



Ms. Gabriela Kaul,  
Special Rapporteur on the independence of judges and lawyers  
United Nations Office 1211 Geneva 10 Switzerland  
By e-mail: [srindependencejl@ohchr.org](mailto:srindependencejl@ohchr.org)

24 July 2013

Dear Ms. Kaul,

**Re: Amendment of Sudan's Armed Forces Law subjecting civilians to the jurisdiction of military courts**

We write to you concerning an ongoing legislative development in Sudan that, if carried through, will contravene the right to a fair trial and risk resulting in a series of human rights violations.

On 2 July 2013, Sudan's parliament adopted an amendment to Sudan's armed forces law of 2007. Its coming into force depends on the President's assent but will be automatic within 30 days in case the President remains silent on the matter. The amendment envisages, *inter alia*, that civilians who commit crimes considered to be against the state's security are subject to the jurisdiction of military courts. This category of crimes covers a number of broad and vaguely worded offences, such as "publication of false news". These offences have over the last years been used to prosecute journalists, political opponents, human rights defenders and others for their peaceful activities, particularly for the exercise of their freedom of expression. Subjecting civilians to the jurisdiction of military courts raises serious concerns of further militarisation of civil life in Sudan that strips away the remaining vestiges of defendants' rights and further weakens civil society.

As set out in the appended submission, subjecting civilians to the jurisdiction of military courts, and particularly for the types of offences mentioned, violates international fair trial standards that are also guaranteed under Sudan's Interim National Constitution. In addition, the proposed measure risks adversely impacting on, if not violating a series of rights, particularly freedom of expression, the right to liberty and security, the right to be free from torture and ill-treatment, the right to a fair trial, and the right to life in cases where defendants face the death penalty.

The amendment of Sudan's armed forces law of 2007 comes at a time of concerns over serious human rights violations committed in the course of ongoing armed conflict, particularly in Southern Kordofan, Blue Nile and Darfur. It also takes place against the backdrop of persistent systemic violations, including the use of repressive laws, arbitrary detention, torture and ill-treatment and unfair trials to stifle anything perceived to constitute a political challenge, which includes human rights defenders raising concerns over the lack of protection of rights.

Sudanese members of parliament reportedly stated that the constitutionality of the amendment can be challenged before the Constitutional Court following its coming into force. However, any such proceedings would take time and it is highly unlikely that they would provide immediate protection. The Constitutional Court has no record of striking down legislation on the grounds of its incompatibility with Sudan's Bill of Rights, or ordering provisional measures to the effect that a law should not be applied. The better course of action, and the only course of action to ensure that Sudan does not violate its international human rights law obligations, is therefore not to let the amendment enter into force as law.

Considering the incompatibility of the amendment of the armed forces law of 2007 with international human rights obligations binding on Sudan, which also form part of Sudan's Interim National Constitution, we respectfully request that you urgently raise the matter with the Government of Sudan with a view to ensuring that any reform undertaken does not include any provisions subjecting civilians to the jurisdiction of military courts.

We are ready to provide you with any further information on this matter if required.

Yours sincerely,

Dr. Lutz Oette  
On behalf of REDRESS and the Sudanese Human Rights Monitor

Cc:

Special Rapporteur on the situation of human rights defenders, Mrs Margaret Sekaggya, via e-mail at [defenders@ohchr.org](mailto:defenders@ohchr.org)

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression , Mr. Frank La Rue, via e-mail at [freedex@ohchr.org](mailto:freedex@ohchr.org)

Special Rapporteur on Torture and Other Cruel, Degrading and Inhuman Treatment or Punishment, Mr. Juan Mendez, via e-mail at: [sr-torture@ohchr.org](mailto:sr-torture@ohchr.org)

Independent Expert on the situation of human rights in the Sudan, Mr. Mashood Baderin, via e-mail at [iesudan@ohchr.org](mailto:iesudan@ohchr.org)