

## Human Rights Watch submission to the Human Rights Committee in advance of the fourth periodic review of Sudan

Human Rights Watch welcomes the upcoming review of Sudan by the Human Rights Committee. This briefing provides an overview of our main concerns with regard to Sudan's compliance with the International Covenant on Civil and Political Rights (ICCPR/the Covenant), based on our research. We hope it will inform the Committee's review of Sudan and that these points will be raised during the dialogue with the State party. For additional information, please see Human Rights Watch's country page on Sudan with links to news releases, letters, and reports: <http://www.hrw.org/africa/sudan>.

### **Constitutional and legal framework within which the Covenant is implemented (art.2)**

#### *Constitutional review process*

Despite the secession of South Sudan and the end of the transition period in the 2005 Comprehensive Peace Agreement, during which Sudan adopted an Interim National Constitution, the government has yet to pass a new permanent constitution. There are a number of concerns related to this process. President Omar al-Bashir has on numerous occasions suggested the constitution will be based on a strict interpretation of Islamic law, with no guarantees of retaining the bill of rights; authorities have restricted civil society involvement in constitution-making.

A review should be an inclusive, transparent process in an environment free of intimidation, harassment and restrictions on civil and political rights.

#### *Laws granting immunity to law enforcement, military and security agents*

Impunity for serious human rights violations is a widespread and serious problem in Sudan. For example, authorities have not prosecuted the vast majority of serious crimes committed in the Darfur conflict, including crimes of sexual violence.<sup>1</sup>

While lack of political will is clearly central to the issue, in practice prosecutions are also impeded by various immunities enjoyed by security forces provided for in a number of Sudanese laws, such as article 52 of the National Security Act of 2010, article 42 (2) of the Sudanese Armed Forces Act of 2007, and article 45 (1) of the Police Act of 2008.<sup>2</sup> Provisions in these laws allow immunities to be waived, but in practice authorities do not waive them and the provisions effectively shield members of the security forces from criminal prosecution in civilian courts. These immunity provisions should be urgently repealed.

#### *Lack of effective remedies*

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<sup>1</sup> Human Rights Watch, World Report 2014, (New York: Human Rights Watch, 2014), Sudan, <http://www.hrw.org/world-report/2014/country-chapters/sudan?page=1>. "Five Years On: No Justice for Sexual Violence in Darfur," Human Rights Watch report, April 7, 2008, <http://www.hrw.org/reports/2008/04/06/five-years-o>.

<sup>2</sup> National Security Act of 2010, arts. 52, 42 (2), 45 (1), <http://www.pclrs.org/downloads/bills/Institutional%20Law/National%20Security%20Act%202010%20U%20NMIS%20unofficial%20English%20%20Transaltion%20final%20version%202010-02-03%20single%20space.pdf>.

The failure to prosecute serious violations of human rights, whether in Darfur or elsewhere in Sudan, denies victims the right to an effective remedy. Legal gaps include the absence in Sudanese law of provisions allowing victims of arbitrary detention by the National Intelligence and Security Service (NISS) to lodge complaints against the authorities, or provisions requiring security forces to investigate allegations of torture.

With respect to Darfur, Sudan has failed to implement justice and law reforms proposed by the African Union's High-Level Panel on Darfur, the lead mediation body for Darfur, in 2009 that would address some of these defaults.<sup>3</sup> Sudan has not cooperated with the ICC; arrest warrants or summonses for six men, including President Omar al-Bashir, on charges of genocide, crimes against humanity and war crimes remain outstanding.

Elsewhere, the government has also denied victims an effective remedy. In connection with security force killings in September 2013 of protester, for example, witnesses told Human Rights Watch how authorities blocked victims' families from pursuing justice.<sup>4</sup> Hospital officials would not provide medical evidence forms and police and prosecutors refused to open investigations; of more than 50 complaints filed by family members, only one reached court but was eventually dismissed in May 2014. In the vast majority of cases authorities took no action, placing the burden on the victims' families to identify and provide evidence of the perpetrators' identity, which is both an abdication of their responsibility and in practice not possible for most families to do.

