding on Sudanese courts.⁵³

In 2003, violent conflict erupted in the region of Darfur. The war in Darfur and the resulting human rights violations have been widely documented by many international human rights bodies and organisations.⁵⁴ The Fur and other African ethnic groups who inhabit the region were subject to severe humanitarian crises and human rights abuses. The total number of people affected by the conflict in Darfur is contested, but in 2008, the United Nations estimated that between 200,000 and 300,000 people had died,⁵⁵ while in May 2014, the UN Office for the Coordination of Humanitarian Affairs estimated that 3.5 million people remained in need of humanitarian assistance.⁵⁶ Government forces were involved in forcibly disarming non-Arab groups, leaving them largely defenceless against government sponsored militias, including the infamous *Janjaweed*, who used violence, mass rape and branding to ethnically cleanse non-Arabs.⁵⁷ The scale of the violations was such that it prompted two arrest warrants by the International Criminal Court (ICC) in 2009 and 2010 against President al-Bashir and others on charges of genocide, war crimes and crimes against humanity.⁵⁸ President al-Bashir was the first serving head of state to

52 See, for example, Sulieman Fadallah, Dr. A., *The Citizen and The Constitution: Series 2*, Al-Ayam Centre, p. 22. See also Sanhoury Elrayh, E., "Women's Rights in the Constitutional Bill of Rights: Issues of Status, Equality and Non-Discrimination", in *The Constitutional Protection of Human Rights in Sudan: Challenges and Future Perspectives*, REDRESS, Faculty of Law, University of Khartoum and the Sudan Human Rights Monitor, 2014; and Medani, A. M., "The Constitutional Bill of Rights in the Sudan: Towards Substantive Guarantees and Effective Realisation of Rights", in *The Constitutional Protection of Human Rights in Sudan: Challenges and Future Perspectives*, REDRESS, Faculty of Law, University of Khartoum and the Sudan Human Rights Monitor, 2014.

53 See above, note 35, Article 27(3).

54 See, for example, United Nations Human Rights Council, *Human Rights Situations that require the Council's Attention*, 2 September 2008, p. 18; Amnesty International, *Country Report: Sudan*, 2009; Human Rights Watch, *Sudan: New Attacks on Civilians in Darfur*, 28 January 2011.

55 See, for example: United Nations Children's Fund, *Darfur – overview*, 2008; CBC News, "Darfur death toll could be as high as 300,000: UN official", 22 April 2008.

56 United Nations Office for the Coordination of Humanitarian Affairs, *Sudan: Darfur profile*, May 2014.

57 Jok, J.M., *Sudan: Race, Religion and Violence*, 2007, p. 145.

58 The Hague Justice Portal, *Omar Hassan Ahmad al-Bashir*, available at: <http://www.haguejustice-portal.net/index.php?id=9502>.

be indicted by the ICC. At present, despite a number of peace accords, violence continues in Darfur, and the local population continues to face discrimination and other human rights abuses.⁵⁹

After the secession of South Sudan, other conflicts broke out between the government and the Sudan People's Liberation Movement – North (SPLM-N) in disputed areas along the border with South Sudan, in the South Kordofan and Blue Nile states. As with the other conflicts, the humanitarian and human rights impact is very severe.

1.4 Government and Politics

Sudan is a Presidential Republic, where the executive is composed of the Presidency (itself composed of the President and two Vice-Presidents) and the National Council of Ministers.⁶⁰ As noted above, the Interim National Constitution which was adopted before the secession of South Sudan remains in force today, despite the fact that the structure of government which it establishes is now redundant in a number of ways. For example, the Constitution establishes the two Vice Presidents as Presidential appointees, one from southern and one from northern Sudan; Article 62 states that where the President is elected from northern Sudan, the position of Vice President “shall be filled by the person who has been elected to the post of President of Government of Southern Sudan, as the President’s appointee to the said position”.⁶¹

The Constitution recognises the President as both Head of State and Head of Government.⁶² It also sets out an extensive list of functions and powers vested in the Presidency, including the powers to appoint holders of constitutional and judicial posts; summon, adjourn or prorogue the National Legislature; declare war; declare and terminate states of emergencies; and have initiative for and give assent to constitutional amendments and legislation.⁶³ The

59 United Nations Human Rights Council, *Report of the Independent Expert on the situation of human rights in the Sudan, Mashood A. Baderin*, UN Doc. A/HRC/24/31, 18 September 2013, Paras 38–39.

60 See above, note 35, Articles 49, 50 and 51.

61 *Ibid.*, Article 62(1).

62 *Ibid.*, Article 58(1).

63 *Ibid.*, Article 58(1).

