



Sudan Law Reform Update

December 2009

Welcome to the fourth issue of the Sudan law reform update. The Project for Criminal Law Reform in Sudan (PCLRS), a joint initiative of SORD and REDRESS, provide this regular service with a view to informing those working on, and interested in, law reform and human rights of relevant developments. The update includes a summary of the news (largely based on English language media sources) on law reform, jurisprudence and other developments. It also aims to serve as a platform for sharing of information, comments and opinions on any issues related to law reform and human rights in Sudan.

This issue covers developments up to 21 December 2009. It features further news concerning discussions on the National Security law and developments on the referendum law.

Yours,
Lutz Oette

For further information, please visit our website at www.pclrs.org.

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I. COMMENT

The new National Security Law: Failing the CPA and human rights

Law reform has become one of the key focal points in the current political debate in Sudan. The threat made by the All Political Parties' Conference in Juba to boycott elections if key laws are not reformed in time and subsequent interventions have highlighted the importance of reforms. This is both as an essential precondition for fair and free election and as a litmus test for the implementation of the Comprehensive Peace Agreement (CPA), often referred to as democratic transformation. This is a welcome development from a civil society perspective. It has increased awareness of the importance of legislative reforms, not least as a sign of commitment to the CPA, and triggered much needed public debates.

The National Security Law is the case in point. The various acts governing the national security forces over the years epitomise rule by exceptionalism. This is characterised by overly broad powers of arrest and detention and lack of accountability, in particular in form of immunity. The law prioritises executive expediency at the expense of judicial or other forms of oversight and has in the process undermined the rule of law and facilitated human rights violations.

The CPA mandates the reform of the security law as a key institutional change. The Interim National Constitution (INC) essentially envisages the reformed security services as an intelligence agency. As such, the security services would not have the power of arrest and detention. This is the position taken by the SPLM and others. The NCP, on the other hand, has insisted on the need to retain powers of arrest and detention, subject to some newly introduced safeguards. PCLRS has examined the relevant legal framework and proposals in-depth (see 'Security For All-Reforming Sudan's National Security Services' <http://www.pclrs.org/Resources/Security%20for%20all%20Final.pdf>). A genuine reform in conformity with the CPA and the INC requires that the operation of the security services is confined to intelligence work, without the power to arrest and detain persons and without immunity for any acts undertaken in carrying out their tasks. It is important to recognise that these are fundamental principles that should not be compromised.

The new National Security law was reportedly passed by the Sudanese National Assembly on 20 December 2009. It retains extensive arrest and detention powers that are at variance with the CPA and INC. Significantly, the new legislation constitutes a failed opportunity to strengthen the rule of law and protection of human rights. Respect for these fundamental principles will be much needed in ensuring that the forthcoming elections can be free and fair and in bringing about the changes agreed upon in the CPA and reflected in the INC.

II. PCLRS NEWS

PCLRS, Report, December 2009

Implementing the Comprehensive Peace Agreement and the National Interim Constitution? An empirical assessment of the law reform process in Sudan: Challenges and prospects

<http://www.pclrs.org/Resources/Implementing%20the%20Comprehensive%20Peace%20Agreement%20and%20the%20National%20Interim%20Constitution%20An%20empirical%20assessment%20of%20the%20law%20reform%20process%20in%20Sudan%20Challenges%20and%20prospects.pdf>

II. LAW REFORM

21th December 2009

Parliament endorses Security Act

<http://unmis.unmissions.org/Portals/UNMIS/MMR/MMR%2021%20Dec%2009.pdf>

21th December 2009

Sudan's SPLM calls new Security Law 'bad sign'

<http://www.sudantribune.com/spip.php?article33534>

20th December 2009

Sudan's NCP denies agreeing to extending parliamentary session

<http://www.sudantribune.com/spip.php?article33520>

20th December 2009

CPA partners fail to reach agreement on Security Act

<http://unmis.unmissions.org/Portals/UNMIS/MMR/MMR%2020%20Dec%2009.pdf>

19th December 2009

Parliament to deliberate Monday on South-Sudan self determination

<http://www.sudantribune.com/spip.php?article33507>

19th December

Opposition keeps up law reform pressure

http://www.iwpr.net/?p=acr&s=f&o=358447&apc_state=henpacr

18th December 2009

SPLM says it will not endorse national security bill

<http://www.sudantribune.com/spip.php?article33492>

15th December 2009

SPLM MPs end the boycott of Parliament sessions

Gosh: Contentious points on Security Act will be settled by the Parliament

<http://unmis.unmissions.org/Portals/UNMIS/MMR/MMR%2015%20Dec%2009.pdf>

15th December 2009

Scores detained during second attempt for protest in Sudan

<http://www.sudantribune.com/spip.php?article33466>

15th December 2009

Khartoum law reform protests

http://www.iwpr.net/?p=acr&s=f&o=358283&apc_state=henh

14th December 2009

Council of Ministers unanimously endorsed Referendum, Abyei and Popular Consultations bill

<http://unmis.unmissions.org/Portals/UNMIS/MMR/MMR%2014%20Dec%2009.pdf>

14th December 2009

Sudan referendum law endorsed in parliament, 51% 'Yes' vote, & 60% turnout required

<http://www.sudantribune.com/spip.php?article33451>

12th December 2009

NCP connects South Sudan referendum to elections

<http://www.sudantribune.com/spip.php?article33430>

11th December 2009

Sudanese president meets with Kiir amid growing political tensions

<http://www.sudantribune.com/spip.php?article33427>

8th December 2009

Sudan's ruling NCP politically weakened after crackdown on opposition demos

<http://www.sudantribune.com/spip.php?article33390>

7th December 2009

Sudanese parliament will not leave any bills behind-speaker

<http://www.sudantribune.com/spip.php?article33371>

6th December 2009

Sudan electoral commission warns against international monitors

<http://www.sudantribune.com/spip.php?article33359>

3rd December 2009

Sudan's NCP reject calls for IGAD intervention in CPA wrangles

<http://www.sudantribune.com/spip.php?article33321>

1st December 2009

Carter Center praises peaceful voter registration despite concerns

<http://www.sudantribune.com/spip.php?article33301>

26th November 2009

Sudan's peace partners have yet to overcome differences

<http://www.sudantribune.com/spip.php?article33253>

26th November 2009

National civil society organizations call for stricter penalties on sexual violence

<http://unmis.unmissions.org/Portals/UNMIS/MMR/MMR%2026%20Nov%2009.pdf>

III. JURISPRUDENCE

28th November 2009

Sudanese teenager flogged for wearing indecent skirt

<http://www.mg.co.za/article/2009-11-28-sudanese-teenager-flogged-for-wearing-indecent-skirt>

IV. DOCUMENTS

17TH December 2009

International Crisis Group: *Sudan: Preventing Implosion*

http://www.crisisgroup.org/library/documents/africa/horn_of_africa/b68_sudan___preventing_implosion.pdf