



UNMIS

Press Conference

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**Near-verbatim transcript of the Press Conference
By Justice Mohamed Chande Othman,
the Independent Expert on the situation of Human Rights in the Sudan,
UNMIS HQ, Khartoum**

Justice Mohamed Osman Chande: As I conclude my visit to the Sudan as the Independent Expert on the human rights situation in the Sudan, I would like to thank the Government of Sudan for the assistance and support they have provided me during my stay and the assurances of full cooperation. I would also like to express my appreciation to UNMIS and UNAMID, particularly the human rights components for facilitating my mission.

During my stay in Sudan, I visited Khartoum, Southern Sudan, Darfur and Abyei in the Transitional Area.

In Khartoum, I had about 130 meetings where I met with senior government officials including the Federal Minister of Health, a senior presidential advisor, the Undersecretaries for the Ministries of Justice and Foreign Affairs, senior officials of the intelligence and security agencies, senior police and prison authorities, the Human Rights Committee of the National Assembly, the chairpersons of the Election Commission, the Press Council and the Commission for the Rights of Non-Muslims in Khartoum, political parties representatives, civil society organizations and victims of human rights violations. I also visited Kober prison and participated in a meeting of the UN/Government Human Rights Forum jointly organized by the Advisory Council on Human Rights and the Human Rights Section of UNMIS.

In South Sudan and Abyei, I held meetings with senior officials of the Government of Southern Sudan, including the Speaker of the Legislative Assembly, State Governors, top military, police and prison authorities, political parties' representatives and civil society. In addition, I travelled to the three Darfur states where I met with the Walis and local authorities and interacted with prosecutors, lawyers and civil society. In North Darfur, I visited Shalla prison, Abou Shok IDP camp and attended a meeting of the Darfur Human Rights Forum. I visited the Nyala Central prison in South Darfur and presided over the opening of a new legal aid desk for the prisoners and pre-trial detainees. In West Darfur, I interacted with IDPs in Hassa Hisa camp in Zalingei, attended a meeting of the sub-group of the Darfur Human Rights Forum and visited a model village for returnees in Saraf Jidad.

This is my first visit to Sudan since my appointment as Independent Expert by the Council on 1 November 2009. During my visit, I have witnessed a number of positive developments including the establishment of Human Rights Forums. As mentioned earlier, I had the privilege to participate in meetings of these forums and was encouraged by the spirit of cooperation and the willingness to work in partnership on human rights issues.

I am encouraged by the considerable progress made in institutional and legislative reform in accordance with the Comprehensive Peace Agreement and Interim National Constitution. I welcome the passage of new laws such as the Child Act, the Press and Printed Materials Act, the Elections Commission Act, the National Human Rights Commission Act, the Southern Sudan Human Rights Commission Act, the Southern Sudan Referendum Act, the Popular Consultation for Blue Nile and South Kordofan States Act and the Abyei Referendum Act. In the case of Southern Sudan, it is encouraging to note that Human Rights Commissioners have been appointed and the Commission is fully functional.

I have also noted that the Government has taken some steps to implement the recommendations of the Group of Experts on Darfur. Among these is the deployment of more police personnel in Darfur including women police. Furthermore, in collaboration with the UN and other international partners, the police, prosecutors, prison staff and other law enforcement agencies have received training and awareness-raising on human rights and international humanitarian law through the assistance of a technical cooperation project

funded by the Government of Switzerland. I urge the Government to continue and intensify efforts to implement the remaining recommendations in accordance with the specified indicators.

In relation to children, I note that the Government has established specialized prosecutors for children and child and family units as part of law enforcement agencies in the three Darfur states.

Notwithstanding these encouraging achievements, I note the lack of progress in other areas of human rights concern. I am particularly concerned that eight months after the Independent National Human Rights Commission Act was enacted, the Government of National Unity has not as yet appointed the Commissioners. I encourage Government to put in place a transparent process to nominate and select Commissioners and to ensure that the Commission becomes operational. The Human Rights Commission is not only a bench mark of the CPA but also a key national institution for the promotion of human rights especially in countries emerging from conflict.

I am also concerned about the continued existence of certain provisions in the National Intelligence and Security Services (NISS) Law, the Criminal Procedure Law, and the Public Order Act which infringe fundamental rights. During my visits in Northern Sudan including in Darfur, several cases of alleged violations of human rights including arbitrary arrests and detentions, were brought to my attention. Most of these reports named the National Intelligence and Security Services as the main entity responsible. I encourage the Government to amend these laws and bring them in conformity with the CPA and the INC.

