



# OPERATIONAL GUIDANCE

## SUDAN

### I. Introduction

The document summarises the general political and human rights situation in the country of origin and provides information on the nature of claims frequently received from nationals of that country and relevant country conditions. It provides guidance on policy where required but does not, in itself, constitute a statement of Home Office policy. The document must be read in conjunction with the country assessment and other information distributed on the country of origin.

Applications for asylum in the United Kingdom are considered in accordance with the UK's obligations under the 1951 UN Convention relating to the Status of Refugees and the 1967 Protocol. All applications for asylum should be considered individually on their merits and, unless the applicants may reasonably be expected to seek asylum in a third country or the Dublin Convention applies, asylum should be granted where the applicant fulfils the criteria in the 1951 UN Convention.

Detailed guidance on assessing an asylum claim is contained in the Asylum Policy Instructions (APIs), chapter 1 section 2. Caseworkers must also familiarise themselves with the Home Office Country Assessment and its accompanying source material. If a claim for asylum falls to be refused, consideration must be given as to whether a grant of exceptional leave is appropriate. As part of this process, human rights issues must also be considered. Further information on the European Convention on Human Rights and Fundamental Freedoms is contained in chapter 5 section 4 of the APIs. Information about the wider criteria for granting and refusing exceptional leave is contained in API chapter 5 section 1.

### II. Country Assessment

The following is a brief summary of the present country situation:

#### The Political System

The information in this section has been obtained from *Africa South of the Sahara 2001*.

- Sudan is a republic and the largest country in Africa. Full independence from British and Egyptian rule was granted in 1956. A military coup in 1989 overthrew the democratically elected government and brought to power Lieutenant General Omar Hassan al-Bashir and his National Salvation Revolutionary Command

Council (RCC). The RCC suspended the 1985 Constitution, abrogated press freedom and banned all political parties and trade unions. In 1993, the RCC dissolved itself and appointed Hassan al-Bashir the President of Sudan. The ruling party is called the National Congress previously known as the National Islamic Front. Legislative power is vested in the National Assembly. Although not officially an Islamic state, the Government regards Islam as the state religion and Islamic principles form the basis of Sudanese law.

### **Human Rights Situation**

- According to the US Department of State 1999 Human Rights Report on Sudan, the Sudanese Government has a poor human rights record. The ability of its citizens to change their government is limited. The Government's security forces reportedly commit extrajudicial killings, rape women, torture, beat and abuse detainees and prisoners and harass and detain persons on the basis of their religion and political affiliation, generally with impunity.
- According to the US Department of State 1999 Human Rights Report on Sudan, prison conditions are harsh, overcrowded, unsanitary and inadequate. Prisons are poorly maintained and many lack basic facilities such as toilets or showers. Serious deficiencies in food, health care and sanitation due to lack of funds are common in Sudan's prisons. Prison officials reportedly arbitrarily deny family visits.
- According to the *UNHCR Background Paper on Refugees and Asylum Seekers from the Sudan* published in July 2000, freedom of political association and assembly is permitted subject to government restrictions. The 1999 Political Association Act as revised by the 2000 Political Organisational Act allows political parties to be officially recognised provided they register with the Government. The law, however, imposes the restriction that all new parties must adhere to the ruling party ideology. Members of political parties that are not registered are not permitted to engage in political activity in Sudan. The leaders of such political parties are mostly in exile.
- According to the US Department of State 1999 Human Rights Report on Sudan, the Government restricts freedom of speech and the press. Government suspensions of newspapers, intimidation and surveillance inhibit open public discussion of political issues. The Government's National Press Council (NPC) applies the provisions of the 1999 Press Act which gives the NPC the authority to grant licences to the press, register journalists and issue sanctions and penalties. Journalists are subject to harassment, arbitrary arrest, detention and torture.

