



# Sudan: Ethnic cleansing and the persecution of Christians

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## 1. Sudan in a nutshell

Sudan is a country located in the north-eastern part of Africa. “Demographically, the northern part of Sudan is largely Arab and Islamic, whereas the South is African with mixed religious adherence - Christian, traditional religions and Islamic.”<sup>1</sup>

Sudan gained independence in 1956 but immediately plunged into civil war.<sup>2</sup> Two rounds of North-South civil war cost the lives of 1.5 million people, and a continuing conflict in the western region of Darfur as well as in the South Kordofan and Blue Nile States has displaced millions of people from their homes and killed hundreds of thousands.<sup>3</sup> The main source of the conflicts is

<sup>1</sup> Fein, Helen, *Genocide by Attrition 1939-1993, The Warsaw Ghetto, Cambodia, and Sudan: Links between Human Rights, Health and Mass Death, Human Rights and Health, Volume 2 Number 2*, p.22.

<sup>2</sup> Nations Online Project, <http://www.nationsonline.org/oneworld/sudan.htm>, last accessed 23 May 2016.

<sup>3</sup> Sudan Country Profile, British Broadcasting Corporation, available online at: <http://www.bbc.com/news/world-africa-14094995>, last accessed 23 May 2016.

the attempt by Sudan's government to exercise full control (politically, religiously and economically) over the people of the South.<sup>4</sup>

The country found itself in such complex challenges due to the fact that "successive leaders in Khartoum have attempted to unify a huge and diverse country by pursuing Arabizing and Islamizing policies."<sup>5</sup> Khartoum's ruling National Congress Party (NCP) relentlessly tries to impose an Arab ethnicity and its own extremist interpretation of Islam on the non-Arab residents of southern Sudan.<sup>6</sup> In his speech in 2010, President al-Bashir said that after South Sudan's succession "there would be no time to speak of diversity of culture and ethnicity."<sup>7</sup> He also noted that "Sharia (Islamic Law) will be the main source for the Constitution, Islam the official religion and Arabic the official language".<sup>8</sup> The government thus clearly favors Islamist policies.<sup>9</sup> Blasphemy laws are used to persecute Christians and apostasy is criminalized and carries the death penalty; this is particularly harsh for non-Arabs.

After the independence of South Sudan, conflicts have continued in Darfur, South Kordofan and Blue Nile. In the latest conflicts in South Kordofan and Blue Nile States which started in 2011, African and Christian residents are facing unimaginable sufferings. Deliberate aerial bombardments of civilians and civilian objects, mass and targeted killings of religious and tribal leaders, arbitrary detentions, forced displacements and denial of humanitarian assistance have become the order of the day. The targets of these atrocities are non-Arabs and Christian residents of the southern part of Sudan.

Sudan is one of the three countries in the world that has remained in the list of countries designated by the US State Department to be "countries of particular concern" for fifteen consecutive years.<sup>10</sup> According to reports by different rights groups as well as researchers, Christians in South Kordofan and Blue Nile States face sufferings of various kinds including targeted killings, systematic detention, discriminatory administrative measures, unrestricted and unlimited military measures that violate the laws of war etc. Their religious leaders face persistent persecutions and churches are being demolished by aerial bombardments.

This paper will first define the notions of ethnic cleansing and genocide. It is believed that doing this will provide a framework within which to analyze crimes perpetrated by the government of Sudan against its own Christian and non-Arab citizens. Relying on and analyzing information obtained from different sources, the research will argue that the ordeal that Christians and Africans face in Sudan in general - and the Nuba people in particular - is religious ethnic cleansing, at least. The research will substantiate its claim with supporting evidence and concludes that a well-planned and systematically employed pattern of ethnic cleansing is taking place in Sudan. Christians in Sudan living in all parts of the country face persecution; however,

<sup>4</sup> Totten, Samuel, *Genocide by Attrition: The Nuba Mountains of Sudan*, Transaction Publishers, 2012.

<sup>5</sup> BBC News, *Are Christians in Sudan facing Persecution?*, 22 June 2015, available online at: [www.bbc.com/news/world-africa-33196289](http://www.bbc.com/news/world-africa-33196289).

<sup>6</sup> Leo, Leonard A., and Prodromou, Elizabeth H., *Yet Another Crisis in Sudan: Khartoum's Religious Freedom and Human Rights Abuses*, *The Fletcher Forum of World Affairs*, Volume 36, Number 2, 2012, p.68.

<sup>7</sup> *Supra* Note 5.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *International Religious Freedom Act 2015 Annual Report Overview*, p.11, available online at <http://www.uscirf.gov/sites/default/files/IRFA%20Chapter.pdf>, last accessed 23 May 2016.

as the level of persecution which Christians in Blue Nile and South Kordofan States (Nuba people) are facing is so severe, this research mainly focuses on assessing the gross human rights violations - or the religious and ethnic cleansing - that is being perpetrated against Christians and non-Arabs in these two states.