President appoints the National Council of Ministers and sits as a member of the Council, together with the two Vice Presidents.⁶⁴ The National Council of Ministers is recognised as the “national executive authority in the State”⁶⁵ and has functions which include: planning state policy; initiating national legislation; adopting the national budget and international agreements; and receiving reports on the performance of both ministries and states.⁶⁶

The Constitution establishes a National Legislature, composed of a National Assembly and a Council of States.⁶⁷ The National Assembly is composed of 450 members,⁶⁸ to be “elected in free and fair elections”.⁶⁹ The Council of States is composed of two representatives from each state, elected by the state legislature, plus two observers elected by the Abyei Area Council.⁷⁰ Following the secession of South Sudan, the mandate of the 20 representatives from the 10 southern states was terminated, with the result that the Council is now made up of 32 members.⁷¹ The Council of States is largely restricted to matters concerning the decentralised system of government and the protection of the interests of states;⁷² its function in respect of legislation passed by the National Assembly is restricted to consideration of whether such legislation “affects the interests of states” and to introducing amendments accordingly.⁷³

Article 24 of the Constitution establishes the country as a “decentralised state” with four levels of government: national government; the government of South Sudan; state government; and local government.⁷⁴ While the provisions related to South Sudan are now redundant, those related to state government remain in effect. The Constitution establishes that each state should

64 *Ibid.*, Article 70(1) and (2).

65 *Ibid.*, Article 70(4).

66 *Ibid.*, Article 72.

67 *Ibid.*, Article 83(1).

68 Inter-Parliamentary Union, *Sudan: Majlis Watani (National Assembly): Last Elections*.

69 See above, note 35, Article 84(1).

70 *Ibid.*, Article 85.

71 Inter-Parliamentary Union, *Sudan: Majlis Welayat (Council of States): Last Elections*.

72 See above, note 35, Article 91(4).

73 *Ibid.*, Article 91(5).

74 *Ibid.*, Article 24.

have its own state governor, legislature,⁷⁵ and two representatives on the Council of States.⁷⁶ The state governor is empowered to appoint of a Council of Ministers and, with this Council, to exercise executive powers.⁷⁷ State governments have power in an extensive list of areas, including *inter alia*: state police and prisons; state media; state land and natural resources; the provision of healthcare and primary and secondary education; traditional and customary law; and direct and indirect taxation to raise revenue for the state.⁷⁸ Following the secession of the 10 states which now compose South Sudan, there are 18 states in Sudan, together with the Abyei area, which has special administrative status.

In addition to establishing these arrangements for states, the Constitution makes specific provision for South Kordofan and Blue Nile states and the Abyei area. In respect of Abyei, the Constitution provided for a referendum to take place alongside the referendum for South Sudan, in which residents would have the choice to retain special administrative status within Sudan or become part of Sudan.⁷⁹ In respect of South Kordofan and Blue Nile, the Constitution provided for “popular consultation” for the people of these states “through their respective democratically elected legislatures” on their respective future, in accordance with the Agreement on the Resolution of the Conflict in Southern Kordofan and Blue Nile States.⁸⁰ The failure to hold the referendum in Abyei – ostensibly over concerns with voter eligibility – and the suspension of the popular consultation process in South Kordofan and Blue Nile were key catalysts for the conflicts which persist in those regions.

President al-Bashir’s National Congress Party (NCP) (*al-Mu’tamar al-Waṭani*) has held the majority in the National Assembly since the coup in 1989. In the last elections for the Presidency in April 2010, al-Bashir received 68.24% of

75 *Ibid.*, Article 178.

76 *Ibid.*, Article 85.

77 *Ibid.*, Article 179.

78 *Ibid.*, Schedule D.

79 *Ibid.*, Article 183.

80 *Ibid.*, Article 182.

the vote, on a 62% voter turnout,⁸¹ while in simultaneous elections for the National Assembly, the NCP took 323 of the 450 seats.⁸² These elections were criticised by international observers including the Carter Centre⁸³ and Human Rights Watch.⁸⁴

Opposition parties are widely considered to have little chance of gaining influence. The most successful opposition party prior to the secession of South Sudan in 2011 was the Sudan People's Liberation Movement (*Al-Harakat Al-Sha'ebiyet Li-Tahrir Al-Sudan*). After secession, the branches of the party which remained in Sudan re-formed into the Sudan People's Liberation Movement-North (SPLM-N), now a banned organisation currently in active conflict with the Sudanese Armed Forces. Other political parties represented in the National Assembly in 2014 include the People's Congress, Democratic Unionist Party, Federal Umma Party, Umma Party for Reform and Development, Democratic Unionist Party – Origin, Sudan People's Liberation Movement (SPLM)-Democratic Change, Umma Collective Leadership, National Umma Party, Umma Party, and the Muslim Brotherhood.⁸⁵ Many of the opposition parties have formed an umbrella organisation called National Democratic Alliance (NDA).

