



## **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,  
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For further information, please visit our website at [www.pclrs.org](http://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

**21<sup>th</sup> December 2009**

Parliament endorses Security Act

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

**21<sup>th</sup> December 2009**

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

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

**20<sup>th</sup> December 2009**

Sudan's NCP denies agreeing to extending parliamentary session

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

**20<sup>th</sup> December 2009**

CPA partners fail to reach agreement on Security Act

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

**19<sup>th</sup> December 2009**

Parliament to deliberate Monday on South-Sudan self determination

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

**19<sup>th</sup> December**

Opposition keeps up law reform pressure

[http://www.iwpr.net/?p=acr&s=f&o=358447&apc\\_state=henpacr](http://www.iwpr.net/?p=acr&s=f&o=358447&apc_state=henpacr)

**18<sup>th</sup> December 2009**

SPLM says it will not endorse national security bill

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

**15<sup>th</sup> 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>

**15<sup>th</sup> December 2009**

Scores detained during second attempt for protest in Sudan

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

**15<sup>th</sup> December 2009**

Khartoum law reform protests

[http://www.iwpr.net/?p=acr&s=f&o=358283&apc\\_state=henh](http://www.iwpr.net/?p=acr&s=f&o=358283&apc_state=henh)

**14<sup>th</sup> 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>

**14<sup>th</sup> December 2009**

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

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

**12<sup>th</sup> December 2009**

NCP connects South Sudan referendum to elections

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

**11<sup>th</sup> December 2009**

Sudanese president meets with Kiir amid growing political tensions

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

**8<sup>th</sup> December 2009**

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

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

**7<sup>th</sup> December 2009**

Sudanese parliament will not leave any bills behind-speaker

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

**6<sup>th</sup> December 2009**

Sudan electoral commission warns against international monitors

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

**3<sup>rd</sup> December 2009**

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

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

**1<sup>st</sup> December 2009**

Carter Center praises peaceful voter registration despite concerns

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

**26<sup>th</sup> November 2009**

Sudan's peace partners have yet to overcome differences

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

**26<sup>th</sup> 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

**28<sup>th</sup> 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

**17<sup>TH</sup> December 2009**

International Crisis Group: *Sudan: Preventing Implosion*

[http://www.crisisgroup.org/library/documents/africa/horn\\_of\\_africa/b68\\_sudan\\_\\_\\_preventing\\_implosion.pdf](http://www.crisisgroup.org/library/documents/africa/horn_of_africa/b68_sudan___preventing_implosion.pdf)