### **Refugees, asylum seekers and internally displaced persons (arts. 7, 9 and 12)**

About 2.3 million people are displaced inside Sudan, largely because of conflict in Darfur, Southern Kordofan and Blue Nile states.<sup>5</sup> In Darfur, more than 500,000 people were displaced in 2013 alone, a number far exceeding previous years. In South Kordofan and Blue Nile, more than a million people have been forced to flee from their homes; at least 230,000 live in refugee camps in South Sudan or Ethiopia.<sup>6</sup>

#### *Non-observance of the principle of non-refoulement*

Human Rights Watch takes the position that forcible transfers, returns or deportations of asylum seekers to Eritrea is a breach of the principle of non-refoulement because of the real risk of persecution or torture, inhuman and degrading treatment returnees face.<sup>7</sup> Sudan has a record of

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<sup>3</sup> Human Rights Watch briefing paper, "The Mbeki Panel Report One Year On," October 29, 2010, <http://www.hrw.org/node/93935>.

<sup>4</sup> "Sudan: Dozens Killed During Protest," Human Rights Watch news release, September 27, 2013, <https://www.hrw.org/news/2013/09/27/sudan-dozens-killed-during-protests>.

<sup>5</sup> "Briefing: The Humanitarian Situation in Darfur," IRIN News, August 13, 2013, <http://www.irinnews.org/report/98580/briefing-the-humanitarian-situation-in-darfur>.

<sup>6</sup> Human Rights Watch, *World Report 2014*, (New York: Human Rights Watch, 2014), Sudan, <http://www.hrw.org/world-report/2014/country-chapters/sudan?page=2>.

<sup>7</sup> Eritrea, ruled by an extremely repressive government, requires all citizens under 50 to serve in the military for years. Anyone of draft age leaving the country without permission is branded a deserter, risking five years in prison, often in inhumane conditions, as well as forced labor and torture. In 2012, 90 percent of all Eritreans claiming protection in other countries were recognized as refugees or given other forms of protection.

carrying out such forcible returns. In October 2011, Sudan removed over 300 Eritreans from Sudan back to their country.

Human Rights Watch also obtained credible information that on May 1, 2014, Sudanese authorities in eastern Sudan handed 30 Eritreans over to Eritrean security forces. Six members of the group were registered refugees. Sudanese security forces had arrested the group in early February near the Libyan border and detained them for three months without charge and without access to the UN refugee agency.<sup>8</sup>

### **Non-discrimination and equal rights of men and women (arts. 3, 23, 25 and 26)**

Authorities disproportionately convict women and girls of ill-defined, broad morality crimes for private, personal decisions that should never be criminalized in the first place. These “crimes” include choices relating to personal relationships and sexuality, and also dress code choices, like wearing trousers.<sup>9</sup> In May 2014, for example, authorities sentenced Mariam Yahya Ibrahim to lashings after convicting her of adultery. She was also sentenced to death for apostasy, because of her marriage to a non-Muslim, which authorities deemed illegal, and for her religious beliefs.<sup>10</sup>

### **Right to life and prohibition of torture and cruel, inhuman or degrading treatment (arts. 6 and 7)**

Sudanese government, pro-government militia groups and anti-government armed groups have continued to carry out serious human rights violations in connection with the ongoing conflict in Darfur that began in 2003, and in connection with new conflicts in Southern Kordofan, and Blue Nile that began in 2011. These violations include unlawful attacks on civilians, indiscriminate aerial bombardments, extrajudicial executions, prolonged arbitrary detentions, torture and ill-treatment of detainees, massive forced displacement of civilians and widespread destruction of civilian property. The patterns of violations of international humanitarian and human rights laws have been well documented.<sup>11</sup>

#### *Darfur*

Human Rights Watch has documented a recent increase in government-led attacks on villages.<sup>12</sup> In late February and early March 2014, a mixed force of Sudanese military and militia known as the Rapid Support Forces, which had previously been deployed against Sudan Revolutionary Force rebels in North Kordofan, attacked dozens of ethnic Fur and Zaghawa villages in South

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<sup>8</sup> “Sudan: Stop Deporting Eritreans,” Human Rights Watch news release, May 8, 2014, <http://www.hrw.org/news/2014/05/08/sudan-stop-deporting-eritreans>.

<sup>9</sup> “Sudan: End Lashing, Reform Public Order Rules,” Human Rights Watch news release, December 15, 2010, <http://www.hrw.org/news/2010/12/15/sudan-end-lashing-reform-public-order-rules>; see also; “Sudan: Ban Death by Stoning,” Human Rights Watch news release, May 31, 2012, <http://www.hrw.org/news/2012/05/31/sudan-ban-death-stoning>.

<sup>10</sup> “Sudanese Judge Sentences Pregnant Woman to Death and Whipping,” Human Rights Watch dispatch, May 15, 2014, <http://www.hrw.org/news/2014/05/15/dispatches-sudanese-judge-sentences-pregnant-woman-death-and-whipping>.