## 2. Definition of ethnic cleansing

The term *ethnic cleansing* is believed to be a literal translation of the Serbo-Croatian/Croato-Serbian phrase *etničko čišćenje*.<sup>11</sup> Though the term first appeared earlier, it was widely used in 1990s in connection with the atrocities committed against civilian populations in the conflicts that erupted following the breakup of the Federal Republic of Yugoslavia.<sup>12</sup>

History attests that various forms of population removal and transfer have occurred in different parts of the globe.<sup>13</sup> The United Nations Commission of Experts tasked with the investigation of human rights violations in former Yugoslavia confirmed this fact by stating in its Final Report that *ethnic cleansing*, as a practice, is not new to history.<sup>14</sup>

The term *ethnic cleansing* has become commonly employed in legal writings, UN resolutions and official papers of international organizations.<sup>15</sup> There is, however, no universally agreed upon, single definition for the term. It has to be pointed out that despite disagreements over its exact definition, “the concept of ethnic cleansing has become firmly anchored within international law”.<sup>16</sup>

Different writers and experts have defined *ethnic cleansing* in different ways. The UN Commission of Experts defined the term as “rendering an area ethnically homogenous by using force or intimidation to remove persons of given groups from the area”.<sup>17</sup>

Andrew Bell-Fialkoff, the author of an article entitled "A Brief History of Ethnic Cleansing" defines the term as:<sup>18</sup>

"... ethnic cleansing can be understood as the expulsion of an 'undesirable' population from a given territory due to religious or ethnic discrimination, political, strategic or ideological considerations, or a combination of these."

<sup>11</sup> Petrovic, Drazen, Ethnic Cleansing - An Attempt at Methodology, *European Journal of International Law*, Vol. 5, No. 3, p.343 (1994).

<sup>12</sup> Encyclopaedia Britannica, at: <http://www.britannica.com/topic/ethnic-cleansing>, last accessed 23 may 2016.

<sup>13</sup> Bell-Fialkoff, Andrew, A Brief History of Ethnic Cleansing, *Foreign Affairs*, Vol. 72, No. 3 (1993), available at: <http://www.encyc3310zine.pbworks.com/f/9308115873.pdf>, last accessed 23 May 2016.

<sup>14</sup> United Nations, Security Council, Final Report of the Commission of Experts established pursuant to Security Council Resolution 780 (1992), 27 May 1994, UN Doc. S/1994/674 (1994), Annex IV: The Policy of Ethnic Cleansing, Part Two: Ethnic Cleansing in BiH, I: Introduction, Para. 111, p.21.

<sup>15</sup> Supra note 11.

<sup>16</sup> Ibid.

<sup>17</sup> Interim Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), UN Doc. S35374 (1993), Para. 55.

<sup>18</sup> Supra note 12.

For Drazen Petrovic, “ethnic cleansing is a well-defined policy of a particular group of persons to systematically eliminate another group from a given territory on the basis of religious, ethnic or national origin.”<sup>19</sup> Petrovic further identifies, relying on Mazoweicki reports, the following major characteristic features of *ethnic cleansing*: a) It has a systematic character, i.e. there is an elaborate policy underlying individual events; b) Authorities support the process either by participation or instigation or at least by refraining from taking action to restrain those responsible; c) *Ethnic cleansing* is perpetrated against particular groups of individuals, according to their ethnic, national, or religious characteristics; d) Individuals advocating *ethnic cleansing* cannot by definition respect the laws of war, since respecting International Humanitarian Law (IHL) would strip *ethnic cleansing* of its means, methods and object; e) *Ethnic cleansing* takes different forms ranging from simple administrative and economic discrimination to the violent extermination of a target group.<sup>20</sup>

Different kinds of conduct constitute *ethnic cleansing* when committed by one group against members of another ethnic or religious group. The forms of conduct that make up *ethnic cleansing* are often categorized into the following groups:

**Administrative measures:** Included under this group are actions like “removal of lawfully elected authorities, dismissal from work, restrictions on the distribution of humanitarian aid, constant identity checking of members of minority ethnic groups, discriminatory and repressive legislation, making the departure of one member conditional upon the departure of the entire family, official notices to the effect that security of members of other nations cannot be guaranteed, etc.”<sup>21</sup>

**Non-violent measures:** Local media inflaming fear and hatred, publishing lists of citizens divulging their ethnic origin and sending death threats are among acts that fall in this category.

<sup>22</sup>

**Terrorizing measures:** Actions that constitute terrorizing measures include robbery, massive deportation, detention and ill-treatment of the civilian population and their transfer to prisons and camps, shooting on selected civilian targets or blowing up or setting fire to homes, shops and places of business, destruction of cultural and religious monuments and sites, mass displacement of communities and rape.<sup>23</sup>

**Military measures:** Summary executions, deliberate killing and torturing of religious and political leaders, intellectuals and politicians, holding villages and towns under siege, deliberate attacks and blocking of humanitarian aid, deliberate shelling of civilian targets (cultural and religious objects), reprisals against civilian targets and use of civilians as human shields.<sup>24</sup>

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<sup>19</sup> Supra note 10, p.351.

<sup>20</sup> Supra note 10, p.352.

<sup>21</sup> Supra note 10, p.345.

<sup>22</sup> Ibid.

<sup>23</sup> Supra note 10, p.346.

<sup>24</sup> Supra note 10, p.346.

### 3. Ethnic cleansing and genocide

The term *genocide*, often referred to as the crime of crimes, is believed to have been first used by a Polish jurist, Raphael Lemkin in 1944.<sup>25</sup> Following the atrocities of the Holocaust, the United Nations General Assembly passed a resolution on 11 December 1946 to combat future *genocides*.<sup>26</sup> The resolution defined the term in its preamble as being “a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings”.

