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# United Nations Environment Programme

برنامج الأمم المتحدة للبيئة · 联合国环境规划署  
PROGRAMME DES NATIONS UNIES POUR L'ENVIRONNEMENT · PROGRAMA DE LAS NACIONES UNIDAS PARA EL MEDIO AMBIENTE  
ПРОГРАММА ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ ПО ОКРУЖАЮЩЕЙ СРЕДЕ

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Geneva, Suisse (Switzerland)

## Workshop on liability and redress in the context of the Stockholm Convention on Persistent Organic Pollutants Vienna, 19-21 September 2002

### FURTHER SUBMISSIONS OF INFORMATION ON LIABILITY AND REDRESS

#### Note by the secretariat

1. In addition to the six submissions presented under cover of the secretariat's note of 19 August 2002, the attached submission from the Government of **Sudan** has since been received.

Interim Secretariat of the Stockholm Convention  
Geneva

11 September 2002

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Ministry of Environment &  
Physical Development  
Higher Council for Environment &  
Natural Resources  
General Secretariat  
Gamaa Avenue



وزارة البيئة والتنمية العمرانية  
المجلس الأعلى للبيئة والموارد الطبيعية  
الأمانة العامة  
شارع الجامعة

Date : .....  
No : 24 August, 2002

التاريخ : .....  
التمرة : .....

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From : **Mr. Nagmeldin Goutbi**  
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Subject: **Liability for Environmental**  
**Damage in the Sudan**

Dear Sir,

Attached is the information on Sudan, relevant to the issue of the measures and agreements on Liability and redress.

Thanks and best regards.

## **Liability for Environmental Damage in the Sudan**

### **Contents:**

- Introduction.
- Civil Transaction Act 1984, (C.T.A)
- Environmental protection Act 2001.
- Working Injury Compensation Act 1981.

### **Introduction:**

The Sudan is a federal republic, The supreme authority there of is based on the federal system, drawn by the constitution, as national center and states, and administrate at the base local government.

Before 1984 Sudan had a common law system and the system of precedent Judge make law is applied in accordance with the rule of Justice, Equity and good conscious .

In 1984 a civil Transaction Act (C. T. A) enacted to deal with the civil matters.

### **Civil Transaction Act 1984**

#### **General Principles**

The basic rules for the application of this Act:

- A) Damage, shall be as far as possible, be abated.
- B) Damage shall not be remedied by damage.
- U) He who causes an act indirectly is not liable for it unless it is done intentionally.
- V) If the direct doer and indirect one jointly commit an act only the direct doer shall be liable for it.
- X) Who ever exercise his right in an illegal manner shall be liable for compensation.

Y) Necessities justify the commission of an illegal act but do not extinguish the right of others.

Part 3: liabilities for harm acts

Chapter 1 liability for personal acts

Article 138 **composition for harm:**

Any person, including a minor who acts in a way which causes harm to another shall be obligated to pay compensation.

Article 139 **composition for a minor:**

Whenever the person liable for compensation is a minor and it is not possible to recover compensation from his own property, the court may compel whoever is responsible for the minor to pay compensation.

Article 140 **liability for Omission:**

An omission to render assistance to another person in order to protect him against danger to his life, reputation or property constitutes a harmful act provided such assistance can be rendered without danger to himself.

## **Chapter 1**

### **Liability for Personal Acts**

#### **Compensation for Harm:**

138. Any person, including a minor, who acts in a way which causes harm to another shall be obligated to pay compensation.

#### **Compensation from a Minor**

139. Whenever the person liable for compensation is a minor and it is not possible to recover compensation from his own property, the court may compel whoever is responsible for the minor to pay compensation.

#### **Liability for Omission**

140. An omission to render assistance to another person in order to protect him against danger to his life, reputation or property constitutes a harmful act provided such assistance can be rendered without danger to himself.

**No Liability for Act of the Injured**

141. Except where there is provision or agreement to the contrary, no one shall be obligated to pay compensation if he can prove that the harm was due to an extraneous cause, such as force majeure, the act of the injured party or the act of a third person.

**Necessity**

142. (1) Necessity justifies the impermissible, but it shall be assessed in proportion to its exact.

(2) Anyone who causes harm while acting in the lawful exercise of the right of private defense of his body, honour or property or in defense of the body or property of another person shall not be responsible for compensation unless he uses excessive force whereupon he shall be obligated to pay just and equitable compensation.

