

educational establishments to make them aware of the importance of teaching the principles of tolerance and non-discrimination based on religion and belief

Taking into account paragraph 98 of the report of visit.⁴ As regards Jammu and Kashmir and Punjab, the Special Rapporteur urges all the parties concerned - official and non-official, national and foreign - to act calmly and refrain from exacerbating religious problems in order to ensure that immutable religious principles are not affected by political considerations at the expense of the religious rights of the communities and, more generally, of tolerance and non-discrimination based on religion or belief.

III. REPLIES TO THE FOLLOW-UP TABLES

A. Reply of the Sudanese authorities

6. The response of the Sudanese authorities to each of the recommendations of the Special Rapporteur is as follows:

<u>Recommendation</u>	<u>Comments and measures</u>
1. <u>Legislation</u>	
Taking into account paragraph 135 of the report of visit. ⁵ With reference to the constitutional provisions concerning the armed forces and the duty of <u>Jihad</u> , because of the ambivalence of the concept of <u>Jihad</u> , which has implications that are both offensive (holy war against infidels) and defensive (response to an attack), and because the authorities have stated that they have opted for the defensive meaning, the Special Rapporteur recommends that those authorities clarify, by means of an interpretative text, the defensive meaning of the term " <u>Jihad</u> " in order to make sure that it is compatible with the international norms to which the Sudan has committed itself	The understanding of the Government of the Sudan to the concept of <u>Jihad</u> is that it is a response to an attack against the country and <u>not</u> a holy war against infidels. The practice and circumstances which reflect such understanding are as follows: (a) The current composition of the armed forces in the Sudan includes both Muslims and non-Muslims; (b) The Garang rebel faction includes Muslims among its ranks; (c) Other rebel groups fighting along the eastern border are wholly Muslim;

Recommendation

Comments and measures

(d) The government forces have never engaged in any fighting other than countering attacks either from rebels or aggressors

Therefore, we do not believe that there is a need to adopt an interpretive text to the concept of Jihad

Taking into account paragraph 136 of the report of visit.⁵ With respect to the application of the shariah, especially to non-Muslims, the Special Rapporteur recommends that the constitutional provisions on the judiciary should be supplemented by legislation ensuring that the courts take into account the customary law of non-Muslims as a guiding source of law to the extent, naturally, that such law is compatible with international human rights provisions

The Government of the Sudan has already adopted the recommended measures by providing, in constitutional Decree No. 14 which was promulgated in July 1997, that the sources of legislation are Islamic shariah and the customary practice (of non-Muslims)

Taking into account paragraph 137 of the report of visit.⁵ The Special Rapporteur also recommends to the authorities that they ensure the compatibility of legislation on hudud offences with human rights and urges that hudud penalties, because they are of exclusively Islamic origin, should not be applied to persons who are not Muslims

Because haded penalties are of exclusively Islamic origin, as you have rightly observed, Section 5 of the Criminal Act 1991 excludes Southern Sudan from its application. Also, drinking alcohol by non-Muslims in the north is not punishable since the penalty is a haded penalty. Moreover, Muslims in the south are not subjected to hudud penalties, since it is not always practical to apply criminal law on a personal basis

Recommendation

Taking into account paragraph 138 of the report of visit.⁵ On the subject of proselytism, conversion and apostasy, the Special Rapporteur wishes to emphasize the need to respect internationally established norms in the field of human rights, including the freedom to change one's religion and the freedom to manifest one's religion of belief either individually or in community with others and in public or private, subject to any necessary restrictions provided by law

Taking into account paragraph 140 of the report of visit.⁵ With regard to legislation on public order and the treatment of prisoners, the Special Rapporteur recommends that the authorities bear in mind the commitments they have entered into in the field of human rights, in particular those arising out of the ratification of the International Covenant on Civil and Political Rights, especially article 18. On the question of dress, the Special Rapporteur, while emphasizing that traditions and customs, irrespective of their origins, are equally worthy of respect, urges that dress should not be the subject of political regulation and calls for flexible and tolerant attitudes in this regard, so as to allow the variety and richness of Sudanese garments to manifest themselves without constraint. The Special Rapporteur recommends the revision of the Organization of Prisoners and Treatment of Inmates Act (1992), so that any early release is not applied in a discriminatory manner