On 9 December 1948, the United Nations Convention on the Prevention and Punishment of the Crime of Genocide (UNCG) was adopted by the UN General Assembly.<sup>27</sup> The Convention established *genocide* as a crime under international law, whether committed in times of peace or war. The Convention defined *genocide* as the commission of prohibited acts (killing, causing serious bodily or mental harm, inflicting conditions of life calculated to bring about physical destruction, imposing measures intended to prevent births, forcibly transferring children) with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such.<sup>28</sup>

The UNCG definition, therefore, contains three major elements: 1) prohibited acts that qualify as *genocide*; 2) protected groups that must be targeted; and 3) the *mens rea*, special intent to “destroy, in whole or in part, a national, ethnic, racial or religious group...”<sup>29</sup>

There have been controversies over the exact relationship between *genocide* and *ethnic cleansing*. In the early 1990s, for example, the term *ethnic cleansing* was interchangeably used or equated with the term *genocide*.<sup>30</sup> The World Conference on Human Rights’ Resolution on Bosnia adopted in 1993<sup>31</sup> and the Report of the Commission of Experts appointed by the UN Security Council<sup>32</sup> both concluded that the practice of *ethnic cleansing* resulting from Serbian aggression constituted a violation of the UNCG. Furthermore, the UN General Assembly Resolution passed on 18 December 1992 considered “the abhorrent policy of ethnic cleansing as a form of genocide”.<sup>33</sup>

The tendency of considering *ethnic cleansing*” as a synonym for *genocide* has, however, changed. William Schabas, one of the leading experts on the crime of *genocide*, for example, argues that *ethnic cleansing* and *genocide* are not conceptually the same because the intent in *ethnic cleansing* is to remove a population while the intent in *genocide* is to destroy it.<sup>34</sup> Schabas

<sup>25</sup> Martin, James J., Raphael Lemkin and the invention of ‘Genocide’, available online at: [http://www.ihr.org/jhr/v02/v02p-19\\_Martin.html](http://www.ihr.org/jhr/v02/v02p-19_Martin.html), last accessed 23 May 2016.

<sup>26</sup> Resolution adopted by the UN General Assembly, December 11, 1946.

<sup>27</sup> UN Convention on the Prevention and Punishment of the Crime of Genocide, Adopted by Resolution 260 (III) A of the United Nations General Assembly on 9 December 1948.

<sup>28</sup> Id, Art. 2.

<sup>29</sup> Singletery, Douglas, Ethnic Cleansing and Genocidal Intent: A Failure of Judicial Interpretation?, in: *Genocide Studies and Prevention: An International Journal*, Volume 5, 2010, p.43.

<sup>30</sup> Id, p.45.

<sup>31</sup> World Conference on Human Rights, 14-25 June 1993, Vienna, Austria, available online at: <http://www.ohchr.org/EN/AboutUs/Pages/ViennaWC.aspx>, last accessed 23 May 2016.

<sup>32</sup> The Final Report of the Commission of Experts Established Pursuant to Security Council Resolution No. 780 (1992), available online at: [http://www.icty.org/x/file/About/OTP/un\\_commission\\_of\\_experts\\_report1994\\_en.pdf](http://www.icty.org/x/file/About/OTP/un_commission_of_experts_report1994_en.pdf), last accessed 23 May 2016.

<sup>33</sup> UN General Assembly Resolution on the Situation in Bosnia and Herzegovina, 91st plenary meeting, 18 December 1992, A/RES/47/121, available online at: <http://www.un.org/documents/ga/res/47/a47r121.htm>, last accessed 23 May 2016.

<sup>34</sup> Schabas, William, *Genocide in International Law*, 2009, p.233.

strengthens his position by pointing out that “the drafters of the Convention quite deliberately resisted attempts to encompass the phenomenon of ethnic cleansing within the punishable acts”.<sup>35</sup>

The offence of genocide can be said to have two separate mental elements: “a general intent as to the underlying acts, and an ulterior intent with regard to the ultimate aim of the destruction of the group”.<sup>36</sup> The specific intent to destroy a particular group, otherwise known as genocidal intent, is the distinguishing feature of genocide.<sup>37</sup>

The International Criminal Tribunal for Rwanda (ICTR), in its historic Akayesu judgment (1998), stated that “the offender is culpable because he knew or should have known that the act committed would destroy, in whole or in part, a group”.<sup>38</sup> This view was further strengthened by the International Criminal Tribunal for former Yugoslavia (ICTY) in its decisions. The Trial Chamber, for example, noted in *Prosecutor v. Blagojevic & Jokic* that genocidal intent must be proven.<sup>39</sup>

In *Bosnia vs Serbia*, the International Court of Justice (ICJ) stated that *ethnic cleansing* alone does not constitute genocide. In noting the differences and potential overlaps between the two terms, the Court stated:

“It (ethnic cleansing) can only be a form of genocide within the meaning of the Convention, if it corresponds to or falls within one of the categories of the acts prohibited by Article II of the Convention. Neither the intent, as a matter of policy, to render an area “ethnically homogeneous” nor the operations that may be carried out to implement such policy, can as such be designated as genocide: the intent that characterizes genocide is “to destroy, in whole or in part,” a particular group and deportation or displacement of the members of a group, even if effected by force, is not necessarily equivalent to destruction of that group, nor is destruction an automatic consequence of the displacement. This is not to say that acts described as “ethnic cleansing” may never constitute genocide, if they are such as to be characterized as, for example, “deliberate infliction on the group of conditions of life calculated to bring about its physical destruction, in whole or in part”, contrary to Article II, Paragraph (C), of the Convention, provided such action is carried out with the necessary specific intent (*dolus specialis*), that is to say, with a view to the destruction of the group, as distinct from its removal from the region.”<sup>40</sup>

<sup>35</sup> *Id.*, p.227.