<sup>11</sup> See Human Rights Watch, World Report, Sudan chapters, 2008-2014.

<sup>12</sup> “Sudan: Renewed Attacks on Civilians in Darfur,” Human Rights Watch news release, March 21, 2014, <http://www.hrw.org/news/2014/03/21/sudan-renewed-attacks-civilians-darfur>.

Darfur. Community leaders from Hijier and Um Gunia villages gave Human Rights Watch a list of 38 civilians who were killed, and 10 others who are missing. They said many of the dead bodies were left unburied as people fled.

The attacks, coming after rebel forces fled the area, appeared to target civilians, and forced tens of thousands to flee their homes. Witnesses told Human Rights Watch that government aircraft bombed the area, followed by ground attacks from large numbers of forces traveling in land cruisers and on horses and camels. The government forces destroyed boreholes used for water, stole animals, and burned homes, witnesses said. The Rapid Support Forces then moved toward eastern Jebel Mara and to North Darfur, attacking villages in both locations.

Previously, in 2013, government forces attacked Golo and Guldo in eastern Jebel Mara, killing an unknown number of civilians and forcing tens of thousands to flee to safer areas. In early April government forces bombed and attacked the towns of Labado, Muhajariya and several other villages in South Darfur, and reportedly burned and looted homes, killed dozens of civilians and displaced tens of thousands.<sup>13</sup>

Communal violence has also increased in Darfur, especially between Arab pastoralist groups.<sup>14</sup> Sudanese government forces were unwilling or unable to protect civilians and in some cases participated in the fighting. In April, Ali Kosheib, a known militia leader who is wanted by the International Criminal Court (ICC) for alleged crimes in Darfur, participated in large-scale attacks on ethnic Salamat villages in Central Darfur, before being seriously wounded in May.

Sudan continued to deny peacekeepers from the African Union-United Nations Mission in Darfur (UNAMID) access to much of Darfur. Insecurity also undermined UNAMID's work. Armed attackers killed 12 peacekeepers<sup>15</sup> and injured many more between July and October 2013 alone, and 58 since the mission's establishment.

### *Southern Kordofan and Blue Nile*

Since conflict broke out in 2011, Sudanese government forces continue to fight with the Sudan Revolutionary Front (SRF), a rebel coalition formed by the Sudan People's Liberation Army-North (SPLA-North) and Darfur rebel groups. In April 2013, fighting spread to North Kordofan, displacing tens of thousands.<sup>16</sup> The fighting has been marked by serious violations of international human rights and humanitarian law, including indiscriminate bombing that has killed and maimed hundreds of civilians; it has destroyed schools, clinics, and other civilian buildings, and it has instilled fear in the civilian population.<sup>17</sup>

Human Rights Watch received credible reports that the Sudanese government deployed the Rapid Support Forces, used in Darfur, to front lines in Southern Kordofan. In May and June 2014

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<sup>13</sup> Human Rights Watch, *World Report 2014*, (New York: Human Rights Watch, 2014), Sudan, <http://www.hrw.org/world-report/2014/country-chapters/sudan?page=3>.

<sup>14</sup> Ibid.

<sup>15</sup> "African Union- United Nations Mission in Darfur Information Kit", <http://unamid.unmissions.org/LinkClick.aspx?fileticket=Ubt1ycJHYRI%3d&tabid=11041&language=en-US>

<sup>16</sup> Ibid.

<sup>17</sup> "Under Siege", Human Rights Watch Report, (December, 2012) <http://www.hrw.org/reports/2012/12/11/under-siege>.

bombing intensified in Southern Kordofan with reportedly hundreds of bombs dropped on civilian areas including a hospital compound and aid organizations in the Nuba Mountains.<sup>18</sup>

### *Trafficking of Eritrean refugees*

Thousands of Eritreans, who have been fleeing to Sudan since the 1960's and been living in refugee camps, have paid Sudanese and Egyptian smugglers to help them travel from eastern Sudan to Israel, via Egypt. In 2009, Eritreans started to report to the UN and non-governmental refugee organizations how smugglers turned on them during the journey, kidnapping and then holding them to ransom. In 2014 Human Rights Watch published a report documenting how since 2010, Sudanese traffickers have abused and tortured Eritrean refugees, including through rape, mutilation and burning, for ransom.<sup>19</sup>