Comments and measures

Conversion is not punishable in the Sudan because the Quran mandates that there is no compulsion in religion, but the manifestation of such conversion is punishable within the context of the protection of public tranquillity, as allowed by the internationally established norms in the field of human rights which subject religious freedom to all necessary restrictions provided by law, as you have rightly observed

Allegations regarding dress were all based on the deliberations when the Khartoum State Legislative Assembly was discussing the Public Order Act but, according to the adopted version of the Act, dress is not subject to any political or legal regulation. On the other hand, the law does not allow for an early release to be applied in a discriminatory manner, and if such discrimination is exercised by any government official, that official would be committing an offence. Therefore, if you have any allegations in this connection, we will be most willing to investigate them and take all appropriate legal measures against the official responsible for them

Recommendation

Taking into account paragraph 141 of the report of visit.⁵ On the subject of legislation concerning education, the Special Rapporteur recommends that the State, through the school system, promote the development of a culture of tolerance and non-discrimination

Taking into account paragraph 142 of the report of visit.⁵ The Special Rapporteur would be grateful if the Sudanese authorities would inform him of the current status of the Provisional Order and recommends more effective consultation with the churches in order to work out legislation that does not jeopardize the free exercise of religious activities, apart from restrictions legitimately provided for under international law

2. Implementation of the legislation and policy in force

With respect to the situation of the non-Muslim communities, while noting the progress made in certain respects which deserves to be emphasized, the Special Rapporteur must nevertheless express his concern

Comments and measures

We agree fully with your comment that the State should, through the school system, promote the development of a culture of tolerance and non-discrimination. In fact, the Sudan is the first country to respond positively to a request by the High Commissioner for Human Rights to promote human rights education, by establishing 26 human rights education committees at the state level. At present, the Sudan is waiting for technical assistance from the Centre for Human Rights as provided for in the recent resolution about the Sudan adopted by the Commission on Human Rights. We kindly request you to exert efforts in order to release such assistance for the Sudan, in particular to be used to implement your valuable recommendations

At the request of the Christian community in the Sudan, the Government has repealed the Missionary Societies Act which was promulgated in 1962, long before the current Government assumed power in 1989. In the light of such a tolerant attitude, the Government welcomes your recommendations in this connection, and it is currently engaged in effective consultation with the churches in order to draft legislation that does not jeopardize the free exercise of religious activities

We believe that the concern you have expressed is well taken care of by the following recent developments:

Recommendation

Comments and measures

(a) The signature of the Khartoum Peace Agreement with many rebel factions, which provides for religious freedom, bases laws on both Islamic shariah and the customary practices of non-Muslims, bases all rights and obligations on citizenship and gives southern states the right to self-determination;

(b) The promulgation on July 1997 of Constitutional Decree No. 14 for the prompt and effective implementation of the Khartoum Peace Agreement;

(c) Establishment of the national and technical committees entrusted with the preparation of the draft constitution which is to be finally approved by all peoples of the Sudan through a referendum

Taking into account paragraph 146 of the report of visit.⁵ As regards freedom of religion and belief, the Special Rapporteur considers that there should not be any control that is likely, through limitations and constraints on officials of religion, believers and places of worship, to infringe upon the freedom of belief and the freedom to manifest one's belief

The above-mentioned comments adequately address the freedom of religion and belief

Recommendation

Taking into account paragraph 147 of the report of visit.⁵ The Special Rapporteur considers it essential that any conversion should be the result of free choice and not of constraint. Similarly, the conversion of Muslims to another religion should not give rise to any kind of pressure, restriction or deprivation of freedom with respect to the converted believers and the religious officials of their community

