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**Human Rights Violations in the Republic of Sudan:**  
*A Shadow Report to Sudan's Fourth and Fifth Periodic Report to the  
African Commission on Human and Peoples' Rights*

**April 2012**

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The African Centre for Justice and Peace Studies (ACJPS), East and Horn of Africa Human Rights Defenders Project (EHAHRDP), and the International Federation for Human Rights (FIDH), and the submit this report as a supplement to the Republic of Sudan's Fourth and Fifth Periodic Reports (2008 – 2012) to the African Commission on Human and Peoples' Rights. This report covers violations from 2010 – 2012.

Commenting on the last periodic report submitted by Sudan, the African Commission expressed concern that Sudan has struggled with many political, social and ethnic challenges that are characterized by human rights violations. In addition, the Commission was concerned at the prevalence of arbitrary arrests and detentions are prevalent, that members of the media are often arrested, imprisoned, beaten and tortured for doing their jobs, and that the death penalty is still implemented.<sup>1</sup> These concerns continue to be reflected in the pattern of violations that emerged from 2010 – 2012.

Violations against the African Charter targeted all Sudanese citizens. During the reporting period, students, members of the media, civil society activists and political party members were often targeted for arbitrary arrest and detention. Citizens were denied permission to organize public gathering or found that the gatherings were disrupted after approval by government forces. Activists were arrested after attending events, hindering the exercise of the freedoms of assembly and association.<sup>2</sup> In violation of a defendant's rights to a free and fair trial, they often appeared in court without lawyers or their lawyers were not allowed to speak. In addition, *shari'a* law and a strict interpretation of Islam was imposed on Sudanese citizens, regardless of

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<sup>1</sup> Consideration of Reports Submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples' Rights: *Concluding Observations and Recommendations on the Third Periodic Report of the Republic of Sudan (2003-2008)*, African Commission on Human and Peoples' Rights, Forty-Fifth Ordinary Session, 13-27 May 2009, Banjul, The Gambia.

<sup>2</sup> African Centre for Justice and Peace Studies, *Sudan Steps Backward: National Security Intensifies Violations of Freedom of Expression*, January 2012 <http://acjps.org/Publications/Reports/2012/Sudan%20Steps%20Backward%20-%20National%20Security%20Intensifies%20Violations%20of%20Freedom%20of%20Expression%20in%202011.pdf>

their religion. If charged with apostasy, citizens can face the death penalty. Violating Article 7 of the African Charter, the government launched a new campaign during the reporting period targeting the media that prevents newspapers from distributing printed papers, inflicting enormous costs, and arresting individual journalists. Frequently heavy fines are imposed for articles that the government finds objectionable. Violence against women is a tool that has been used by the government to prevent women from participating in civil society.

This report is intended to assist the Commission in its consideration of the most recent periodic report submitted by the Government of Sudan by providing additional information. It focuses on violations to Articles 6 through 11 and 18.3 - arbitrary arrest, free and fair trial, freedom of information, assembly, movement, and the protection of the rights of women respectively. The information contained in this report is based on human rights monitoring, interviews with victims, and reports by both international and national non-governmental organizations.

### **Political Context**

The end of the civil war with South Sudan provided a window of opportunity for Sudan to align its laws with its international human rights commitments, however that window quickly shut and little progress was made. The reporting period saw an arrest warrant issued for President Bashir for crimes committed in Darfur. The success of the referendum on South Sudan's secession in January 2011 and the peaceful secession of South Sudan in July 2011 quickly gave way to violence as war resumed in Blue Nile and South Kordofan in the summer of 2011. Patterns emerged indicating that arbitrary arrests, detentions and indiscriminate aerial bombing of civilians in conflict areas were taking place.<sup>3</sup> The government quickly limited the access of civil society and international observers to the area as reports began to emerge that government-sponsored militias were attacking civilians and looting properties, the Sudanese Armed Forces (SAF) were conducting aerial bombardments of civilians in the Nuba mountains and security agents were conducting widespread arrests of persons suspected to have ties to the Sudan People's Liberation Movement – North (SPLM-N) and/or the Nuba community.<sup>4</sup> In Blue Nile, President Bashir declared a state of emergency, suspended the constitution, fired the Governor, who was a member of the opposition, and soon began to arrest and harass persons suspected of affiliation with the SPLM-N. As in South Kordofan, the ruling National Congress Party (NCP) declared the SPLM-N illegal and began closing down its offices and arresting its members throughout the country. Human rights activists also documented numerous abuses including, but not limited to, extrajudicial killings, arbitrary arrests and detentions, systematic targeting of civilians and perceived members of the SPLM-N political party, and the arming of militias.<sup>5</sup> In November 2011, the African Commission called on the Government of Sudan to “cooperate with

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<sup>3</sup> African Centre for Justice and Peace Studies, *Continuing Violations of Human Rights in South Kordofan and Blue Nile*, October 2011 <http://acjps.org/Publications/Reports/2011/26-09-11%20Continuing%20Violations%20of%20Human%20Rights%20in%20South%20Kordofan%20and%20Blue%20Nile%20States.pdf>

<sup>4</sup> *Ibid.*, 3

<sup>5</sup> *Ibid.*, pg. 6 – 7.

the international community to find a last solution to the conflict raging” in the country.<sup>6</sup> In particular, the Commission expressed concern at the proliferation of conflicts in South Kordofan, Blue Nile and the continuing violations taking place in Darfur.<sup>7</sup>

The abuses taking place in South Kordofan and Blue Nile echo violations that have taken place in Darfur, making it clear that today’s violations have their roots in abuses that are grounded in yesterday’s impunity.<sup>8</sup> Sudan’s multiple conflicts and human rights violations are interrelated and have the same root causes. Recognizing this, the African Commission in 2009 expressed concern that the conflicts in Darfur and the east, combined with the continuing effects of the war with South Sudan had a negative impact on the freedom of people to enjoy basic rights guaranteed under the African Charter and Sudan’s other international commitments.<sup>9</sup> Indeed, the on-going and new conflicts continue to have a detrimental impact on the enjoyment of human rights, not only in the areas directly affected, but throughout Sudan. The government frequently cites issues of national security or public order concerns as reasons for limiting the freedoms outlined in the African Charter.

Impunity for these crimes is grounded in the judicial system. A 2012 report found that, “judges do not have the power to oversee the work of the National Intelligence and Security Service (NISS), which has wide powers of search, confiscation of assets, arrest, and detention of persons for up to four and a half months without judicial review. Other executive bodies such as the armed forces and police have immunities from prosecution under their respective laws, which were not properly reformed” during the Comprehensive Peace Agreement (CPA) Interim period.<sup>10</sup> Furthermore, “although Article 27 (3) of the [Interim National Constitution] INC provides that 'all rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified by the Republic of the Sudan shall be an integral part of this Bill', national courts rarely consider the application of international human rights instruments ratified by the Sudan.”<sup>11</sup> The African Centre for Justice and Peace Studies finds that certain Sudanese

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<sup>6</sup>ACHPR/Res.207 (L) 2011: Resolution on the General Human Rights Resolution on the General Human Rights Situation in Africa, *The African Commission on Human and Peoples’ Rights (the African Commission), meeting in its 50th Ordinary Session, in Banjul, the Gambia, from 24th October to 5th November 2011*; [http://www.achpr.org/english/resolutions/Resolution207\\_en.htm](http://www.achpr.org/english/resolutions/Resolution207_en.htm)

<sup>7</sup>*Ibid*

<sup>8</sup>Sudan Organization Against Torture (SOAT), *Alternative Report to Sudan’s Periodic Report to the 43<sup>rd</sup> Session of the African Commission for Human and Peoples’ Rights*, pg. 3 [http://www.darfurconsortium.org/member\\_publications/2008/May/SOAT.051908.pdf](http://www.darfurconsortium.org/member_publications/2008/May/SOAT.051908.pdf)

<sup>9</sup>Consideration of Reports Submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples’ Rights: *Concluding Observations and Recommendations on the Third Periodic Report of the Republic of Sudan (2003-2008)*

<sup>10</sup>African Centre for Justice and Peace Studies, *The Judiciary in Sudan: Its Role in the Protection of Human Rights During the Comprehensive Peace Agreement (CPA) Interim Period*, pg. 3, April 2012.