Victims also told Human Rights Watch that Sudanese security officers facilitated trafficker abuses rather than arresting them and rescuing their victims.<sup>20</sup> Human Rights Watch documented eight cases in which Sudanese police and Sudanese military handed Eritreans directly to traffickers who then abused them.<sup>21</sup> In 2011, Eritrean asylum seekers in Israel told the Hotline for Migrant Workers, an Israeli NGO, about Sudanese military collusion with traffickers. 64 Eritreans also told researchers in 2013 about such cases.<sup>22</sup>

In June 2013, the US State Department reported that “the [Sudanese] government did not report investigating or prosecuting public officials allegedly complicit in human trafficking, despite reports that Sudanese police sold Eritreans to the Rashaida along the border with Eritrea.”<sup>23</sup>

### *Excessive use of force to disperse demonstrations in 2013*

Compliance with the right to life under the Covenant, requires that use of lethal force be reserved for cases in which there is an imminent threat to life or serious bodily harm. Nevertheless, Sudanese forces have repeatedly used excessive and lethal force against unarmed protesters, using batons, rubber bullets, tear gas, and live ammunition against protesters resulting in many deaths.

Popular protests erupted on September 23, 2013 in Wad Madani in response to new economic austerity measures and price hikes and then spread to the capital, Khartoum, and other towns.<sup>24</sup> The Sudanese government responded by deploying police and security forces, who used live

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<sup>18</sup> “Sudan: Khartoum Defiantly Bombs Another Hospital in South Kordofan”, AllAfrica, 17 June, 2014, <http://allafrica.com/stories/201406180555.html>.

<sup>19</sup> Human Rights Watch, “I Wanted to Lie Down and Die: Trafficking and Torture of Eritreans in Sudan and Egypt,” February 2014, at [http://www.hrw.org/sites/default/files/reports/egypto214\\_ForUpload\\_1\\_o.pdf](http://www.hrw.org/sites/default/files/reports/egypto214_ForUpload_1_o.pdf). See in particular pp. 22 – 28.

<sup>20</sup> Idib, p. 28 – 30.

<sup>21</sup> Ibid, p. 25.

<sup>22</sup> Ibid, p. 30.

<sup>23</sup> United States Department of State, “Trafficking in Persons Report 2013,” June 2013, <http://www.state.gov/documents/organization/210741.pdf> (accessed June 25, 2013), pp. 342-345.

<sup>24</sup> “Sudan: No Justice for Protest Killings,” Human Rights Watch news release, April 21, 2014, <http://www.hrw.org/news/2014/04/21/sudan-no-justice-protest-killing>.

ammunition, teargas and batons to disperse the protests. As many as 170 people were killed, most of them teenagers or in their early twenties.<sup>25</sup>

Sudanese government forces were implicated in the killing and wounding of protesters as well as bystanders caught up in protests.

Despite its legal duty to investigate, Sudan has not responded adequately to the allegations of unlawful killings and other abuses. The government has contested the casualty numbers and denied that security forces were responsible. Although the ministers of interior and justice announced the creation of two investigative committees, the only findings made public focused on damage allegedly caused by protesters, rather than the deaths or allegations of unlawful arrests and mistreatment.

The use of live ammunition against protests, though not common in the capital, has been documented many times in Darfur. For example in September 2013 security forces shot and killed at least seven people including two children during anti-government protests in Nyala, South Darfur, over the killing by militia of a prominent businessman. In May 2013, they shot at students at El Fashir University, North Darfur, injuring eight.<sup>26</sup> In these instances, too, authorities have failed to investigate.

**Arbitrary Detentions, Ill-treatment, Torture (arts. 7, 9, 10. See also section on right to liberty, below)**

Government authorities have continued to target human rights activists, student protesters, journalists, political opponents, and others with real or perceived links to rebel movements across the Sudan, for detention, ill-treatment and torture. In 2013 the majority of cases reported to Human Rights Watch were in connection with the government's harsh crack-down on protesters in Khartoum in September and October.<sup>27</sup>

From November 2012 until May 2013, authorities detained 32 ethnic Nuba women in Kadugli, Southern Kordofan, without charge because of their suspected affiliation with the Sudan People's Liberation Movement-North (SPLM-North), the opposition party Sudan banned in 2011.<sup>28</sup> They did not have access to lawyers, family visits or medical care before their release, without charge.

Authorities have also detained for well over a year a group of 119 men from Blue Nile state on the basis of their presumed links to the SPLM-North. For much of this period they did not have access to lawyers. While the authorities eventually freed dozens, a specially established anti-

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<sup>25</sup> Human Rights Watch, "We Stood, They Opened Fire: Killings and Arrests by Sudan's Security Forces in the September Protests," April 21, 2014, <http://www.hrw.org/reports/2014/04/21/we-stood-they-opened-fire-o>

<sup>26</sup> Human Rights Watch, *World Report 2014*, (New York: Human Rights Watch, 2014), Sudan, <http://www.hrw.org/world-report/2014/country-chapters/sudan?page=2>.