Sudan goes to the polls in April this year. During my visit, members of political parties complained about harassments, intimidations, and restrictions in connection with electoral and political activities. With the date of election fast approaching it is essential that the Government provides a conducive environment for free and fair elections with firm guarantees of the fundamental freedoms of expression and assembly in accordance with the CPA and the Constitution.

In Darfur, in spite of the improvement in the security situation, I remain concerned about the serious capacity and resource gaps that continue to affect administration of justice. Access to justice continues to be a major challenge in light of the weak presence of law enforcement and rule of law institutions outside the main urban centres.

In relation to Darfur crimes, I note with concern that to date very few perpetrators have been brought to trial for crimes committed during the conflict. During my visit, I met with the Prosecutor General appointed by the Government to investigate crimes committed in Darfur since 2003 and inquired about the status of his investigation and prosecution. He informed me that investigations are continuing and that no one has been charged and tried as yet.

Again in Darfur, I remain troubled by the continuing application of the Emergency and Public Safety Protection Act which grants the state wide discretionary powers of arrest and detention without any effective judicial remedy. During my visit to North Darfur, I met a group of detainees who informed me that they have been in detention since 2 August last year without being charged with an offence or brought before a court of law to allow them the opportunity to defend themselves.

In South Sudan, I am concerned about the increasing incidence of tribal violence and the attendant loss of lives especially among women and children who are targeted. In spite of the strong commitment of state authorities to protect human rights there appears to be weak capacity to ensure respect for the rule of law and the protection of rights. Serious deficiencies exist in the justice sector. Prison facilities are inadequate, courts are non-existent in some areas, and in areas where they exist, they are ill-equipped and under resourced. The police force remains poorly trained and ill equipped. This weak capacity has led to the SPLA assuming police powers in some areas. During my visit, I received allegations of abuses committed by the SPLA occasioned by their usurpation of police powers. I note however that significant efforts are being made by the Government in collaboration with international partners to address these problems.

During my visits in the South, I was also appalled by the high levels of poverty and the lack of basic services in many areas and am concerned about the impact of this on the enjoyment of human rights. Years of prolonged conflict have created a whole generation of youth with little or no education. Food and water shortages continue to affect whole communities on a daily basis and many people have no access to basic health and sanitation facilities. I urge the Government of Southern Sudan in cooperation with the international partners to continue to address these concerns as a matter of urgency.

In Abyei, in spite of the establishment of an Abyei administration in accordance with the Abyei road map, no formal judicial structures have been put in place to deliver justice. Compounding the problem is the fact that the void created by the absence of the judiciary has been filled by traditional courts which handle criminal cases that ought to have been the subject of the jurisdiction of the formal courts.

As I conclude my first visit to Sudan, I am mindful of my mandate which requires me to engage with the Government of Sudan and the various human rights mechanisms in order to effectively and sustainably

realize the objective of promotion and protection of human rights in Sudan. In this regard, I look forward to continuing an open, constructive and continuous dialogue with the Government and all relevant parties.

Thank you.

Q & A

Reuters: Do you have any guarantees or promises from the Government that the laws you mentioned – the National Security Act, the Criminal Procedures Act, the Public Order Act – will get changed before the elections?

If they don't, what effect will they have on elections?

Justice Chande: Thank you very much. During my visit, I tried to impress on those concerned that there are two things – there is passing laws which is a measure of development from the old laws but still the passing of the laws themselves in itself is not the end of the matter. Some of these laws need to be looked into again so that they are more complete in terms of the human rights requirements.

Reuters (follow up): Did you get any assurances from the Government that that would be done before the elections?

Justice Chande: This is something I intend to follow up on.

Reuters (follow up): And what about the impact on the elections?

Justice Chande: In terms of the elections process, questions have been raised – when and by whom the answer would be provided, by whom, is contending issue and especially whether the existence of this law by itself would be a hindrance to the freedom of movement of contestants and so on during the elections. This is an issue which I certainly will continue to follow on.

Spokesperson Ashraf Eissa: We can also always ask our Chief Electoral Officer to come in the coming few weeks and brief you about the elections in context. He will probably be much better placed to deal with questions of this nature.

Radio Miraya FM: During your visits to Darfur and Southern Sudan, do you think that the situation in the ground there is prepared for conducting the elections?

