

The Observatory for the Protection of Human Rights Defenders

a joint programme



Press release

Human rights and humanitarian organisations at risk in Sudan

Paris-Geneva-London, March 7, 2006. The International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), in the framework of their joint programme, the Observatory for the Protection of Human Rights Defenders, and the Sudan Organisation Against Torture (SOAT) wish to express their deep concern regarding the adoption of the “Organisation of Humanitarian and Voluntary Work Act 2006” by the Sudanese Parliament on February 20, 2006 in second reading.

This text, presented in first reading before Parliament on February 13, 2006, had been rejected following the approval by the National Council of Ministers of a report presented by its Humanitarian Affairs Committee, stating that some amendments would be necessary to the adoption of the Bill (see Observatory press release dated February 16, 2006). Although several restrictive provisions were withdrawn from the first version of the law¹, this text, in its amended version still imposes serious restrictions to freedom of association and an increased control over NGOs activities by Sudanese authorities, affecting both local and foreign humanitarian and human rights organisations².

- Modalities for NGO registration / Rejection of registration / Cancellation of registration

According to the Act, NGOs have to: obtain the approval of the authorities to get registered; be made up of 30 members at least, whose name and addresses have to be specified; apply for registration before the Registrar. The registration of organisations of less than 30 members may only be approved by the Minister of Humanitarian Affairs or by the Council of Minister, on the Minister’s recommendation.

The organisations applying for registration shall have to pay “the prescribed registration fees”, without any further precision on the amount of these fees.

Moreover, the law provides for specific conditions for the registration of foreign organisations. These organisations have from now on to “submit a certified registration certificate authenticated by the Sudanese Embassy or mission covering the respective country” and “to sign a country agreement to perform its programmes in coordination or with the participation of one or more national organisations”. International organisations shall also have to comply with “any other conditions to be laid down by the Minister”.

The vagueness of these terms may augur arbitrary decisions from the authorities regarding which NGOs should be allowed to register or the amount should be required to such association. The costs may also deter organisations from registering.

Furthermore, the text foresees that “all voluntary organisations, registered before the coming into force of this Act, shall [register] within a period of 90 days as from the date of the coming into force of this Act”. It also stipulates that “licence for each organisation shall be renewed annually”, which means that all organisations will face, annually, a decision by the Sudanese authorities as to whether they ought to be re-registered or not. The Observatory and SOAT fear that the authorities are thus given the possibility to refuse to re-register some organisations on arbitrary criteria such as their criticism regarding the government’s policies or their denunciations of human rights violations.

¹ The main provisions of the first version are explained in the Observatory Open Letter, dated November 7, 2005.

² Humanitarian and voluntary work is defined as “any non-profitable human activity undertaken by any voluntary or charity organisation, national or foreign, registered in the Sudan with the purpose of rendering humanitarian aid, relief, public services, human rights services, ecology conservation or improvement of economic and social standards for beneficiaries”. Article 5(f) specifies that these organisations are not allowed “to intervene in the Sudan internal affairs in the way that affects the sovereignty of the country”.

Concerning the refusal of applications by the Registrar, the law foresees that the registration's application of any civil society organisation may be rejected, "if the activities [of the organisation] are incompatible" with the provisions of this Act. In case of rejection, the Minister may appeal the decision within 15 days. The Observatory and SOAT recall that the Registrar is appointed by the Minister of Humanitarian Affairs, which may lead one to distrust the real efficiency of such an appeal. Nevertheless, the applicant may resort to a competent court, if the Minister does not respond on the appeal within a month, or rejects it.

The registration of any national or foreign NGO may also be cancelled by the Registrar if, after "proper investigation", it is convinced that: "the organisation violated the provisions of this Act, the regulation or any law in force"; "if the organisation, without acceptable justifications, failed to carry out its activities for a period of one year", or if it "uses humanitarian assistance to obtain illegal gains for itself". The organisation may appeal against the Registrar's decision before the Commissioner (appointed by the President on the recommendation of the Minister) within 30 days. If the Commissioner does not reply to the appeal or reject it, the applicant may resort to the Minister, and further to a competent court within a month if the latter acts the same way.

- Sanctions

The law provides that anyone "who [practices an activity as voluntary organisation without registration] shall be punished when convicted by fine"³. In addition, the courts may expel from Sudan a non-Sudanese person convicted and / or confiscate the funds of a non-registered organisation, which are the subject of the offence.

Besides, in the event of any other violation of the Act, the Registrar may, among others and with the approval of the Commissioner, suspend the activities of an organisation for any period he deems appropriate; NGOs may appeal such a decision to the Minister within 14 days, and further to a competent court. The Registrar may also prohibit the offender from practicing humanitarian voluntary activity in Sudan for up to one year, or initiate criminal procedures against him or her.

- Control over NGOs' activities

The law gives the Registrar the powers to "keep all the basic documents and records of reports on NGOs", "to examine records" to ensure that their activities are carried out in accordance with this Act. He will "supervise elections of all national organisations", and be assigned to "any other functions" by the Minister".

For his part, the Commissioner, who is the head of the Humanitarian Aid Commission, shall have to "carry out preliminary investigations with any organisation to ascertain whether or not there is any contravention to the law and take the necessary legal procedure before the competent judicial bodies, if he deems that appropriate" and be assigned to "any other function" by the Minister. He shall also "organise and coordinate works and programmes geographically and sectorally and supervise, evaluate and follow up voluntary and humanitarian work and settle disputes that may arise among such organisations or with any other bodies". Furthermore, a registered organisation shall submit to the Commissioner a half-yearly report on its work, an annual progress report and a certified copy of annual audit report. The progress reports shall include budgetary summary and indicate any substantial changes in the work plan.

The Observatory and SOAT are deeply concerned by the fact that the Registrar and the Commissioner could be massive governmental tools to interfere in NGOs' activities and consider that this law constitutes a negative step adding to numerous other obstacles faced by national and international human rights and humanitarian NGOs, in terms of administrative hindrances, harassment, and security infringements.

As a consequence, the Observatory and SOAT urge the Sudanese authorities to:

- repeal the "Organisation of Humanitarian Work Act, 2006", in order to conform with international and regional law;
- conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998, in particular with article 1, which states that "everyone has the right, individually or in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels" and article 12.2, which states that "The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration";

³ In its first version the law also provided for a prison term sentence up to six months for anybody who would have been convicted of contravening its provisions.

- more generally, conform with the Universal Declaration on Human Rights and the regional and international instruments relative to human rights binding Sudan.