Taking into account paragraph 148 of the report of visit.⁵ Concerning the implementation of the legislation on hudud offences, the Special Rapporteur reiterates the recommendations he made in section 1 above, on legislation

Taking into account paragraph 149 of the report of visit.⁵ On the specific question of places of worship, the Special Rapporteur earnestly recommends that all the limitations on the construction of new places of worship be abolished. As regards the destruction of places of worship in the context of urban development plans, it is essential that provision should systematically be made for measures of compensation, in particular by providing sites for the construction of places of worship

Comments and measures

The fourth comment above addresses the subject of conversion of religion

Our third comment in section 1 above addresses the implementation of the legislation on hudud

We share your earnest views that all limitations on the construction of new places of worship be abolished. Therefore the established legal practice, in cases of destruction of places of worship in the context of urban development plans, is either to pay adequate compensation or to provide better alternative sites. A case in point is the offer made by the Government before the demolition of a temporarily built worship site in the Al-Daroshap neighbourhood, which had been built without obtaining the municipal licence required in urban areas in accordance with city planning

Recommendation

Taking into account paragraph 150 of the report of visit.⁵ It is also necessary that the State should exercise its responsibility with respect to the protection of places of worship, to ensure that such places are shielded from religious extremism, obscurantism and the consequences of the conflict in the south to the Sudan

Taking into account paragraph 151 of the report of visit.⁵ With respect to education, the Special Rapporteur emphasizes the need to make allowances for the religious, ethnic and cultural diversity of the Sudanese population and to respect such diversity in the classroom by reflecting it in the curricula and the treatment accorded to the teachers and pupils of the non-Muslim communities

Taking into account paragraph 152 of the report of visit.⁵ It is also vital that schools should devise teaching methods that promote tolerance and freedom in order to make the unrestricted enjoyment of rights and freedoms available to all

Comments and measures

We fully agree with your viewpoint, since it is the policy of the Government to provide maximum security for the protection of places of worship to ensure that such places are shielded from religious extremism. Therefore, since 1989, only one incident of violence has occurred, and the Government has reacted effectively to that incident by bringing all persons responsible before the law

A quick review of the curricula in the Sudan proves that the Government shares your views, since it makes allowances and provides for the religious, ethnic and cultural diversity of the Sudanese population. On the conceptual level, the recently promulgated Constitutional Decree No. 14 acknowledges that the Sudan is a multicultural, multi-ethnic and multi-religious society, and that such diversity should find reflection in all activities of the State

The constitutional acknowledgement of religious, ethnic and cultural diversity referred to above obliges all schools to devise teaching methods that promote tolerance and freedom in order to make the unrestricted enjoyment of rights and freedoms available to all. We expect to receive technical assistance from the Centre for Human Rights to build our capacities in that connection. In fact, we have already approached the Centre for such assistance, and Mr. Gaspard Biro has supported our request

Recommendation

Taking into account paragraph 153 of the report of visit.⁵ On the subject of protection of the individual, the Special Rapporteur wishes to recall that the physical and moral integrity of individuals must not be threatened, in particular on grounds of faith or belief

Taking into account paragraph 154 of the report of visit.⁵ The Special Rapporteur notes the measures to ease restrictions on the travel of Sudanese and foreign religious officials and on the distribution of religious publications. The Special Rapporteur encourages the extension of these positive measures in order to enable non-Muslim Sudanese to avail themselves of all the rights and freedoms associated with citizenship

Taking into account paragraph 155 of the report of the visit.⁵ Concerning the situation of Muslims, the Special Rapporteur appeals for the various Muslim brotherhoods to be respected. He wishes, however, to specify that religious freedom, in accordance with international law, should be a means of promoting tolerance and should not provide a basis for justifying obscurantism

Comments and measures

We have already alluded to the recent constitutional provisions which guarantee that the physical and moral integrity of individuals should not be threatened, in particular on grounds of faith or belief. And there are many guarantees already included in the existing laws

The measures undertaken to ease restrictions on the travel of Sudanese and foreign religious officials and on the distribution of religious publications, which were noted by you, have recently been extended to the maximum, by basing all rights and obligations on citizenship and not on religious, ethnic or other affiliation