Justice Chande: My mission was not really on the elections ... I am not an elections observer. But there are issues related to the elections that do relate to human rights. Some of those issues were raised during my visit and these were questions related to, for example, people wanting to know whether during the campaign process they will continue to have freedom of movement, and so on.

Citizen: The Mbeki panel (the AU Panel on Darfur) has called for the establishment of courts and justice in Darfur. Such is also among the demands of the armed movements. You did mention that during your meetings, the Special Prosecutor on Darfur says investigations are still ongoing but no suspects have been tried. Do you think that Government is serious in trying these suspects?

Justice Chande: The information I received with relation to the work of the Special Prosecutor is that there were some 120 or so investigations that were ongoing. As I said earlier, the Special Court has not yet functioned in terms of bringing to trial those responsible. So there is an investigation ongoing but not trials committed.

Of course this is an issue of importance in terms of accountability. I was informed that the reason why there are no prosecutions so far is that while investigations are continuing, there is a difficulty in obtaining witnesses some of whom are not even in Sudan. There is difficulty of access by prosecutors in terms of areas that are still controlled by armed movements. There are difficulties but what is clear to me is that there must be accountability for crimes committed in Darfur.

Sawt Al-Umma: What is your assessment of the human rights situation in other parts of Sudan for example in eastern and northern Sudan?

What are the mechanisms and procedures used to avoid such human rights violations in future? Or is the UN just doing recommendations?

Justice Chande: As I said, this is my first visit. But I know that there are areas of concern reported in the past regarding the situation of human rights in eastern Sudan. During my mandate that terminates sometime later this year, I intend also to ask the authorities to pay attention to that area.

Secondly, the word used in the resolution that created my mandate was: "... to engage with all relevant actors including the Government of Sudan." We had a lot of sessions with regards to this area and some of the mechanisms, for example, would be to establish a mechanism for verification of cases of violation. We are talking now of a joint verification process which would involve UNMIS and UNAMID who are on the ground. If these procedures could be worked out for a joint verification, a speedy verification where there is a violation could be carried out.

SRS: You talked about UN Police deployment among the police units in Darfur. From your investigations, have you heard about any improvements with the deployment of these UN Police?

What do you recommend in order to speed up investigation of Darfur crimes?

Finally, we have not heard anything about the issues in Northern Sudan such as the Meroe Dam area.

Justice Chande: I do understand, for example, that the UN Police is deployed in some of those areas in terms of patrolling during when women are collecting firewood outside the camps. The more deployed the more assurance of safety. Of course, the UN does not have access to all areas of Darfur due to safety and other considerations. But UN Police is progressively giving certain assurance of the presence of law enforcement in some areas at least.

On crimes committed in Darfur, this is an issue of moving investigations to prosecutions. Of course, I am not informed of the quantum of the evidence collected. Being a judge, you would want to invite the prosecutor not to hesitate but what I am told is the plan for him to bring cases that have sufficient levels of evidence not cases which would be thrown out of the courts. But this whole process must be accelerated and I think this is not only coming from me. If you read the report of President Mbeki that suggests serious measures be taken because the more you delay, the more the confidence of the people of Darfur in this mechanism will be eroded. [*rest indiscernible*]

Al Arabiya TV: I wonder whether you had the opportunity to look at issues of the Public Order Law and also the incriminalisation of Female Genital Mutilation (FGM).

Justice Chande: There are issues in the Public Order Law related to the law itself in terms of restrictions, in terms of freedom of association and so on. The issues surrounding the Dress Code are, of course, ongoing issues. The problem there may be at different levels. If you look at the offences in sections 151 and 152, for a lawyer, when you say "deems", it is a legal fiction. There is also no clear yardstick for deciding. This is also one of the issues that have to be looked into.

The Constitution of Sudan says that Sudan is a country of diverse cultures and ethnic groups. The issues surrounding a law could not be applied arbitrarily and make it the standard of human rights. Human rights tries to prevent laws from being arbitrary, from not having clear yardsticks. [*indiscernible*]. If I ask the question, what is the common culture for 137 Sudanese tribes that constitute the united Sudan today, [*indiscernible*].

Your second point was on incriminalising FGM. That came up clearly in our discussions. People expressed their disappointment that when the Child Act was passed, the criminal provisions related to FGM were uplifted. Of course this is a question I directed to the authorities and the response I got was that there is consideration being given to include this not in the Child Law but in the Criminal Law. The argument is debatable whether FGM is a social phenomena or a criminal act. This debate that the Advisory Council for Human Rights is aware came up in my visit and I discussed this with them.

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