**Choice of the Lessor evil**

143. (1) The lessor evil shall be chosen. When two wrongs arise, the graver wrong may be averted by committing the lesser wrong. Greater harm may be removed by the lesser harm without completely mollifying the rights of another.

(2) Anyone compelled to harm another person in order to avert imminent danger to himself or another person shall only be obligated to pay compensation that the judge deems to be just and appropriate.

**Liability of Public Servants**

144. A public servant is not liable for his act which causes harm to others if done in accordance with orders of his superiors, provided he was bound to obey such orders or he believed himself to be so bound and he can prove his own belief in the legality of the act he committed, that his belief was based on reasonable grounds and that he acted with due care and diligence.

**Chapter 2**  
**Liability for acts of others**  
**Liability of Guardian**

145. (1) the legal or contractual guardian of a person who is in need of supervision because of his infancy or mental or physical condition shall be obligated to pay compensation for any harm caused to another person by the unlawful act of the ward unless the guardian can prove that he has performed his duties as guardian or that the harm would have occurred even if he had performed his duties with due care.

**Liability of master**

146. (1) the master is liable for the harm caused by his servant provided that the servant was acting in the course of his employment or because of his employment.

**Right to Reimburse**

147. A person who is responsible for the acts of a third party shall have a right to be reimbursed by such third party for any harm caused by him to others.

### Chapter 3

#### Liability arising out of things

##### Liability of the guard

148. (1) whoever is guarding some thing shall be liable for any harm caused by that thing to another person, whether such things an animal or, movable or immovable.

(2) In assessing liability in case of animals, regard shall be made to the type of animal and the kind and degree of control exercised over it at the time it caused the harm.

##### The guard

149. (1) any one who has actual authority to supervise or dispose of a thing, whether by himself or through another, is guarding that thing even if he is a minor.

(2) The owner is presumed to be guarding his own property unless he proves that control over such property vests in another person.

(3) Control persists over animal over an animal even if it went astray or escaped.

##### Requesting another to take control

150. Any one threatened with harm from some thing under the control of another may request the owner or guard of that thing to take necessary measures to avert the danger. If the owner or guard failed to take such measures sanction may be obtained from the court for taking such measures at the expense of the owner or guard.

### Chapter 4

#### General provisions

##### Joint tort feasers

151. (1) when two or more persons have committed a harmful act, they shall all be jointly liable for the payment of compensation for the harm.
- (2) Joint tort feasons shall be equally liable unless the court fixes the respective share of each of that in the compensation.
- (3) Sub-sections (1) and (2) shall apply to all types of harmful acts, including occupational and professional liability provided for in chapter 5 of this part.

**Assessment of compensation**

152. The court shall determine the amount of compensation in accordance with the harm caused to the injured party and lose earning in the light of all the circumstances and provided that the harm caused to the victim was the natural consequences of the harmful act. If the court is unable to assess the final amount of compensation, it shall preserve for the victims the right to not for revision of the assessment with in a fixed period of time.

**Method for assessing compensation**

154. The judge shall determine the method of assessing of compensation in accordance of the circumstances.

**Reducing compensation for contribution of victim**

155. The court or judge may reduce the amount of compensation in proportion to the contribution of the injured party in causing the harm or increasing it.



**Invalidity of exemption from liability**

158. Any stipulation or provision exempting from liability for harmful act is null and void.

**Limitation of Actions**

159. No action for compensation for harmful act may be heard after five years from the date the victim knew of the harm and the person responsible for it. No such action may be heard in any case after fifteen years from the date of the harmful act.

**Environmental Protection Act 2001**

20 (2) Every one have the right to sue for any damage affect the environment without any need to proof his relation to that damage.

23 (3) The court is entitled to decide in its judgment any compensation for any breach to this law.

**Work Injury Compensation Act 1981****Work injury:**

For the purposes of this Act work injury is deemed to arise out of an accident which occurs during the work or by reason thereof.

**Application for compensation and lapse of right:**

An application for compensation for a work injury shall be presented by the injured workman or his family at a date which doesn't exceed two years from the date of occurrence of the accident which resulted in work injury or from the date of death resulting from the injury.

An injured workman shall not be entitled to any compensation under this act, for any work injury arising out gross and willful misconduct on the part of such workman, unless such injury leads to death or results in disability not less than 40%.

No compensation shall be payable under this Act for a disability or death resulting from the intentional injury by the injured workman himself.