<sup>11</sup>*Ibid.*, pg 4.

laws, such as the laws against arbitrary detention “indicate a general obligation to guarantee rights but do not include specific details for practical implementation. Some provisions of the interim constitution contain phrases such as “subject to requirements of law” and “as determined by law” which are causes of confusion as to whether the rights in concern have been absolutely granted or can be derogated and restricted by legislation. Such phrases are mentioned in a number of provisions of the bill of rights such as the freedom of religion, freedom of expression etc.”<sup>12</sup> The weakness of the judiciary and ambiguity in the laws, allow the Sudanese government to rule through, instead of by the law.

We urge the African Commission to use the submission of Sudan’s Fourth and Fifth Periodic Reports as an opportunity to hold the government accountable for its actions and to urge the Government of Sudan to comply with its international obligations.

### **Recommendations to the African Commission:**

- The Special Rapporteurs on Freedom of Expression, Human Rights Defenders, and Rights of Women in Africa should use the mandate of their offices to seek further information in Sudan by undertaking fact-finding missions to the country and engaging in consistent close monitoring of the situation.
- Request that the Republic of Sudan ratify the African Charter on Democracy, Elections and Governance and the Protocol to the African Charter on the Rights of Women in Africa
- Urge the Government of Sudan to respect the freedom of expression through its regulatory body, the Press and Publications Council. Request that the government immediately end its policies of pre-publication censorship, harassment of journalists and newspapers, and use of intimidation tactics designed to prevent media officials from reporting on issues the government deems sensitive. Additionally, request that the government ensure that journalists, newspaper editors and other media professionals are given the opportunity to participate in debates around amendments to existing media legislation.
- Actions taken to suppress and punish religious minorities could be interpreted as a way of intimidating and silencing proponents of a secular Sudanese state. The Commission should request the Government of Sudan to respect the freedom of religion as laid out in the Interim National Constitution and recommend that the new constitution be based on civil and political rights and include a bill of rights.
- Request that the Government of Sudan review the Public Order Laws to ensure that they align with international human rights standards. Based on *shari’a* law, they are currently

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<sup>12</sup> African Centre for Justice and Peace Studies, *Report on Pre-Trial Justice in Sudan*, pg 8, January 2012, <http://acjps.org/Publications/Reports/2012/Report%20on%20Pre-trial%20Justice%20in%20Sudan%20-%20January%202012.pdf>

designed to regulate the behavior of men and women. The implementation of the Public Order Laws in Sudan is often inconsistent and targeted on the basis of gender or political affiliation.

- Request that the 2010 National Security Act, which allows security officials to detain suspects for up to four and a half months without judicial review (before charges must be levied), be revised.

The following cases provide examples of the pattern of violations that emerged from 2010 – 2012.

#### *Article 6*

*Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.*

The 2005 Transitional Constitution states clearly in Article 29 that “each person has the right to freedom and personal safety. No one shall be subjected to arrest or detention and no one shall have his/her freedom denied or restricted except for genuine reasons or in accordance with the 1991 Criminal Proceedings Act.”<sup>13</sup> In 2009, the African Commission expressed concern that, “despite efforts by the Government of Sudan to address the issue of prison conditions, harsh prison conditions, arbitrary arrest and detention, including incommunicado detention of suspected government opponents, are still taking place.”<sup>14</sup>

In 2012 arbitrary arrests and detention continue to be commonplace in Sudan. These practices are allowed by the 2010 National Security Act that allows security officials to detain suspects for up to four and a half months without judicial review before charges must be levied. In recent cases, arbitrary arrests targeted students, members of the media, civil society activists, political party activists and citizens who spoke with members of the international community. Arbitrary arrests are frequently used to prevent activists from organizing and participating in events, and exercising their rights to Articles 10 and 11 (association and assembly respectively). The arrests follow clear patterns and trends.

#### **1. Student and youth activists are regularly arrested for organizing events, engaging in civic activism or have also been arrested when at home or in dorms. In addition, students from Darfur, eastern Sudan and those affiliated with opposition political parties are often targeted for arrest.**

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<sup>13</sup> Republic of Sudan, 4<sup>th</sup> and 5<sup>th</sup> Periodic Reports of the Republic of Sudan in Accordance with Article 62 of The African Charter on Human and Peoples Rights 2008 – 2012, pg. 19.

<sup>14</sup> Consideration of Reports Submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples’ Rights: *Concluding Observations and Recommendations on the Third Periodic Report of the Republic of Sudan (2003-2008)*.

- On 5 July 2010, Sudanese police arrested three student members of the *Girifna* movement in Khartoum. *Girifna*, Arabic for “we are fed up”, is a non-violent social movement that began during the Sudanese voter registration to encourage civic participation and voter education through door-to-door campaigning and demonstrations. At the time of their arrest, the three students were distributing *Girifna’s* magazine, a new initiative. In the first days following its publication, over 7,000 copies of the magazine were distributed throughout Khartoum and Omdurman.

The group was taken to the local Police Precinct Number 5 in Alhaj Yousif Area, and charged under Articles 69 (breach of public peace), and 63 (sedition) under the Sudanese Criminal Code of 1991. Their homes were subsequently searched. Later that evening, National Intelligence and Security Service (NISS) agents took the detainees from police custody to NISS offices, where they were subjected to torture and questioned extensively about the *Girifna* movement before being taken back to police custody.

- On 10 January 2011, the NISS arrested six students in Khartoum University affiliated with the Congress of Independent Students (CIS). The CIS was holding a public meeting addressing the increase on food prices and other commodities. NISS agents supported by NCP affiliated students wielding metal bars attacked the event inside the university.
- On 11 January 2011, NISS agents arrested Haroun Issa, a member of the Darfur Students Association, after he attempted to intervene to solve an issue for female Darfuri students accommodated at the University of Khartoum Girls’ accommodation. The police and security forces dispersed the crowd by beating the protestors and using tear gas. He was released after four hours.
- In late June 2011, the Darfur Student Association of Port Sudan University made an official complaint accusing the NISS of targeting Darfuris, often subjecting Darfuri students to arbitrary searches and prohibiting them from conducting social, cultural, and political activities in the University. In June, the following students were arrested:
  - Hussein Mohamed Bashir (member of the United Popular Front (UPF), which supports the Sudan Liberation Movement/Abdel Wahed (SLM/AW)), in front of the University;
  - Mahadi Mohamed Ibrahim, Sudan People’s Liberation Movement (SPLM) member, near a restaurant on 27 June;
  - Anoar Adam Hussein (UPF), on a public bus from Khartoum to Kalananib checkpoint near Port Sudan on 25 June;
  - Hafiz Marba (UPF), on 22 July; and
  - Hufiza Aljmri, Sudan Alliance member, after he publicly condemned the arrest of one of the Darfuris. He was held for one hour before the NISS

discovered he was not Darfuri. He was then released and given 10,000 Sudanese pounds for transport to his home.

- On 16 November 2011, the NISS in Aldamar, River Nile state in Northern Sudan arrested students of the College of Education at River Nile University. The students are members of the Merowe Dam committee. They were released the following day.
- On 22 December 2011, police entered Khartoum University's campus and arrested the following students:
  - Mohamed Idries (Jedo), Faculty of Technology, Darfur Students' Association President and a member of the Independent Students' Congress Party
  - Hassan Altayb, Faculty of Art
  - Abd Alrahman, Faculty of Business Administration
  - Taj Elsir Jafaar, Faculty of Science

That evening fellow students began demonstrating, demanding that the group be released. Early the next morning, members of the police and NISS entered a student residential compound, arresting over 100 students and taking them to the East and North Khartoum Police Stations. Some were transferred to the hospital after being injured during their arrest. Others were released after spending the night in police custody.

**2. As part of a censorship campaign to limit the freedom of expression and rights laid out in Article 9 of the African Charter<sup>15</sup>, journalists are frequently arrested for the publication of articles or interviews with people the government deems sensitive.**

- In the evening of 2 February 2011, 17 staff of *Al-Midan*, a Communist-Party affiliated newspaper, were arrested from their offices in Khartoum and held incommunicado. Their coverage of the 30 January 2011 demonstrations was confiscated.<sup>16</sup> At 7 PM, NISS agents cordoned off the area surrounding *Al-Midan*'s offices and blocked the doorway. NISS agents waited for the staff to emerge from their offices, and arrested journalists, staff, a visitor, and the newspapers' driver while they were on their way home. Members of the group were held incommunicado and some were tortured with electric shocks, and forced to open their e-mails and Facebook accounts to track information.
- On 10 January 2011, the NISS arrested Abdel El Gadir Bakash, editor of *Baraout* newspaper, a local NCP-associated newspaper in Port Sudan, for writing a column

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<sup>15</sup> This will be discussed more in later sections.