<sup>36</sup> Ambos, Kai, What does ‘intent to destroy’ in Genocide mean?, in: International Review of the Red Cross, Volume 91, Number 876, December 2009, p.833, available online at: [http://www.genocidewatch.org/images/Articles\\_What\\_does\\_intent\\_to\\_destroy\\_in\\_genocide\\_mean.pdf](http://www.genocidewatch.org/images/Articles_What_does_intent_to_destroy_in_genocide_mean.pdf), last accessed 23 May 2016.

<sup>37</sup> *Prosecutor v. Akayesu*, Case No. ICTR-96-4, Judgment (Sept. 2, 1998), Para. 498, available online at: [http://www1.umn.edu/humanrts/instree/ICTR/AKAYESU\\_ICTR-96-4/Judgment\\_ICTR-96-4-T.html#6\\_3\\_1](http://www1.umn.edu/humanrts/instree/ICTR/AKAYESU_ICTR-96-4/Judgment_ICTR-96-4-T.html#6_3_1), last accessed 23 May 2016.

<sup>38</sup> *Prosecutor v. Akayesu*, ICTR Decision, Para. 142-143.

<sup>39</sup> *Prosecutor v. Blagojevic & Jokic*, Judgment, ICTY, 02-60-T (17 January 2003), Para. 656, available online at: [http://www.icty.org/x/cases/blagojevic\\_jokic/tjug/en/bla-050117e.pdf](http://www.icty.org/x/cases/blagojevic_jokic/tjug/en/bla-050117e.pdf), last accessed 23 May 2016.

<sup>40</sup> *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Bosnia Herzegovina v Serbia and Montenegro*, Judgment of 27 February 2007, Para. 190, available online at: <http://www.icj-cij.org/docket/files/91/13685.pdf>, last accessed 23 May 2016.

The ICJ endorsed the ICTY Trial Chamber's observation in the latter's judgment in the *Prosecutor vs Krstic* where it was stated: "There are obvious similarities between a genocidal policy and a policy commonly referred to as 'ethnic cleansing'<sup>41</sup>" However, ICJ also emphasized that a clear distinction must be drawn between physical destruction and mere dissolution. It thus concurred with ICTY's stance that the expulsion of a group or part of a group alone does not in itself suffice to be characterized as *genocide*.

The ICTY, however, has acknowledged in a number of its decisions that *ethnic cleansing* may under certain circumstances ultimately reach the level of *genocide*. In other words, mass deportation of a population from one region to another might become *genocide* if the measures were also accompanied by circumstances that lead to the extermination of the whole or part of the displaced population. As Schabas rightly pointed out, "ethnic cleansing is also a warning of genocide to come... Genocide is the last resort of the frustrated ethnic cleanser".<sup>42</sup>

#### 4. Ethnic cleansing In Sudan: General overview

The Republic of Sudan is a country with a well-known history of animosity towards non-Muslims, especially Christians. Using a combination of violence and non-violent means accompanied by legal mechanisms, the government of Sudan has been employing a policy of making Sudan free of Christians. This was asserted by the US State Department report released on 28 July 28 2014, "The Interim National Constitution (INC) and other laws and policies officially restrict religious freedom and there were reports of arrests, detentions, and deportations."<sup>43</sup>

The legal mechanism employed by the government of Khartoum is to enact laws that penalize behaviors that do not conform to Islamic culture and precepts. One of the legal mechanisms is the Public Order Legislation. Experts on the Sudan legal system say: "The so-called Public Order legislation owe their origin to the 1983 'Islamization' of society through the introduction of Sharia 'September laws', including the imposition of Sharia *huddud* punishments" (i.e. punishments that comprise death by stoning, crucifixion, amputation, cross amputation and flogging).<sup>44</sup>

Sudan is also known for its apostasy law under which many converts have been punished. Article 126 of the Penal Code provides for *Riddah* (Apostasy) stating:

“(1) Whoever propagates the renunciation of Islam or publicly renounces it by explicit words or an act of definitive indication is said to commit the offence of Riddah (apostasy).

<sup>41</sup> Prosecutor v Krstic, IT-93-88-T, Trial Chamber Judgment, 2 August 2001, Para. 562.

<sup>42</sup> Supra note 34, p.234.

<sup>43</sup> See <http://www.state.gov/j/drl/rls/irf/2013/af/222101.htm>, last accessed 26 May 2016.

<sup>44</sup> Medani, Amin Mekki (on behalf of the Project for Criminal Law Reform in Sudan), The Draft Social Control Act, 2011, for Khartoum State: Flogging into Submission for the Public Order, November 2011, p.3, available at: [http://www.redress.org/downloads/publications/Draft%20Public%20Order%20Law%20November%202011\[1\].pdf](http://www.redress.org/downloads/publications/Draft%20Public%20Order%20Law%20November%202011[1].pdf), last accessed on 23 May 2016.



- (2) Whoever commits apostasy shall be asked to repent within a period decided by the court and if he insisted on his apostasy and was not a new convert he shall be punished with death.
- (3) Punishment for apostasy lapses if the apostate refrained from apostasy before the execution.”