- According to the US Department of State 2000 Report on International Religious Freedom for Sudan, the Constitution allows for freedom of religion but the Government restricts the freedom of religion of non-Muslims as Islam is regarded as the state religion. There are religious minorities of Christians and practitioners of traditional indigenous religions who live mostly in the south of the country. Northern Arab Muslims form the majority of the population and they dominate government institutions.  
Sudanese Christians may encounter discrimination and harassment but are largely free to attend church services and worship openly. What discrimination and harassment Christians may encounter does not amount to persecution.
- According to the US Department of State 1999 Human Rights Report on Sudan, the Government arbitrarily restricts freedom of movement within the country and exit from and entry into the country. Persons detained by the security forces need to have written permission to leave the town or village where they live after release. Checkpoints are set up along main roads to verify the identity of travellers. For most locations outside Khartoum, especially those under government control in the south, travel permits are required for any person wishing to enter or leave. Sudanese citizens wanting to leave Sudan must have an exit visa obtainable from the Ministry of the Interior. The granting of exit visas is dependent to a large extent on political factors. For example, political tensions with Egypt have resulted in the Sudanese authorities denying many requests to travel there.
- According to the US Department of State 1999 Human Rights Report on Sudan, the security forces reportedly torture and beat suspected opponents of the Government such as student leaders, lawyers and others. The security forces have been known to use excessive force including beatings and the use of tear gas to disperse unapproved demonstrations. The security forces reportedly torture persons in "ghost houses" which are places where the security forces detain opponents of the Sudanese Government incommunicado in harsh conditions for an indefinite period of time.
- According to the US Department of State 1999 Human Rights Report on Sudan, the security forces reportedly arrest and detain persons arbitrarily. Persons arrested by the security forces are often held for long periods of time in unknown locations incommunicado without access to family members and lawyers. Those prosecuted cannot be guaranteed a fair trial.
- According to the *UNHCR Background Paper on Refugees and Asylum Seekers from the Sudan* published in July 2000, Sudan has been in a state of almost continuous civil war since it became independent in 1956. The current fighting started in 1983. The

conflict is based on the ethnic, religious and cultural differences between the Arab-dominated Islamic government in the north and an alliance of northern Arab opposition political parties and non-Muslim black African rebels from the south and east.

- According to the Amnesty International 2000 Annual Report on Sudan, people who are not actively taking part in the civil war fighting have reportedly suffered from human rights abuses committed by all parties to the conflict, internal displacement and widespread disruptions to food supplies. Human rights abuses in the contested areas in the south include indiscriminate bombings, abductions, enslavement and the arbitrary killings of civilians.

### **III Common Types of Claim and Relevant Country Information**

Common types of asylum application will involve the applicant claiming to be:

- an active member of an opposition political group or a politically active student
- a man who has evaded compulsory military service or was a soldier but has deserted the Sudanese army not wanting to fight in the civil war
- a Christian and a member of a black ethnic group fearing persecution on the basis of religion and ethnicity

Based on information obtained from sources already quoted in this OGN, the Foreign and Commonwealth Office, the United Nations High Commissioner for Refugees (UNHCR) and various news reports, individuals from the categories listed below are considered to be at risk of persecution in current circumstances:

- Journalists and editors who have written newspaper articles criticising government policy, government ministers and the president and the activities of the security forces
- Leaders of political parties and/or high profile members of political parties. In July 2000, the Sudanese Government granted a political amnesty to members of opposition political groups which has reduced the risk of persecution to political activists
- Rebel soldiers of the Sudan People's Liberation Army (SPLA) who have been fighting against the Sudanese army (SPLA soldiers are mostly Christian and are members of black ethnic groups)

### **Umma Party Members**

The Umma Party is one of the main opposition political parties in Sudan and is currently pursuing a policy of direct engagement with the Sudanese Government to achieve the political reforms and

constitutional changes it wants. Many exiled Umma Party members have returned to Sudan and the leader - Sadiq al-Mahdi - returned to Sudan in November 2000. In view of this, members of the Umma Party, in general, are not considered to be at risk of persecution at the present time.

### **Returns**

Failed Sudanese asylum applicants can be returned to Sudan but only to Khartoum which is the capital city and is in the north of the country. It is not considered safe to return a Sudanese national directly to the south of the country as the ongoing fighting in the civil war is concentrated in the south. Also, there is no internal flight option available to facilitate the movement of people from Khartoum to the south.

### **Granting of ELE/R**

In any case where asylum is refused, the caseworker should then consider whether there is justification for granting ELE/R. There is no countrywide exceptional leave policy in operation in respect of Sudan but the grant of 4 years ELE/R for humanitarian or compassionate reasons may be justified on a discretionary basis on individual cases. There are no specific categories of Sudanese asylum applicants whose asylum applications have been rejected that should be granted ELR. In more general terms, ELR could be granted, for example, to asylum applicants with serious illnesses and health problems that require medical treatment or medication available in the United Kingdom but not available in Sudan.