<sup>16</sup> African Centre for Justice and Peace Studies, *Targeting of Opposition-affiliated Journalists and Censorship of 30 January Demonstrations Continues*, 5 February 2011, <http://acjps.org/Publications/Press%20releases/2011/2-5-11Targeting%20of%20Opposition-affiliated%20Journalists.html>.

calling for secession of Red Sea state and criticizing the rapid increase in food commodities. The following day, authorities in Red Sea state closed down *Baraout* newspaper.

- On 17 April 2011, the NISS arrested Deeba Babington, a journalist with Reuters, in Al Gezira state after she interviewed farmers in the *Shrara* project. Ms. Babington had arrived in Sudan only five weeks prior.
- On 14 May 2011, Security officials stopped Mohamed Alfatih, a journalist who works for *Almidan* newspaper and Rchan O'Shea who works for *Altair* newspaper at the Jabal Awlia checkpoint in South Khartoum. The two journalists were forced to open their computers, personal equipment and luggage and had their mobile phones confiscated. They were interrogated about the following issues:
  - their relationship with the SPLM and the Communist Party;
  - any interactions with the International Criminal Court; and
  - motivations for reporting on gubernatorial election of South Kordofan.

In the course of their interrogation by the NISS, one intelligence official photographed a piece of paper that had picture of President Bashir and the words “to The Hague” on it, claiming that he found the paper in the journalists’ bags. After a long and humiliating interrogation characterized by degrading treatment at the NISS offices at Jabal Awli, the two journalists were moved to the security offices in Alkalkla Alafaa - South of Khartoum for further interrogation. They were held in detention for 13 hours and eventually released.

**3. Political party activists are frequently detained for engaging in party activities and disseminating information. Following the secession of South Sudan, the SPLM-N was declared illegal and political activists were targeted for arrest.**

- On 4 September 2010, NISS agents in Gedarif state in Eastern Sudan arrested two members of the Communist party distributing statements objecting to the increase of food prices in Eastern Sudan. They were released the following day. One reported that he had been tortured in custody.
- On 24 January 2011, NISS in Omdurman arrested two members of the Umma Party in West Omdurman near Soug Libya, where they were announcing a symposium using a sound system. They were subjected to torture before being released later that day.
- On 13 October 2011, Farouq Abu Issa, a leading opposition figure and Chairman of the National Alliance Forces was arrested from his home in the afternoon and taken to the NISS’ political security department in Khartoum North. He was released four hours later. Mr. Issa is in his late 70s. His arrest came a day after a newspaper article was published alleging that he had asked the Dutch Embassy in Khartoum for



financial support to the opposition. Rabi Abdel Aatti described Abu Issa's alleged act as representative of "the highest degrees of mercenaryism and collaboration with foreigners...it is a moral abomination that totally cast him aside from national agendas."<sup>17</sup>

- On 19 December 2011, the NISS arrested Ibrahim Alsanosi, Assistant Secretary General of the Popular Congress Party (PCP), and Ali Shama at Khartoum Airport after they arrived from Nairobi. They were accused by the NISS of coordinating with Darfur rebel factions.
- On 15 January 2012, the NISS arrested Mohamed Bashir, a graduate of the University of Juba and a member of the Sudan Congress Party, from outside the Islamic University in Omdurman. Ten days earlier, Bashir returned to Sudan from self-imposed exile outside of the country.

#### *SPLM-N*

- On 4 November 2010, over 50 police officers in uniform and in plain clothes raided the home of the late ex-governor of Upper Nile State, Colonel Simon Manyang, in Khartoum's Jabra district, block 6. Colonel Manyang was governor from 1985 – 1987. The raid took place while the family celebrated the graduation of the former governor's son, Zakaria Simon, from Juba University. The police forced their way into the home using tear gas, shattered the main door and windows, and broke furniture within the house. Sixty one guests (55 male, 6 female) attending the party were beaten, and 20 people (11 men and 9 women) were arrested. They were not given any reason for their arrest and were released later that evening. Colonel Manyang's widow, Rugina Francis Deng, was beaten by the police in front of her guests. The detainees were held overnight at Al Diem Public Order police station. The following morning, the males received 40 lashes and the females were fined 500 SDG by the Public Order court. Ms. Deng, who has lived in Jabra District for 24 years, stated that "this is the first time that my family has to go through such an appalling experience". A local newspaper, *The Citizen*, reported that the group was verbally abused by the police, including through the use of racial slurs.
- On 14 February 2011, Ali Mohamed Osman, a member of the SPLM and 30 January movement, was arrested in Omdurman near the Youth and Children's building. He was taken to NISS offices near the Republican Palace in Khartoum and beaten severely. He was released on 15 February.
- On 24 October 2011, the NISS arrested Mohamed Ahmed Alhoori, a member of the SPLM-N from Merowe area. Mr. Alhoori is an activist opposing the dam construction in Merowe.

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<sup>17</sup> Sudan Tribune, "Sudan briefly detains opposition figure," 13 October 2011

- On 24 October 2011, the NISS arrested Ezdihar Jumaa, an SPLM-N leader. She was detained till evening when she was ordered to report every day to NISS headquarters in Khartoum Bahri near the Shade bus station.
- On 24 December 2011, the NISS arrested Adzharia AL haj Data Allah, a human rights activist, and Mohamed Ahmed Lahore. Lahore is an SPLMN-N member from Alsuq Arabi, Khartoum. He was released the following day, but Mr. Allah's whereabouts remain unknown.

**4. Sudanese citizens are frequently arrested on the basis of ethnicity. In particular, activists from Darfur are repeatedly targeted for arbitrary arrest. This includes arrests for engaging with international bodies and participating in civil society activities.**

- On 2 March 2010, the NISS in Nyala arrested Yahiya Makta Mohamed Hamed, 20, and a member of the Zaghawa tribe, for allegedly being a member of the Sudan Liberation Army/Mini Minawi(SLA/MM) near El Geneina station in Nyala.
- On 20 September 2010, Harun Imam Hassan, a senior *Nazir* (tribal leader) of the Misseriya was arrested in Kass, South Darfur, under direct orders by Governor Abdel Hamid Musa Kasha. He allegedly refused to react positively to the state's mediation of the conflict between the Misseriya and Riezegat.
- On 21 September 2010, the NISS in North Darfur arrested Awatif Ishag Ahmed, a women's rights activist and editor of *Alrahil* magazine, a local magazine in El Fashir. Ms. Ahmed was arrested at 8 AM and detained until 4 PM. During her detention, she was not allowed food, water, or to use the washroom. She was questioned extensively about her relationship with the ICC and told to report immediately to security if summoned. She was ordered to not report that she had been arrested.
- During the United Nation Security Council's (UNSC) visit to El Fashir in 2010, the delegation met with IDPs in Abu Shouk, Al Salaam, and Abashed camps. Many internally displaced persons (IDPs) talked about issues of insecurity, deterioration of humanitarian conditions, and lack of access to justice, and abuses by the NISS.<sup>18</sup> On 8 October 2010, the NISS began searches for 16 IDPs who spoke to the UNSC, all of whom were able to evade arrest. One member of the group, however, was told later that they could not leave El Fashir, alongside two others. Harassment of others suspected of speaking to the UNSC continued. On 10 October, two individuals were arrested. On 17 October 2010, a second wave of arrests occurred, where 23 IDPS were arrested, including those who had been arrested in an unrelated incident over a year prior.

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<sup>18</sup>Arrests and Intimidation in El Fashir Town and IDP Camps Following the UN Security Council's Visit", 14 October 2010. 12

- In the afternoon of 30 October 2010, six Darfuri human rights defenders disappeared in Khartoum. The next day, it was confirmed that all six had been arrested. Some of the members of the group had just attended a youth forum on social development hosted by *Girifna*, a pro-democracy student movement. Staff members of HAND (Human Rights and Advocacy Network for Democracy) were arrested after a raid by the NISS. HAND is a coalition of nine grassroots Darfuri organisations that publishes weekly human rights monitoring reports from Darfur. They closed the office, and confiscated computers, documents, and Radio Dabanga equipment. On 8 November, the case was referred to the Prosecutor of State Security.

The first disappearance occurred in *Suq al Arabia* in downtown Khartoum on 30 October, when NISS agents arrested Abdelrahman Mohamed Al-Gasim, a prominent human rights defender from Tulus, South Darfur. Mr. Al-Gasim is based in Khartoum and is the Legal Aid and Training Coordinator of the Darfur Bar Association.