This provision has been used against converts from Islam to Christianity (Muslim Background Believers/MBBs) many times.

Under Article 125 of the Penal Code, blasphemy is a serious crime that can be punished by flogging, fine or imprisonment. The article states: “Whoever by any means publicly abuses or insults any religion or its beliefs or sacred symbols or seeks to excite contempt or scorn against its followers shall be punished with imprisonment for a term which may not exceed six months or with fine or with flogging which may not exceed forty lashes”. Even though this law is general and not specific to any religion, it is reported that “it is enforced exclusively against those who insult Islam.”<sup>45</sup> It is this implementation that clearly shows the government of Sudan has been committing “ethnic cleansing” against Christians.

The life of Christians dramatically changed after the declaration of independence by South Sudan following the referendum. Following the referendum, many Christians in Sudan found themselves in a very difficult position. They were deported. Christian Post in its 2012 news reported: “The government of Sudan has begun airlifting an estimated 15,000 people to the mostly-Christian South Sudan, after all ethnic Southerners were dismissed from Sudan's civil service following the country's secession last year.”<sup>46</sup> This can also show that the government has a policy of removing all Christians from the country.

## 5. Ethnic (religious) cleansing in South Kordofan and Blue Nile

### 5.1 Conquer them, convert them and/or finish them off: The 1980s and 1990s modus operandi

Located in southern Sudan and bordering with the northern part of South Sudan, South Kordofan and Blue Nile are religiously and ethnically diverse states.<sup>47</sup> The Nuba People live in Kadugli and in the Nuba Mountains in South Kordofan State. The Nuba are black Africans numbering about 1.5 million. They belong to more than fifty tribes and follow Islam, Christianity or traditional religions.<sup>48</sup>

Successive governments in Sudan have discriminated against the Nuba in multiple ways: their languages have been banned and cultures repressed, much of their fertile land has been taken for development into huge mechanized farms and they have been treated by Khartoum as

<sup>45</sup> Berkley Center for Religion, Peace and World Affairs, <http://berkleycenter.georgetown.edu/essays/national-laws-on-blasphemy-sudan>, last accessed 23 May 2016.

<sup>46</sup> See <http://www.christianpost.com/news/thousands-deported-from-sudan-as-violence-continues-74903/>, last accessed 23 May 2016.

<sup>47</sup> Supra note 6, p.69.

<sup>48</sup> Facing Genocide: The Nuba of Sudan, available at: <http://reliefweb.int/report/sudan/facing-genocide-nuba-sudan>, last accessed 23 May 2016.

second-class, inferior citizens.<sup>49</sup> Accordingly, during the North-South civil war in Sudan, the Nuba people and residents of the southern Blue Nile supported the Sudan People's Liberation Movement/Army (SPLM/A) which aimed at creating a new Sudan that would embrace diversity and respect human rights of all its citizens, regardless of their religion or ethnicity.<sup>50</sup>

The government of Sudan retaliated by initiating a war of annihilation in the two provinces. A commentator summarizes the situation as follows:

“In the 1990s, the National Congress Party (NCP) government of Sudan, then known as the National Islamic Front (NIF), attempted to exterminate the black African Christians, Muslims, and followers of traditional religions in South Sudan and the Nuba Mountains. The militia came obscenely close to accomplishing its goal. Over 2.5 million people died in those regions, and over 5 million were displaced from their homes in the genocidal jihad to establish Sudan as sub-Saharan Africa's model Arab Islamic state.”<sup>51</sup>

The government conducted massive “combing operations” thereby capturing civilians, raping girls and women and forcefully conscripting the men into its militia force.<sup>52</sup> It also forcibly relocated, denied access to food and humanitarian assistance and forcefully converted to Islam the Nuba People. Hundreds of thousands of Nuba People were also declared apostates for not supporting the government and a jihad was declared on them.<sup>53</sup>

The government's policy was “eradication of all that is essential to Nuba society - whose very existence challenges the foundation of the government's claim that it can create an Islamic state in Northern Sudan because all the citizens are Moslems who support that goal”.<sup>54</sup> Taking into account the systematic nature of the severe human rights violations that took place over a number of years and also the ultimate goal of annihilation of the Nuba People set by the government, some argued that the actions of the Government constituted “genocide by attrition”. In this respect, Africa Rights, argued:

“Genocide need not be perpetrated by huge massacres. There are more insidious but equally effective ways of committing the crime. The Sudan Government is committing genocide by attrition: it is slowly and methodically grinding down the society and economy of the Nuba to a point where they simply do not exist. Meanwhile, in the garrison towns, 'peace camps' and mechanised farming schemes, the government is remoulding the political and social identity of the Nuba by force: the aim

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<sup>49</sup> Ibid.

<sup>50</sup> Supra note 6, p.69.

<sup>51</sup> MacDonnell, Faith J.H., Sudan Ethnic Cleansing begins Again, available online at: <http://www.frontpagemag.com/fpm/96549/sudan-ethnic-cleansing-begins-again-faith-j-h-mcdonnell>, last accessed 23 May 2016.

<sup>52</sup> See footnote 47.

<sup>53</sup> Supra note 6, p.69.