Despite a Constitution that calls for the protection of human rights and basic freedoms, Sudan fares very poorly in terms of international rankings on political freedom. The country has received scores of 7 (the lowest level of freedom) in both "Political Rights" and "Civil Liberties" in the Freedom House rankings in 2014, earning it the status "Not Free".⁸⁶ Sudan has received the same scores each year since its first ranking in 1999. In terms of freedom of the press, the World Press Freedom Index 2014 produced by Reporters without Borders ranked Sudan in 172nd place of 180 states, with an index of 71.88 out of 100.⁸⁷

81 International Foundation for Electoral Systems, *Election Guide: Republic of Sudan: Election for President*, available at: <http://www.electionguide.org/elections/id/2145/>.

82 See above, note 68.

83 The Carter Centre, *Observing Sudan's 2010 National Elections: Final Report*, 2010.

84 Human Rights Watch, *Sudan: Flawed Elections Underscore Need for Justice*, 2010.

85 See above, note 68.

86 Freedom House, *Freedom in the World 2014: Sudan*, 2014.

87 Reporters Without Borders, *World Press Freedom Index 2014*, 2014, p. 31.

Since 2012, the opposition parties in coordination with SPLM-N have been calling for regime change. This call has also been supported by youth and women's groups across the country.⁸⁸ In 2012 and 2013, peaceful public protests and demonstrations were organised in Khartoum, in an effort to build popular support for change. The government typically responded with oppressive measures and continued to arrest and harass protesters and members of groups who may have represented any form of political opposition to the regime.

In the period 2011 to 2014, armed groups continued their struggle for regime change by force. In January 2013, the umbrella organisation of these groups, the Sudan Revolutionary Front (SRF), signed an agreement, known as the New Dawn Charter for democratic change, with a coalition of opposition parties united in the National Consensus Forces. In April 2013, SRF offensives on several areas of Northern and Southern Kordofan states led to further deterioration of the humanitarian situation there. The armed conflicts in the Darfur region and Blue Nile states also continue to date. Intensified fighting in these areas, including inter-tribal fighting in Darfur, has led to the displacement of thousands of additional people throughout 2013. The government continued to prevent most humanitarian agencies from assisting civilians affected by the armed conflicts. The Sudanese army continued to resort to indiscriminate aerial bombing in South Kordofan and Blue Nile, generating massive displacements of civilians, many of whom have fled their villages and sought refuge in South Sudan.

In a welcome development, in January 2014 the President issued a reform document which specified a four-point "national agenda", focused on: peace and security; political reforms and democratisation; economic reforms; and national identity.⁸⁹ Al-Bashir invited opposition parties to join a "national dialogue" to debate this agenda and the need for constitutional and political reform. The Independent Expert on the situation of human rights in the Sudan reported that during a visit to Sudan in February 2014, government officials expressed enthusiasm for the dialogue, while the main opposition parties were supportive, all of which "raised general optimism for an open all-inclusive national dialogue".⁹⁰

88 Abdelaziz, K., "RPT-Sudanese Opposition Calls for Mass Protests against Bashir", *Reuters*, 8 June 2013.

89 See above, note 59, Para 49.

90 *Ibid.*, Paras 50.

Unfortunately however, this optimism was short-lived. On 15 April, the President issued a decree prohibiting meetings by political parties without prior approval and ordering the media to “maintain strict neutrality”.⁹¹ On 1 May, the Sudanese Republican Party was denied the opportunity to register as a political party by the Political Parties Affairs Council, which argued that its ideology was in conflict with the constitutional provision that Sudanese law should be based on sharia.⁹² In May and June, Sadiq al-Mahdi, leader of the National Umma Party, and Ibrahim al-Sheikh, leader of the Sudanese Congress Party, two leading opposition figures, were arrested and detained for “making public statements against attacks conducted in Darfur by the Government’s Rapid Support Force”,⁹³ further damaging trust in the proposed national dialogue.

Relations between Sudan and South Sudan are largely defined by issues of oil income. In April 2013, South Sudan resumed using Sudan’s pipelines in exchange for the payment of transit fees, but Khartoum made repeated threats to stop exports in protest at what it said was South Sudan’s ongoing support of armed rebels in Sudan. Meetings between al-Bashir and his South Sudanese counterpart, Salva Kiir, in April, September, and October 2013 resulted in agreements on oil trade across the border and on non-interference in each other’s internal conflicts. Reportedly, no progress was made on the contested border area of Abyei, whose inhabitants have been promised a referendum. As the latter has been repeatedly delayed, residents of Abyei belonging to the Ngok Dinka tribe conducted an unofficial referendum in October 2013, boycotted by the Misseriya tribe, in which they chose to join South Sudan. However, the referendum results were not recognised by either Sudan or South Sudan.

91 Amnesty International, *Sudan: Submission to the United Nations Human Rights Committee, 111st Session*, AFR 54/010/2014, June 2014, pp. 10–11.

92 *Ibid.*

93 See above, note 59, Para 46.