Another round of disappearances occurred almost immediately after Mr. Al-Gasim's, suggesting a coordinated effort by the NISS. The arrested individuals included:

- Dirar Adam Dirar, a finance and administration officer with the HAND network. Abdelrahman Adam Abdelrahman, the Deputy Director of HAND's network.
- Manal Mohamed Ahmed, activist
- Aisha Sardo Sharif, activist
- Aziza Ali Edris, activist and student.

Four additional arrests occurred between 30 October and 3 November.

- On 27 November 2010, the Minister of Legal and Constitutional Development in Upper Nile state, Riek Peter, was arrested and detained for several hours by police in Jebel Awlia locality, Khartoum State. Mr. Peter told *Ajras Al-Hurriya* that he was stopped by police to verify his license, which they confiscated. When he told them he was a minister, they confiscated his car registration papers. He was taken to a local police station and released following interference with local NCP leaders. Mr. Peter stated that he believed he had been targeted due to his Southern Sudanese license plate, and that the police intended to "send a message to me but to all Southern Sudanese that they might receive the same or worse treatment."

## **5. Civil society activists are subject to arbitrary arrest often following the organizing of events or dissemination of civic education materials.**

- In January 2011, a demonstration was organized by the "Youth of 30 January for Change Alliance" mobilised activists in Khartoum, El Obeid, Wad Medani, and Kosti. The demonstrations, supported by the opposition, blatantly called for President Omar al-Bashir to abdicate power, and for the National Congress Party (NCP) to

rescind austerity measures imposed to combat the economic effects of Southern secession. Similar demonstrations occurred on 3 February.

The regime reacted violently to the protests and movement, deploying heavily armed riot police who beat demonstrators. Several members of the opposition and journalists of opposition-affiliated newspapers such as *Al-Midan* were detained. Journalists targeted during the demonstrations were forced to delete pictures from their cameras.

On the first day of protests on 30 January, 113 were arrested and one student killed.<sup>19</sup> In the following days, mass arrests of opposition leaders and journalists occurred. During their arrests, new tactics torture tactics emerged. Those released reported that they were forced to give their Facebook account information and passwords to their e-mail. Verbal assault around female activists' sexuality and threats of rape have increased, with one documented case of rape and five other serious incidents reported by the Sudan Democracy First Group.

- On 6 April 2011, the NISS in Khartoum arrested nine people preparing for a public forum announced by the Communist Party. They are:
  - Bashir Musa Fahdol, Sudan University
  - Mohamed Adam, Khartoum University
  - Mohamed Yousif, Sudan University
  - Mohamed Kamal, Juba University
  - Tariq al Azrahim
  - Mohamed Al Hassan, Sudan University
  - Iman Mohamed Osman, Sudan University
  - Hassan Ishag, journalist trainee with *El Gerida* newspaper
  - Mastour Ahmed Mastour, secretary general of the Sudan Congress Party
  
- On 24 May 2011, five *Sharara* activists (Youth for Change) were arrested by the NISS and subjected to torture following a public talk by the group inside Khartoum University. Pro-government students attacked and dispersed the participating students.
  
- On 17 August 2011, the NISS in Nyala, South Darfur, re-arrested Abdallah Haroun Adam and Salah Balbiker immediately after the Nyala Court ordered that they be released. Mr. Adam is a university graduate and member of the Maasalit ethnic group and Mr. Babiker is a university student and member of the Fur ethnic group. Both men were arrested in April 2011 in Nyala for distributing pamphlets in markets calling for regime change, shortly after the 30 January movement mobilised throughout the country. When the Court heard their case on 17 August, the judge ordered the charges against the defendants dropped and their release under Article

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<sup>19</sup> African Centre for Justice and Peace Studies, "Youth Mass Protests Spark 113 Arrests and One Death", 1 February 2011

141 of the 1991 Criminal Procedures Act, which enables the Court to drop the case if there is insufficient evidence. Mr. Haron and Mr. Babiker were immediately re-arrested.

- On 2 September 2011, Abdelmoniem Rahama, a well-known Sudanese intellectual and activist was arrested in El Damazein, Blue Nile. His whereabouts are currently unknown. Mr. Rahama's arrest coincided with President Bashir's declaration of emergency law in Blue Nile. Following the signing of the CPA, Mr. Rahama returned to Sudan. Most recently in 2010, he served as a government advisor for cultural affairs in Blue Nile state. Rahama was the founder and chairperson of Sudana, an organization devoted to promoting the indigenous arts and literature of marginalized communities in the peripheries of Sudan. An active member of Sudan's journalist community, he was both a co-founder and administrative director of *Ajrass Alhurria* (Bells of Freedom) newspaper.
- On 21 September 2011, the NISS arrested Mohamed Abdel Razziq, the Chairperson of a Specialist Doctors' Association in Sudan, shortly before attending a demonstration organised by the Association protesting against the administrative transfer of Government Hospitals in Khartoum from the Federal Ministry of Health to the State Ministry of Health.
- On 22 December 2011, eight plainclothes NISS officers in Khartoum arrested Ali Zainelabdein Ali Omar in Alsoug Alarabi area, Khartoum. Mr. Omar was taken to the NISS Political Affairs department near Shande station in Khartoum Bahri. He was interrogated about critical statements he made about the government online and his efforts to facilitate communication between family members of detained SPLM-N members and the Red Cross in Khartoum.
- On 25 January 2012, the NISS in Khartoum arrested seven members of *Girifna* following a symposium in front of Umma Party headquarters commemorating the lives of those killed in the Port Sudan Massacre of 2005. The symposium also addressed poverty and corruption in Eastern Sudan and called for a new government to address the multiple crises within Sudan. Those arrested include:
  - Nagi Musa
  - Amar Derar
  - Ghazi Abo Zaid Altayeb
  - Mohamed Mahjoub
  - Shareif Kamal
  - Omer Ahmed Hamed
  - Mohamed Omer Alameen

The next day NISS official arrested six additional *Girifna* activists (listed below):

- Altahir Badr Aldeen

- Khalaf Saeed
- Mohamed Ahmed Awad Ashol, leader of the Political Unit of the Sudanese National Youth Alliance
- Magdi Akasha
- Yaseen Salah (released 28 January)
- Hatim Shanab (released 28 January)

## Article 7

*1. Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defense, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal. 2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.*

In the Fourth and Fifth Periodic Report submitted to the African Commission, the Government of Sudan reports that all citizens are guaranteed the right of litigation and no one should be denied their right to justice.<sup>20</sup> To uphold these rights, citizens are also guaranteed the right to self-defence or to a lawyer.<sup>21</sup> Below are examples where procedure was not followed and citizens were not allowed a fair trial.

- On 15 June 2010, the Khartoum North Court refused to hear testimony from defence witnesses in the case of four *Rai Alshaab* journalists. The journalists were charged with 14 counts of “crimes against the state” offences, with sentences ranging from the death penalty to life imprisonment. As a result of the court’s action, the defence attorneys withdrew from the proceedings in protest. The head of the Defence Panel, Kamal Aljezoli, said that they could not effectively defend their clients.<sup>22</sup> On 15 July, Judge Modather Al Rasheed of the Media and Publication Court sentenced three of the four *Rai Alshaab* journalists.<sup>23</sup> Abo Zar Ali Amin, Ashraf Abd Alaziz, and Altahir

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<sup>20</sup> Republic of Sudan, *4<sup>th</sup> and 5<sup>th</sup> Periodic Report*, pg 21.

<sup>21</sup> *Ibid.*, pg 23.

<sup>22</sup> For more information, see [\*Rai Alshaab\* Journalists Face Death Penalty and Life Imprisonment and Denied Right to a Fair Trial](#).