<sup>54</sup> African Rights: Genocide by Attrition, available at <http://reliefweb.int/report/sudan/facing-genocide-nuba-sudan>, last accessed on 23 May 2016.

is to transform them into a deracinated underclass, the loyal servants of an extremist Islamic state.”<sup>55</sup>

The Comprehensive Peace Agreement (CPC) that was signed in 2005 apparently ended the North-South conflict. The Agreement provided for a referendum on South Sudanese self-determination. For residents of the Nuba Mountains and Blue Nile, however, despite their leaders’ request during the peace negotiations for a similar referendum on self-determination, the Agreement only vaguely entitled them to the right to “hold popular consultations” to ascertain the views of the people on the Agreement.<sup>56</sup> The Agreement further required the Nuba Mountains and Blue Nile provinces to demilitarize, SPLM/A troops to disarm, join the government-run Joint Integrated Units (JIUs) or redeploy to South Sudan.<sup>57</sup>

Already dissatisfied with the vague arrangement regarding their fate provided under the CPC and the associated request for the withdrawal of SPLA troops to South Sudan, the Nuba people were further disgruntled with the Government’s creation of South Kordofan State by merging Western Kordofan with the Nuba Mountains, an arrangement that “tilted the demographics in Khartoum’s favour”.<sup>58</sup> This raised the level of tension that was already high. As if the massacre it committed against the Nuba people in the 1990s were not enough, the government has once again engaged in a systematic ethnic/religious cleansing of the non-Arab and Christian residents of South Kordofan and Blue Nile states.

## 5.2 Déjà vu: The ongoing ethnic and religious cleansing in South Kordofan and Blue Nile

The latest conflict in South Kordofan and Blue Nile states began in June 2011 between Sudan Armed Forces (SAF) and elements of the Sudan People's Liberation Movement/Army (SPLM/A or simply SPLA-North near Kadugli, the capital of South Kordofan state.<sup>59</sup> The fighting followed weeks of escalating tension between the government and SPLM/A over security arrangements.<sup>60</sup> The situation was further exacerbated by the disputed election of Ahmed Haroun, nicknamed the "Butcher of the Nuba", a person indicted by the International Criminal Court (ICC) for war crimes and crimes against humanity, as a governor of South Kordofan State<sup>61</sup>

Writing for Frontage Magazine, Faith MacDonnell describes the beginning of the latest ethnic cleansing campaigns as follows:

“Beginning on June 5, 2011, the Sudanese Armed Forces (SAF) of the [National Congress Party] (NCP) and the Popular Defense Forces (PDF), an Islamic militia comprised of Misseriya Arabs known as the ‘Al Qaeda of

<sup>55</sup> Ibid.

<sup>56</sup> Supra note 6, p.69

<sup>57</sup> Supra note 6, p.70.

<sup>58</sup> Supra note 6, p.70.

<sup>59</sup> Human Rights Watch, UN, AU: Urge End to Sudanese Abuses in South Kordofan, available at: <http://www.hrw.org/news/2011/06/10/un-au-urge-end-sudanese-abuses-s-kordofan>, last accessed 23 May 2016.

<sup>60</sup> Supra note 6, p.70.

<sup>61</sup> Kapila, Mukesh, Is Sudan Committing another Geocide against the Nuba People?, The Guardian, 21 March 2012, available online at: <http://www.theguardian.com/commentisfree/2012/mar/21/sudan-genocide-nuba-warnings-ignored>, last accessed 23 May 2016.

Sudan’, launched an attack, a war of extermination, in the Nuba Mountains”.<sup>62</sup>

In September of the same year, the Sudanese government launched similar attacks on Blue Nile province.

In the following sections, a brief account of grave human rights violations perpetrated by the government of Sudan aimed at getting rid of its non-Arab and non-Islamic citizens from the Nuba Mountains and Blue Nile will be outlined. The article then closes by arguing that these egregious violations inspired by the Government’s hidden policy of driving the indigenous inhabitants out of the two states constitutes “ethnic and religious cleansing”, at least.

### 5.2.1 Military and terrorizing measures against civilians

Protection of civilians during armed conflicts is the cornerstone of International Humanitarian Law. People in the Nuba Mountains, however, have become victims of widespread aerial bombardment by government war planes since 2011, leaving them in fear and hiding in the hills. From January to June 2013 alone, 208 air strikes were conducted targeting main towns and killing and maiming dozens of civilians. Aerial bombardments resulted, among other things, in the destruction of agricultural fields and hampered the planting of crops throughout the two states.<sup>63</sup> This, coupled with forced displacements and the denial of humanitarian assistance, resulted in near famine-like conditions.<sup>64</sup>

Eric Reeves argues that Khartoum intends to starve the Nuba into submission:

“The Kauda airstrip, critical for humanitarian transport, has been relentlessly bombed over the past ten days, and the UN now reports that it is no longer serviceable for fixed-wing aircraft. The airstrip has no military value, as the Sudan People’s Liberation Army (SPLA) forces have no aircraft. The concerted bombing, with high explosives producing enormous craters, is simply to deny the Nuba food, medicine, and shelter.”<sup>65</sup>

Extensive artillery shelling and aerial attacks demolished churches, market places, civilian houses, schools and mosques thereby deliberately depriving citizens of life’s daily necessities.<sup>66</sup> Here the government generally targets all institutions that belong to the Nubians, due to their

<sup>62</sup> MacDonnell, Faith J.H., Sudan Ethnic Cleansing begins Again, available online at: <http://www.frontpagemag.com/fpm/96549/sudan-ethnic-cleansing-begins-again-faith-j-h-mcdonnell>, last accessed 23 May 2016.