Concerning the situation of Muslims, the Government shares the views that all Muslim brotherhoods should be respected and it is government policy to make religious freedom a means of promoting tolerance. A recent application of such policy is evidenced by the celebration of the occasion of the birth of the prophet Mohammed where more than 30 Muslim religious sects were allowed to celebrate the occasion in the manner they deemed appropriate

Recommendation

Taking into account paragraph 156 of the report of the visit.⁵ The Special Rapporteur recommends that the religious activities of the various Muslim brotherhoods should be conducted in full freedom, subject to restrictions provided for by internationally established standards and any restrictions to combat violence, extremism and obscurantism

Taking into account paragraph 157 of the report of the visit.⁵ Sermons should be the sole responsibility of the religious officials, who should be able to perform their religious activities and choose their own means of expression without any pressure, prohibition or interference with their freedom

Taking into account paragraph 158 of the report of the visit.⁵ The Special Rapporteur also considers that special efforts should be made with respect to places of worship, which should be a forum for religious matters alone, not political ones, and, as places of meditation and prayer, should be protected from political tensions and controversy. The Special Rapporteur earnestly recommends that all of the prohibitions and limitations imposed on the places of worship of the Muslim brotherhoods should be abolished. Similarly, all the community property confiscated, particularly from the Ansar Order, should be returned

Comments and measures

The immediately preceding paragraph adequately addresses this aspect

The paragraph mentioned above adequately addresses this aspect

There are no prohibitions or limitations imposed on the places of worship of Muslims, and the Government is protecting such places from political tensions and controversy. If you are aware of any such prohibitions and limitations, the Government is ready to abolish them. Likewise, the community property has not been confiscated, but it is protected from political exploitation, particularly the property of the Ansar Order. Ansar are free to practise their religious activities in such property. Moreover, the Government has taken the initiative to build a new university in the name of Mohamed Ahmed Elmahdi, the founding father of the Ansar Order

Recommendation

Taking into account paragraph 159 of the report of the visit.⁵ The State is also called upon to exercise its full responsibility with respect to the protection of places of worship and to any criminal acts of destruction or desecration. All manifestations of hatred and intolerance and all acts of violence, intimidation or coercion motivated by religious extremism or intolerance of the religion or belief of others must be condemned and punished

Taking into account paragraph 160 of the report of the visit.⁵ On the subject of protection of the individual, the Special Rapporteur earnestly hopes that restrictions on the freedom of movement of religious officials will be lifted and that the campaigns of harassment and intimidation directed against them, which are also prejudicial to their followers, will cease, thus enabling the Muslim brotherhoods to realize their full potential without fear, constraint or self-censorship, subject, of course, to respect for public order and the law and the avoidance of violence, extremism and obscurantism

Taking into account paragraph 161 of the report of the visit.⁵ The Special Rapporteur considers that the overall policy emphasizing tolerance that has been publicly declared by the authorities should be unambiguously and unambivalently affirmed with greater determination and be followed by specific progress within Sudanese society towards religious, cultural and ethnic diversity.

Comments and measures

Our previous comments address this aspect adequately and show that the Government shares your views in this connection

In fact, there are no restrictions on the freedom of movement of religious dignitaries and officials. Sayed Mohamed Osman Elmighani, the leader of the Khatmia sect, who is now leading armed opposition against the Government, left the country through Khartoum Airport after having obtained an official exit visa. Also Sayed Sadig Elmahdi of the Ansar sect left the country, less than one year ago, without even obtaining an exit visa, and if the Government were interested in restricting his movement it could have taken effective measures in that connection

As you had hoped for, the overall policy emphasizing tolerance that has been publicly declared by the Government has been unambiguously affirmed with greater determination and has been followed by specific progress towards religious, cultural and ethnic diversity, by the inclusion of such policy in the Khartoum Peace Agreement and Constitutional Decree No. 14 of July 1997.