<sup>23</sup> See “*Rai Alshaab* Journalists Face Death Penalty and Life Imprisonment and Denied Right to a Fair Trial”, 19 July 2010. The arrests of the *Rai Alshaab* journalists and closure of the newspaper occurred on 15 May, hours after the arrest of opposition leader Hassan Al Turabi. At the time, the NISS, Ministry of Information and Communications, National Press Council, and Ministry of Media and Information all stated that the closure would not affect liberties accorded by the Interim National Constitution. On 16 June, the journalists’ defence team withdrew over concerns that they could not effectively defend their clients after the rejection of four witnesses. This

Ibrahim were sentenced under Articles 50 and 66 of the Sudanese Criminal Code of 1991. Article 50 outlines grounds for offences against the state and undermining the constitutional system, and Article 66 bans the publication of false news, particularly when it leads to the “diminution of the prestige of the state.” The court assigned Abo Zar Ali Amin with the greatest criminal responsibility, for his authorship of an article entitled “Winning of Ali Osman or Al-Bashir” questioning the popularity of Bashir during the election period. He was sentenced to five years in prison, while his colleagues Ashraf Abd Alaziz, general editor, and Altahir Ibrahim, head of the newspaper’s political department, were sentenced to two years each. The fourth journalist, Ramadan Mahjoub, was acquitted.

Criticizing the process, their lawyer, Abdel Moneim Othman Idriss stated “they did not raise a weapon; they raised a pen to express their opinions.” In addition, the Court found that the newspaper had published articles with the intent of damaging Sudanese government’s foreign relations, including with Yemen by alleging support for Houthi rebels.

- In late July 2010, 19 young Muslim men were sentenced to 30 lashes and a fine for breaking moral codes for wearing women’s clothes and makeup in a private home in Khartoum, reportedly being used for a wedding between two men. Many of the defendants tried to hide their faces from the 200-person crowd present for their sentencing on 3 August. The men had no lawyers, and the trial judge stated that the police whom raided the party found the men dancing “in a womanly fashion.” Some legal aid lawyers said that they were scared to defend the group, and the judge made no mention of the wedding itself.
- On her way to a demonstration on 21 March 2011, Widad Abd-Elrahman Dirweesh, 27, a human rights defender and volunteer with the Sudan Organisation for Non-Violence and Development, was arrested alongside Muhanad Nagm Aldin and Manal at 3 PM near Khartoum Stadium. Four plainclothes NISS officers knocked Ms. Dirweesh to the concrete street, and two other officers dragged her through stagnant water. Ms. Dirweesh cut her head badly when she fell, and began to bleed profusely. She was pulled up by two NISS agents, one of whom held her face with his two hands and moved his face close to her and began verbally abusing her, saying that she looked ready and prepared to sleep outside her house as she had a backpack of clothes with her.

The group was taken in a pickup truck to a NISS office in Buri, Khartoum. Throughout the journey Ms. Dirweesh was bleeding, and fainted when she arrived at the office. She received no medical care when she arrived, but was allowed to use the washroom to wash blood from her face. She was then interrogated.

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raised serious concerns over the right to a fair trial, with the defendants facing sentences ranging from life imprisonment to the death penalty. All four journalists reported being tortured while in the custody of the “Crimes against the State” section of Kober Prison.

When her condition worsened, the NISS offered to take her to a Police Hospital. She was taken to a Civil Public Hospital, where she received stitches. After treatment, she was taken to the Khartoum North Police Station and charged under Article 66 (publication of false news). Ms. Dirweesh was released at 1 AM on bail and tried in the following days. Both Ms. Dirweesh and her lawyer were not allowed to address the court, and they declined her request to adjourn the trial on account of her injuries. Ms. Dirweesh was convicted and fined to 500 Sudanese pounds (\$200 dollars).

- On 26 July 2011, Judge Osama Ahmed Abdalla of the Al Nasr Court in Khartoum sentenced Hamid Al Kodah to amputation of his right hand and a fine of 1,700 Sudanese pounds. Mr. Abdalla was convicted of robbery under Article 174 of the 1991 Sudanese Criminal Code. Mr. Abdalla was not provided with a defence lawyer.
- On 25 August 2011, a special court in Kadugli sentenced Hammad Tutu, a political and military leader of the JEM, to death by hanging. The court session lasted only two hours, and Mr. Tutu's lawyer was ordered to not talk to his client or participate in the hearing.
- In November 2011, a court martial in Singa, Blue Nile state sentenced 19 SPLM-N members to death. The group includes the poet Abdul Moneim Rahama. The rest of the group's identity is unknown. They were arrested from their homes and places of work following the outbreak of the Blue Nile conflict in early September 2011. The trial was conducted under a complete media blackout, with journalists barred from monitoring the court's procedures. The convicted group was transferred to Kober Prison, where they await execution. The Government of Sudan has denied that the court in Singa exists.

An additional 15 suspected SPLM-N members are currently detained in Singa and will soon be tried.

#### *Article 8*

*Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.*

Under Article 38.1 of the Interim Constitution, “every person shall have the right to the freedom of religious creed and worship, and . . . no person shall be coerced to adopt such faith, that he/she does not believe in, nor to practice rites or services to which he/she does not voluntarily consent.” However, in 2004, the African Commission expressed concern that “the application of some criminal law provisions for *shari'a* or Islamic law in the whole country entails the risk of extending it to individuals belonging to religious groups other than Muslims living in some parts



of Sudan.”<sup>24</sup> This concern is still valid; *shari’a* law is frequently imposed on Sudanese citizens, regardless of their religion. Furthermore, under Article 126 of the 1991 Criminal Code, an apostate includes anyone “who propagates for renunciation of the creed of Islam or publicly declares his renouncement thereof by an express statement or conclusive act.” ACJPS worries that Article 126 is used to suppress ethnic minorities and those who the state perceives as potential sources of opposition. Below are examples:

- On 17 June 2010, Public Order Police invaded the home of a Christian University Professor named Nahmia Ibrahim in Taiba Alkhabiesh Salama area, and arrested all persons praying in his home. He was accused under Article 5 of the Public Order Act of 1997, which states that “special ceremonies are not allowed unless the organiser obtains permission from the domestic locality which is located in the ceremony’s venue.” The names of the arrested persons, who come from the Nuba Mountains, are:
  - Adi Ibrahim
  - Kolain Farouq
  - Kamilia Farouq
  - Dawod Braimah
  - Saeed Mohamed Issa
  - Ekram Police
  - Moutaz
  - Namia Ibrahim

All were released on their second day in jail. The public order court on 20 June sentenced one of the arrested persons to a fine of 200 Sudanese pounds.

- On 17 April 2011, more than 100 female students at Sudan University in Khartoum protested against University dress code regulations which compel students to wear a uniform based on Islamic law, or else be expelled.
- On 29 July 2011, 150 people were arrested by police in Hay Mayo, South Khartoum. All are members of the Hausa ethnic group and from Darfur. While 21 individuals (children and the elderly) were immediately released, 129 were subsequently charged with apostasy, disturbance of the public peace, and being a public nuisance under Articles 126, 69 and 77 of the 1991 Sudanese Penal Code respectively (Case No. 2157/2011). The most serious of these charges, apostasy, carries a maximum sentence of death.

On 22 September, the Court dropped the charges after the group repented in front of a representative of the Sudan Scholars.

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<sup>24</sup> Consideration of Reports Submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples’ Rights: *Concluding Observations and Recommendations on the Third Periodic Report of the Republic of Sudan (2003-2008)*

- On 4 December 2011 Shamsalddin Dawalbeit received a summons from the North Khartoum Court to appear at 10am on 6 December 2011 in conjunction with previously dropped apostasy charges. Mr. Dawalbeit is a prominent scholar who frequently writes about issues of Islamic reform, human rights, democratisation, and multiculturalism. He was originally accused of apostasy on 8 February 2010 after authoring an article on reformist principles. He was released and the charges dropped the following day without explanation.

A key provision of the CPA was that Southerners would not be subjected to *shari'a* law, the introduction of which had been a key driver of the civil war. However, this was not the case in practice. Raids searching for illegal alcohol breweries often solely target Southerners, and have been seen as a form of harassment. Frequently when homes are raided for alcohol or unlicensed weapons, property is damaged or destroyed. When SPLM officials have intervened, they are often subjected to intimidation as well. In the period leading up to the 2009 referendum on Southern independence, these attacks amplified.

- On 1 November 2010, the Sudanese National Press and Publications Council issued a one day ban on The Citizen newspaper after the newspaper published an advertisement deemed in contravention to Sharia law. The advertisement was for a talent competition sponsored by the Kenyan beer company Tusker.
- On 28 October 2010, police found alcohol during a raid at the home of Kaka Telian in Block 32 of Dar el Salaam camp. Ms. Telian is a 32 year old single mother of three children. She was beaten and dragged in front of her children to the local police station. She was sentenced to a fine of 250 SDG (roughly \$100 USD) and 40 lashes by the local court.