<sup>63</sup> Sudan 2014 Human Rights Report, US State Department Country Reports on Human Rights Practices for 2014, p.28.

<sup>64</sup> Supra note 6, p.29.

<sup>65</sup> Reeves, Eric, Genocide in the Nuba Mountains: A retrospective on what we knew, June 2011 – 2013, 11 October 2013, Sudan, Research and Analysis <http://sudanreeves.org/2013/10/11/genocide-in-the-nuba-mountains-a-retrospective-on-what-we-knew-june-2011-2013/>, last accessed 23 May 2016.

<sup>66</sup> Sudan Relief and Rehabilitation Agency (SRRA), Humanitarian and human rights situation of the IDPs and war affected civilians in the SPLM/A-North controlled area of South Kordofan and Blue Nile States, Second Issue, Six Monthly Report, January-June 2013, p.3, available online at: <http://data.unhcr.org/SouthSudan/download.php?id=611>, last accessed 23 May 2016.

ethnicity in connection to the conflict, yet the attack on Christians is more intense due to both their ethnicity and religion.

Summary executions, deliberate killings and torturing of religious and political leaders, intellectuals and politicians have been rampant. According to a UNHCR report for January-June 2013:

“Khartoum’s SAF and PDF conducted targeted executions, disappearances, arrests and indiscriminate killings of Nuba. A black list of SPLM/North leaders, Christian leaders and Nuba civil society leaders and teachers was created. Persons on the list were deemed NCP enemies due to their religious, political or ethnic identification. Soldiers went house to house and arrested or executed people thought to be on the Government black list. Government and paramilitary soldiers also shot and raped persons identified as Nuba solely due to their black skin tones. They also killed Christians on sight as “enemies of Islam.”<sup>67</sup>

Human Rights Watch similarly reported:

“Credible reports received by Human Rights Watch indicate SAF soldiers and Popular Defense Forces, a militia force, deployed in large numbers in Kadugli and other towns, targeted a number of civilians they suspected to be SPLM members. The forces carried out house-to-house searches and set up checkpoints, where they stopped civilians trying to flee the violence and killed some of them, according to witnesses. Reports from the ground indicate that military personnel arrested people who had sought refuge inside the UN Mission in Sudan (UNMIS) compound, in violation of international humanitarian law. One of those arrested was later found dead.”<sup>68</sup>

House-to-house searches and roadblocks, summary executions and mass gravesites have all become common in the conflict.<sup>69</sup>

### 5.2.2 Administrative measures

The Interim National Constitution (INC) and other laws and policies officially restrict religious freedom.<sup>70</sup> The government prohibits apostasy from Islam, blasphemy, and conversion to a religion other than Islam. The law prescribes imprisonment or death as punishment for those who convert from Islam to another religion. Though there is no specific law that clearly bans proselytizing, the apostasy law criminalizes both apostasy and acts that encourage apostasy from Islam.<sup>71</sup>

<sup>67</sup> Supra note 6, p.70.

<sup>68</sup> See footnote 59.

<sup>69</sup> See footnote 65.

<sup>70</sup> International Religious Freedom Report for 2013, available online at:

<http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>, last accessed 23 May 2016.

<sup>71</sup> Ibid.

According to the International Religious Freedom Annual Report for 2014, the government of Sudan implements a number of practices that favor Muslims. Muslims receive preferential treatment when applying for government employment and before courts of law in disputes against non-Muslims. The government uses school text books that are biased against non-Muslims. Permission to build churches has been impossible to obtain after 2011 whereas the government not only regularly issues permits to build mosques but also extends funds for their construction.<sup>72</sup>

The government of Sudan has denied access to humanitarian agencies and people living in the war ravaged areas could not receive relief. This has exposed inhabitants of the Nuba and Blue Nile areas to severe food shortages and the problem ultimately threatens their survival.<sup>73</sup>

### 5.2.3 Creating homogenous religion

Because of the government's imposition of Sharia law and its policy of Islamization and Arabization, Christians in Sudan have mostly supported SPLM/A.<sup>74</sup> This has made them targets of systematic ethnic/religious cleansing measures taken by the government of Sudan. Christians are seen by the government as *infidels* (*kaffir* in Arabic) and especially after the secession of South Sudan, the government is attempting to drive them out of Sudan.<sup>75</sup>

Searches for and heavy attacks on Christians in South Kordofan have led many Christian religious leaders to flee their homes.<sup>76</sup> In interviews with South Kordofan refugees in South Sudan, USCIRF was informed that Christians are routinely arrested and killed. In one of these interviews by USCIRF, a teacher from Kadugli relates what he witnessed as follows:

“On the Tuesday after the fighting started, I was at school with my students. I saw a vehicle with SAF soldiers surround an ECS (Episcopal Church of Sudan) near the school. There were Christians inside the church praying. SAF soldiers started shooting inside the church at the people. SAF soldiers went into the church and pulled out a Christian, captured him and shot him. As this was going on, my students and I were hiding behind the School but could still see the SAF killing people with guns and knives.”<sup>77</sup>

Documenting attacks by government forces on places of worship and churches, USCIRF reports:

“In violation of international law of armed conflicts, SAF forces attacked houses of worship through ground offensives and aerial

<sup>72</sup> United States Commission on International Religious Freedom, Annual Report, 2014, p.84, available online at: <http://www.uscifr.gov/sites/default/files/USCIRF%202014%20Annual%20Report%20PDF.pdf>, last accessed 23 May 2016.