#### *Article 9*

*1. Every individual shall have the right to receive information. 2. Every individual shall have the right to express and disseminate his opinions within the law.*

The Sudanese constitution states that, “every citizen shall have an unrestricted right to the freedom of expression, reception and dissemination of information, publication, and access to the press without prejudice to order, safety or public morals as determined by law. The State shall guarantee the freedom of the press and other media as shall be regulated by law in a democratic society.”

However, the Press and Publication Act adopted by the National Assembly in 2009 imposes clear limitations on the freedom of expression. The law allows the state to limit the freedom of expression in relation to concerns about national security or public order. The law allows the National Council on Press and Publications to suspend newspapers and for the NISS, National Press and Publications Council or other government agents to violate freedom of expression under the pretext of safeguarding national security. The law allows courts to power impose fines

on journalists or newspapers, ban newspapers and place super injunctions on printing houses from publishing, suspend editors, the publisher or the related journalist who committed the alleged offense for a period determined by the court. It can also cancel or suspend press registration.<sup>25</sup>

These laws and the way in which they are implemented by the Government of Sudan impose a form of indirect censorship and are in clear violation of Article 9 of the African Charter. They are meant to discourage papers from writing articles that the government would find objectionable. During the reporting period, newspapers that published articles on the International Criminal Court (ICC), the referenda on South Sudan's secession, and Sudan's relationship with other countries are accused of charges of breaching national security and inciting sedition. This has inhibited critical discussion amongst Sudanese in the North about the future of democratic transformation. In late 2011, the Sudanese government launched a dual-prong campaign to limit the freedom of expression. Journalists have been fined astronomical sums or detained for publishing articles that are deemed objectionable and newspapers are prohibited from distribution after they have been printed.<sup>26</sup>

- On 3 June 2010, NISS agents censored *Ajras Alhurria* newspaper so heavily that the newspaper could not be published. *Ajras Alhurria* later resumed publication, but was prohibited from publishing any news regarding the doctor's strike, the ICC, and the arrest and trial of *Rai Alshaab* journalists.
- In the last week of June 2010, the NISS distributed surveys to daily newspapers ordering their journalists to give details on personal information, such as names, contacts, address, tribal affiliation, and family members. The form was distributed widely, but targeted *Ajras Alhurria*, *Al Midan*, and *Alakhbar* newspapers. The editors of *Ajras Alhurria*, Zuhail Altaib, Hanadi Alsidig, Gmar Dulman, and Fatime Jagad, were forced to verify that their information was correct. The surveys appeared to be standardised for a computer database.
- On 8 August 2010, the head of the NISS, Mohammed Atta, lifted the stringent pre-print censorship policy that was active from May – August. During that time, several newspapers were subject to pre-print censorship, and the arrest and torture of their respective staff. Mr. Atta also affirmed that the NISS “reserves its constitutional right to reinstate censorship whenever the necessity arises.”<sup>27</sup>

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<sup>25</sup> African Centre for Justice and Peace Studies, *Sudan Steps Backward*, pg. 2

<sup>26</sup> *Ibid.*, pg 1.

<sup>27</sup> African Centre for Justice and Peace Studies, “ACJPS Welcomes End to Pre-Print Censorship in Sudan; Calls for Greater Protection of Freedom of Expression,” 10 August 2010, <http://acjps.org/Publications/Reports/2012/Sudan%20Steps%20Backward%20-%20National%20Security%20Intensifies%20Violations%20of%20Freedom%20of%20Expression%20in%202011.pdf>.

- On 29 May 2011, proceedings brought by the prosecutor of the Press and Publications Court against Professor Omar el Gerai, a journalist and activist, and Abdallah Sheikh, the editor of *Ajras Alhurria*, began in Al Shemali Court in Khartoum North. The two journalists were tried for an article published 6 March by Professor el Gerai in *Ajras Alhurria* entitled “Rape...under *Sharia* law. The article detailed the brutal treatment of the youth activist and *Girifna* member Safiya Ishag, who was raped multiple times and subjected to torture in NISS custody following her participation in the 30 January demonstrations in Khartoum. In his piece, Mr. el Gerai called for a formal investigation. Prior to the initial hearing, the lawyers of Professor el Gerai and Mr. Sheikh had only been told informally of the charges leveled against their clients under the 1991 Sudanese Criminal Code, and were told by the prosecutor that they would have to wait and see. They have since been charged with defamation, and their trials postponed to 21 June. Mr. Sheikh is facing seven separate complaints: four filed by the NISS, one by the military, and one by the ministers’ council.

Professor el Gerai and Mr. Sheikh’s case is not an isolated incident. Several other journalists are facing criminal charges brought by the NISS for reporting on Ms. Ishag’s case.

- On 20 – 22 August 2011, distribution of *Al Gerida* was blocked, causing an estimated \$10,000 loss in revenue. Distribution was again prevented on 4 September. NISS officials also threatened to further punish *Al Gerida* if they employed any *Ajras Alhurria* journalists following the newspapers’ closure on 8 July. In a press release issued on 22 August condemning the NISS’ actions, the *Al Gerida* stated “we have our redlines too, which is the respect of the freedom of expression...we are not concerned if our editorial team is disliked by the NISS, but we are concerned that such practice should be supervised by the Judiciary.”
- On 24 August 2011, the journalist Abuzar Ali Al Amin, the deputy editor in chief of *Rai Al Shaab*, was released from prison without charge after a year and a half in jail. Mr. Al Amin was arrested by the NISS on 15 May 2010 for an article he wrote in the 9 May 2010 issue of the newspaper that was critical of the government. A day later the NISS Director, Mohamed Atta, suspended *Rai Al Shaab* newspaper. The paper remains suspended.
- On 14 September 2011, the NISS ordered all newspapers to stop reporting on rebel groups’ activities and from reprinting their statements.
- On 13 January 2012, the NISS sent a text message to all newspaper editors ordering them to not publish any news on an upcoming meeting of the political opposition on the front page or in any main headlines.

## ***Article 10***

*Every individual shall have the right to free association provided that he abides by the law. 2. Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association.*

Article 40.1 of the Constitution gives Sudanese citizens the right to form professional, social or economic associations as well as the right to form and join political organizations.<sup>28</sup> However, citizens are often prevented from exercising this right, especially when the government views the group as a potential source of opposition.

- On 1 August 2010, the Central Council of Journalists Union, a government-affiliated organisation, directed the Union to cancel the membership of any journalist affiliated with any other unions, whom they perceive as being illegitimate and illegal. There are two other journalist's bodies, both of who are very active in working for journalist's rights and protection of the freedom of expression. For example, the Journalists' Network and Journalists for Human Rights demonstrated peacefully in June to release the *Rai Alshaab* journalists during the pre-print censorship period. Dr. Mohieldin Tetawi, the chairman of the Union of Journalists, affirmed to the Centre Sudanese Press Services that the unity of journalists is a red line that cannot be crossed by any person or political party, saying that the Union of Journalists will take all necessary measures in accordance with national laws (as trade unions in Sudan must be established in accordance with local laws) to establish and elect officers to preserve the integrity of the organisation and its members.<sup>29</sup>
- On 15 September 2011, the Sudanese Political Parties' Council of Affairs enacted a resolution suspending 17 political parties from activities in Northern Sudan on the basis that they have become foreign entities, or are led by Southern Sudanese, following the secession of the South. The Council made its ruling under Articles 12 and 14 of the Political Parties' Law of 2007, and stated that the parties' presence in the North contradicts with the CPA of 2005. The Council also advised that political parties' check their members' lists and drop any Southern Sudanese citizenships. However, at the same time the SPLM-N was also declared illegal. The SPLM-N separated from the SPLM and is formed by Northern Sudanese. Members of the SPLM-N have been subject to arbitrary arrest and detention. On 20 July 2011, the NISS in Nyala arrested SPLM members Mohamed Al Sadig Mahdi, a Political Affairs Secretary, and Siddig Robert. The NISS also confiscated a land cruiser and pickup truck. In El Fashir, two SPLM-N members (Ahmed Adam Mohammed and Azledeen Mohamdain Agar) were arrested from the SPLM-N's office. SPLM-N members in El Gezira state were told that they could no longer participate in political activities.

## ***Article 11***

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<sup>28</sup> Republic of Sudan, *4<sup>th</sup> and 5<sup>th</sup> Periodic Reports of the Republic of Sudan*, pg 27.

<sup>29</sup>See: <http://www.alsahafa.sd/details.php?articleid=11305#11305>

*Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.*

The right to assembly is enshrined in Article 40.1 of the Sudanese constitution. However it is limited under Articles 124 – 128 of the 1991 Criminal Proceedings Act, where the freedom of assembly is proscribed where it poses a “threat to national security and public safety and order or public health and morality or infringes on the rights and freedoms of others.”<sup>30</sup> This provides the government with latitude to refuse permission to civil society organizations or political parties to organize events. Often if events are allowed to take place, they are often broken up with extreme uses of force and participants are targeted for arbitrary arrest and detention.

- On 5 August 2010, the NISS issued a letter to the Employers’ Federation Hall in Khartoum, warning them not to host a meeting the following day of the Sudan Women’s Solidarity for Darfuri Women Forum. The Humanitarian Aid Commission cancelled the registration of the forum the following week.
- On 1 September 2010, the NISS prevented the Doctors’ Strike Committee from holding a Ramadan Breakfast with the Medical Student Association of Khartoum University. The NISS summoned the chairman of the Doctors’ Strike Committee, Dr. Ahmed Alubauabi, and the deputy chairman, Dr. Abdaziz Ali, and ordered them to stop preparations for the Ramadan Breakfast on the pretext that it was a political rather than social event.
- On 19 October 2010, authorities in El Fashir, North Darfur denied the Umma Party permission to hold a public talk about the referendum and the crisis in Darfur, despite the fact that they had applied four days in advance. The commissioner of El Fashir stated the security situation was too volatile for the event to be held.
- On 10 March 2011, El Fashir University enacted a resolution preventing cultural and political activities by students inside the university. Two days later, student representatives and members of political parties submitted an appeal to the head of the university and the Student Affairs Department protesting the resolution. They refused to receive the appeal.

On 16 March 2011, student representatives and members of political parties organised a demonstration at 12:00 PM. As the demonstration began, university administrators called the police and the NISS. About 200 joint forces (some in plainclothes uniform) arrived heavily armed and with water pipes and tear gas in 12 land cruisers. The joint forces beat students with sticks and water pipes before dispersing the crowd with tear gas. They received support from the Central Police Reserve and drove the students from the inside of the university to the dormitories. When they reached the

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<sup>30</sup> Republic of Sudan, 4<sup>th</sup> and 5<sup>th</sup> Periodic Reports of the Republic of Sudan, pg. 29.

dormitories, they entered both the male and female housing sections and arrested students from their rooms. Police fired into the air to disperse students outside.

Jamal Adam Mustafa was hit by a stray bullet and killed. After his death, police ordered students to evacuate the university. Over 20 students were sent by the university to the Military and El Fashir Hospitals to be treated for inhalation of tear gas. The NISS confiscated the medical reports of five students who were seriously injured and taken to El Fashir Hospital.

Twenty students were also arrested by the NISS and released later that day from their offices in El Fashir. The university expelled five students without any explanation.

UNAMID confirmed the death of a second student days later.

After receiving an appeal from lawyers in El Fashir calling for an investigation, the Governor of North Darfur formed a commission comprised of El Fashir's prosecutor, Ahmed Mohamed Ahmed, and representatives of the NISS, police, and university. Thus far, the Commission's work has focused mainly on the death of the two students, but no university students' testimony has been taken and the joint forces' entrance to the university has not been explained.

- On 23 - 24 April 2011, UPF-affiliated students demonstrated in Gedarif and Halfa Al Jadida. The demonstrations denounced the loss of the South and war crimes in Darfur, and called for regime change in Khartoum. The demonstrations were dispersed by tear gas, and in Halfa Al Jadida four students were arrested by the NISS.

On 19 June 2011, NISS in Khartoum arrested 16 activists demonstrating outside UN headquarters for greater civilian protection in South Kordofan. They were taken into NISS custody and released shortly thereafter.

- On 8 July 2011 at 9 PM, the NISS arrested 24 participants in the Communist Party Conference held in Port Sudan. They were released at 12 AM after their photos were taken and conference documents confiscated.
- On 10 October 2011, police arrested 9 people after a demonstration against increases in electricity and water prices in Al Tie, Al Gezira state. The group includes two children. They were taken to court where they were sentenced to three months in prison or a fine of 3,000 Sudanese pounds. Those arrested are:
  - Sied Al Tahir Sharief
  - Majid Mohamed Hussein
  - Musa Mohamed Al Hassan
  - Mawia Al Baquir
  - Subahi Ibrahim Subahi
  - Al Badawi Ahmed Mohammed

- Ibrahim Awad Ibrahim Awad Abker, under 18 years old and flogged 20 lashes
  - Bader Al Deen Al Mahi Ali Alnour, under 18 years old and flogged 20 lashes
- On 3 December 2011, the NISS prevented the *AlShrouq Forum* from organising a symposium on AIDS awareness at their office in El Gedarif. Armed NISS agents entered *AlShrouq*'s offices and removed their equipment and sign. Members of *AlShrouq* subsequently held a peaceful demonstration in front of the *Alnahda* library to protest the decision. Since November 2010, this was the fifth public forum organised by *AlShrouq* that had been cancelled. *AlShrouq* attempted to address the cancellations through legal petitions, but was ignored.

The symposium was rescheduled for 14 January. The NISS arrested five members of the Executive Committee of *AlShrouq* and several participants. Known names of those arrested are:

- Taha Mohammed Hassan, President of the Executive Committee
- Jaafar Khidr, Public Relations Secretary of the Executive Committee
- Sharaf al-Din Hassan, Secretary General of the Executive Committee
- Ibrahim Hussein, Finance Secretary of the Executive Committee
- Awad Ali, Cultural Secretary of the Executive Committee
- Mustafa Khalil, President of the Advisory Board

Authorities also confiscated *AlShrouq*'s sound system, a digital camera, and dozens of mobile phones. Fifteen of the detainees were released that evening, however the Executive Committee members of *AlShrouq* were jailed for an additional day. Following their release, the Executive Committee members were asked to report daily to the NISS offices for investigation.

On 18 January, Jaafar Khidr refused to report. Mr. Khidr is disabled. The NISS came to his home and arrested him. He was held at the NISS office for three hours without being questioned. Instructing agents to "throw him" into the back of a pickup truck, an officer named Ehad ordered agents to return Mr. Khidr to his home. While, Mr. Khidr initially thought Ehad was joking, NISS agents placed him and his wheelchair in the back of a truck. The driver deliberately drove recklessly, speeding up and slowing down so that Mr. Khidr repeatedly struck his head and nearly fell out of the truck. The agents soon pulled over to the side of the road and unloaded him before driving away.

- On 19 December 2011, local authorities in Ghibaish, North Kordofan cancelled a political forum organised by the Sudanese Congress Party in Al Majror. Police occupied the town square and dispersed the crowd by force. The authorities justified their actions, explaining that there were reports of the JEM in the region and that the police were unable to guarantee people's safety. A similar forum scheduled for 18 December in Om Dalal village was dispersed for the same reason.



- On 25 December 2011, the police arrested 63 students from Khartoum University. The students were preparing to host a protest in solidarity with the Almanasier people who lost their land in November 2011 without compensation after the Government confiscated it to build a dam. The students were charged with rioting before they were released on bail.
- On 21 January 2011, the Umma Party was denied permission to hold two public discussions in Blue Nile and Senar states. Security denied the permits on the basis that the security atmosphere in each state was not conducive for political activities, in Blue Nile due to the on-going popular consultations.
- On 12 October 2011, the NISS in Al Dabah city in Northern state arrested 5 people that were applying for a permit to demonstrate against increasing electricity prices, which had increased from 7.5 to 27 Sudanese pounds per month. They were released shortly after but the protest was cancelled. Those that were arrested are:
  - Sidig Makki
  - Fatah Al Aleem Badri
  - Al Tigani Saber
  - Asam Mohamed
  - Mohamed Jaffar
- On 30 October 2011, police forces in Kassala dispersed students with tear gas. The students were peacefully demonstrating against the high cost of living and demanding an investigation into the shooting of three student demonstrators in Kassala on 20 October, where roughly 20 students were injured. Police forces surrounded the area to prevent the students from reaching the city centre.
- On 17 November 2011, the Umma Party in Kosti, White Nile applied for permission to hold a public forum in Al Hurria Square on 24 November in front of the office of the local Governor. The forum was to coincide with the visit of Umma party leader Mubarak Alfadil to the town. The local Governor stated that he referred the application to the NISS and was awaiting their response. When members of the Umma Party went to check on the application with NISS, they refused to give them a response, as did the local Governor. The Umma members decided to conduct the forum within their party headquarters in Kosti on 24 November. On 23 November the NISS in Kosti stopped a car filled with Umma Party members and University of Imam Al Mahdi students publicizing the talk. The talk was cancelled and the four NUP members were arrested.