<sup>73</sup> Sudan Relief and Rehabilitation Agency (SRRA), Humanitarian and human rights situation of the IDPs and war affected civilians in the SPLM/A-North controlled area of South Kordofan and Blue Nile States, Second Issue, Six Monthly Report, January-June 2013, p.10, available online at: <http://data.unhcr.org/SouthSudan/download.php?id=611>, last accessed 23 May 2016.

<sup>74</sup> Supra note 6, p.71.

<sup>75</sup> Supra note 6, p.72.

<sup>76</sup> Supra note 6, p.72.

<sup>77</sup> Supra note 6, p.72.

bombardment. Four of Kadugli's five churches were destroyed and their offices and guest houses attacked ... Episcopal pastors and a Sudan Council of Churches representatives in Kadugli described doors and windows torn down, documents and religious papers ripped apart, parts of churches burned and, supplies, vehicles and electronic equipment looted."<sup>78</sup>

As the majority of Christian religious leaders have fled the conflict, very few remain to lead services. Tut Kony, pastor of the South Sudan Presbyterian Evangelical Church is quoted as saying: "Almost all pastors have gone to jail under the Government of Sudan."<sup>79</sup>

## 6. Conclusion

**Grave human rights violations perpetrated by the government of Sudan in Sudan in general and against South Kordofan and Blue Nile states against Christians in particular constitute ethnic cleansing, at least.**

As discussed in the section above dealing with the definition of *ethnic cleansing*: *Ethnic cleansing* is a policy by one group to systematically eliminate another group from a given territory on the basis of religious, ethnic or national origin.

Under successive Islamist regimes Sudan has made efforts to make the country a Sharia state that does not recognize other groups. With public order laws and blatant indiscriminate violence against Christians, the country has built itself a distinct reputation for the international community. The law of the country severely punishes apostasy, blasphemy and defamation of Islam. These laws have been harsh especially on black Christians. The trial of Miriam Ibrahim in 2013/4 is a classic example. Sudan has been designated a "country of particular concern" by the US State Department for more than ten years. Following the independence of South Sudan many Christians in the country, especially Black Christians, were forced to leave the country.

The Nuba ethnicity, which is also historically linked to Christianity in Sudan (i.e. the Nuba Kingdom) is also a central factor in the persecution of Christians in the country. Some experts link the atrocities to this issue. Yet, the government of Sudan claims that it is waging a legitimate war against SPLM/N rebels in South Kordofan and Blue Nile states. The truth, however, remains that the main target of the military operations - as well as human rights violations perpetrated by the government - are the non-Arab and Christian civilian population and their civilian objects. As Eric Reeves explains it, "the real issue is not political identity but Nuba ethnicity".<sup>80</sup> John Ashworth, a long-time Sudan expert, also confirms that "They (black African Nuba) are being hunted down for their ethnicity."<sup>81</sup>

The Nuba people are followers of different religions including Islam, Christianity and indigenous religions. Muslim Africans and followers of traditional faiths face persecution simply because they are non-Arabs. But, Nuba Christians are specifically singled out and targeted by the Islamist

<sup>78</sup> Ibid.

<sup>79</sup> Supra note 5.

<sup>80</sup> Eric Reeves, Genocide in the Nuba Mountains: A retrospective on what we knew, June 2011 – 2013, 11 October 2013, Sudan, Research and Analysis, <http://sudanreeves.org/2013/10/11/genocide-in-the-nuba-mountains-a-retrospective-on-what-we-knew-june-2011-2013/>, last accessed 23 May 2016.

<sup>81</sup> Ibid.

government. This has been clearly demonstrated throughout the conflicts in the country since 1980s. This can be seen from the fact that the Nuba people were forced to convert, forced to flee or forced to die *en masse*.

The Khartoum government is bent on driving non-Muslim residents in Kordofan and Blue Nile states out of their homeland. As one commentator notes: “Khartoum, the north's stronghold, is attempting to completely replace the Nuba Mountains’ Nuba people with Misseriya Arabs.”<sup>82</sup>

That there is a government policy to systematically get rid of the people of Nuba from their territories can further be clearly inferred from recently leaked minutes from a high level Sudanese military strategy meeting. At the meeting, Lt. General Imadadiin Adaw, who serves as the Chief of Joint Operations for the Army, was quoted as saying: “It (the Army) should attack them before the harvest and bombard their food stores and block them completely.”<sup>83</sup> Similarly, Lt. General Siddiig Aamir said: “We should starve them.”<sup>84</sup> It is, therefore, clear that human rights violations directed against the non-Arab and non-Muslim Nubas are perpetrated in a systematic manner.

It is also clear that the government of Sudan, through its armed forces and its air force, is directly involved in committing atrocities targeting the Nubas. In other cases where Arab militias have targeted the Nubas, the government has refrained from taking measures to restrain those responsible.

It follows, therefore, that the various actions that are committed against Christians in South Kordofan and Blue Nile states qualify as *ethnic cleansing*.

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<sup>82</sup> Supra note 51.

<sup>83</sup> Khumar, Akshaya, *Extermination by Design, The Case for Crimes Against Humanity in Sudan’s Nuba Mountains*, November 2014.

<sup>84</sup> Ibid.