### *Article 18.3*

*The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.*

In 2009, the African Commission recommended that the Government of Sudan take steps to ratify the Convention on the Elimination of All Forms of Discrimination against Women, take measure to eradicate discriminatory practices against women and criminalize all forms of violence against women.<sup>31</sup>

The Public Order Laws contribute to the perpetuation of sexual and gender based violence (SGBV).<sup>32</sup> The laws, part of the 1991 Criminal Code, emphasize the presence and participation of women in public life as problematic. The laws largely reflect the current ideological trend of the ruling party's fundamentalist interpretations and application of *shari'a* law.<sup>33</sup> The laws conceive women as problematic actors whose presence in public and private life must be subject to the highest scrutiny lest their inherent "dangerousness" infect those around them. The brutality of the Sudan Public Order Police against the women and girls of Sudan is part of an ongoing battle to impose a fundamentalist moral order upon society and women are frequently the first victims where their lives are devalued in relation to their male counterparts. As a result, even where the laws are not expressed in gender-specific terms, women are easy targets for the application of ill-defined moral standards which have been bestowed with legal characteristics.

The unlimited authority, scope of interpretation of public order laws and the absence of accountability for public order police has led to an array of brutal crimes by them. Public Order Laws in addition place women of all walks of life, but particularly the poorest and most vulnerable at risk, with poor women street vendors and students frequently harassed and exposed to sexual violence by law enforcement officers.

- On 5<sup>th</sup> March 2012, 39 year old Awdeia Ajabana was shot dead inside her own home in Aldeam Neighbourhood, Al Khartoum city by the public order police. She had been murdered as a result of her questioning the public order police's physical assault upon her brother who had been sat on the steps of their home talking on the phone. Awdeia, originally from the Nuba mountings was a political activist and had been a candidate of the Sudan National Labour Party in the last elections in 2010. She was well known and respected in the Aldeam neighbourhood, both as an activist and as a person. Awdeia's case is still sitting in court where no meaningful progress has taken place and the perpetrator responsible is still free, enjoying the impunity granted by his position as a police officer.
- The arrest of a street vendor serving food to passersby in Khartoum in January 2012 is a good example of arbitrary interpretation and application of Public Order Laws

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<sup>31</sup> Consideration of Reports Submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples' Rights: *Concluding Observations and Recommendations on the Third Periodic Report of the Republic of Sudan (2003-2008)*.

<sup>32</sup> Strategic Initiative for Women in the Horn of Africa Network (SIHA), *Beyond Trousers Discussion Paper*, <http://www.sihanet.org/index.php/sihas-published-work/reports>

<sup>33</sup> See the section on freedom of religion.

with the objective of imposing a specific moral order. In January this year, Salma served two people, a man and a woman who bought and ate food at her stall. The Public Order Police saw this and arrested her. She was charged with “managing a prostitution house” under article 154 of the Criminal Code and was convicted during a summary trial with no recourse to a defense. She was incarcerated for one month as a punishment.

Immunity and lack of accountability is a pattern in the regulation of Sudan law enforcement. Sudan National Security Act 2010, the Police Act of 2008 and the Armed Forces Act of 2007 provide immunities for state officials for any criminal acts (including rape and SGBV crimes) committed in the course of official duties. These special immunities shield perpetrating officials from any civil suits or criminal prosecutions unless the Commander of the armed forces approves such criminal prosecution. In this regard, legislation such as the latter has resulted in impunity for serious sexual violence crimes thereby increasing SGBV crimes particularly those committed by law enforcers.

Despite the frequency of rape in Sudan, in both conflict and non-conflict situations, many cases of rape that were brought before the legal system did not proceed meaningfully or their cases were not concluded. As a result of this impunity, many SGBV cases went unreported by survivors who did not have faith in the justice system as well as the fact that they exposed themselves to stigmatization and harassment by an institution that lacks orientation or understanding of sexual violence as a crime.

Gender and sexual based violence is used as a tool by government officials to intimidate women from participating in civil society. Since 2001, the use of rape as punishment for those who express dissent has increased in NISS custodies. Though rape has been a prevalent weapon of war in Darfur and during the civil war, the use of rape by security services is new.<sup>34</sup> As the Sudan Democracy First Group stated:

“What the Sudanese women and girls have been facing over the past weeks [following the 30 January 2011 protests] from rape to harassment and sexual violence, physical and verbal, does not represent a new trend in the history and record of the NCP. However, what is new with these crimes is their use of repression and oppression outside of war affected zones and transferring them to urban settings and to the capital, Khartoum”.<sup>35</sup>

Below are documented incidents of rape and threats of assault published by the Sudan Democracy First Group in a report published in February 2011:<sup>36</sup>

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<sup>34</sup> No to Women’s Oppression Initiative, “Sudan Security Services Intensify New Tools of Rape and Sexual Assault to Punish Women who Express their Political Opinion”, 2 March 2011.

<sup>35</sup> Sudan Democracy First Group, “War Against Sudanese Women is the New Front”, 20 February 2011.

<sup>36</sup> *Ibid*

- On 30 January 2011, Samah Mohamed Adam was arrested during the demonstrations, and taken to a truck containing 14 NISS officers. She was dragged by her clothes and her blouse ripped almost entirely open. She was able to cover her chest with her head scarf. A security officer pressed himself against her body and asked her that “if they did not want this, what had forced them out to the streets?” Ms. Adam was later released.
- On 2 February 2011, Najat Al Haj, a member of the Democratic Unionist Party was arrested after a meeting of the National Consensus Forces. Her head was covered with her dress and a rifle pointed to her head. She was forced into a security car and taken to NISS offices, where she saw four of the arrested journalists blindfolded and standing against the wall being interrogated and verbally abused. While her bag was searched, NISS agents pointed to medicine and inferred that they were birth control pills and she was accompanying young men who they had found in possession of condoms. The head officer asked her “where is your husband? And if you had a husband would you be here now?” She was released late in the evening and told that she must be used to returning home at such times, implying that she was a prostitute.
- On 3 February 2011, Marwa al Tijani was arrested near Aqrab square in Khartoum Bahri. NISS agents forced Ms. Tijani and two of her friends into their cars at gunpoint. She was first taken to the NISS offices in Khartoum Bahri before she was transferred to another unidentifiable location. She sat amongst several young women, all of whom were being verbally assaulted and flogged. Ms. Tijani was told to take off her *abaya*, and NISS officers began beating her with black sticks on her legs and back. The more she cried over her humiliation the more she was hit. They threatened to take her and her friends to the women’s prison with women that “make *arraqi* (alcohol) and whores like us and take their pictures and tell their parents that they are bad girls”. She was also accused of having a sexual relationship with a colleague of hers from the University who was also in detention. She was never asked about any political issues.
- On 10 February 2011, Suad Abdallah Jummaa, a member of the Communist Party, was arrested from a public bus after the bus was ordered to stop by security. When she refused to give the NISS her phone’s SIM card, she was beaten and verbally abused. She was able to protect herself by crouching between two chairs in the NISS office. One of the agents told the others to “leave her with me for three minutes only and she will admit where the memory card is and get it out on her own”.
- On 13 February 2011, Safiya Ishag, a graduate from the University of Sudan - Fine Arts and member of *Girifna* who participated in the 30 January demonstrations was kidnapped on Al Jamhouria Street in Khartoum and gang raped by plainclothes NISS officers. Ms. Ishag went public with her testimony,<sup>37</sup> and has since left Khartoum for

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<sup>37</sup> For her testimony, see *Girifna*, “Safiya Ishag Speaks”, at “<http://www.girifna.com/blog-girifna/?p=2602>”

fear of retaliation against her family. The NISS has denied the attacks, despite a doctor validating Ms. Ishag's claims in a medical report.<sup>38</sup> She was taken to a security office near Khartoum Bahri, where she was beaten and kicked by NISS agents before passing out, and interrogated about being a Communist, member of *Girifna*, and for distributing pamphlets. Her clothes were forcibly removed while she was beaten. When she awoke, she was being raped by one agent while the other agents watched. She was later raped by the entire group.

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<sup>38</sup> Reuters, "Sudanese Woman Reports Rape, Urges Others to Speak Out", 25 February 2011