<sup>27</sup> Human Rights Watch, "We Stood, They Opened Fire," April 21, 2014, <http://www.hrw.org/reports/2014/04/21/we-stood-they-opened-fire-o>.

<sup>28</sup> Human Rights Watch, *World Report 2014*, (New York: Human Rights Watch, 2014), Sudan, <http://www.hrw.org/world-report/2014/country-chapters/sudan?page=2>

terrorism court convicted dozens of others on charges related to terrorism and weapons possession. Many of those released claimed to have been subjected to torture.

*Forms of punishment that are in breach of articles 7 and 10 of the Covenant*

Authorities continued to apply Shari'a law penalties that violate the prohibition on cruel, inhuman, or degrading punishment. These include lashing, stoning, and cross-amputation. On February 14, 2014 for example, Sudan implemented a penalty of cross-amputation, the amputation of the right hand and the left foot.

Women and girls continue to be subjected to flogging and other humiliating punishments under discriminatory public order laws, including in the case of Mariam Yahya Ibrahim mentioned above.<sup>29</sup>

**Right to liberty and security of person, treatment of persons deprived of their liberty and fair trial (arts. 9, 10 and 14)**

Sudan's National Intelligence and Security Services (NISS) retains wide power of arrest and detention, and search and seizure and are routinely used to target political opponents for prolonged detention without charge. The National Security Act of 2010 allows detention for up to four-and-a half months, without charge or judicial review.

NISS routinely detainees access to lawyers or family visits, and subjects detainees to ill-treatment and torture.<sup>30</sup>

For example, in January, 2013, security officials detained six leading members of Sudan's political opposition parties, apparently for attending a meeting of opposition groups that signed an opposition agreement known as the New Dawn Charter, and held them without access to lawyers or appropriate medical care for at least 10 weeks before their release without charge.<sup>31</sup> In July, authorities arrested more than 24 people, including ethnic Nuba and Darfuri student activists, for their perceived links to rebel groups, and held them for weeks.<sup>32</sup>

After a cut in fuel subsidies sparked mass demonstrations in September 2013, NISS officials detained at least 800 protestors, opposition party members and activists, arresting many from their homes.<sup>33</sup> Many of those arrested were released within days, often following summary trials leading to floggings or fines, but others were held for weeks or months without charge or access to family or lawyers. Former detainees told Human Rights Watch they were beaten, verbally abused, deprived of sleep, and held for long periods in solitary confinement.

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<sup>29</sup> Human Rights Watch, *World Report 2014*, (New York: Human Rights Watch, 2014), Sudan, <http://www.hrw.org/world-report/2014/country-chapters/sudan?page=3>; see fn 8 "Sudanese Judge Sentences Pregnant Woman to Death and Whipping," Human Rights Watch dispatch, May 15, 2014.

<sup>30</sup> See, e.g. "Sudan: Protesters Describe Torture by Security Officers," March 4, 2011, <http://www.hrw.org/news/2011/03/04/sudan-protesters-describe-torture-security-officers>; "Sudan: Torture, Abuse of Demonstrators," July 11, 2012, <http://www.hrw.org/news/2012/07/11/sudan-torture-abuse-demonstrators>.

<sup>31</sup> "Sudan: Crackdown on Political Opposition", Human Rights Watch news release, February 26, 2013, <http://www.hrw.org/news/2013/02/26/sudan-crackdown-political-opposition>.

<sup>32</sup> "Sudan: Wave of Arrests after Rebel Offensive", Human Rights Watch news release, July 10, 2013, <http://www.hrw.org/news/2013/07/10/sudan-wave-arrests-after-rebel-offensive>.

<sup>33</sup> "We Stood, They Opened Fire," Human Rights Watch report, 21 April, 2014, <http://www.hrw.org/reports/2014/04/21/we-stood-they-opened-fire-o>.

One opposition party member from Darfur said security officials forced him and other detainees to sit in a hot courtyard for several hours after being arrested.<sup>34</sup> He was then locked up in an air-conditioned 3x3 meter cell at very cold temperatures under bright lights, and deprived of sleep, decent food and medical assistance for much of the next month.

A journalist, Mohamed Ali Mahamadu, was held in solitary confinement for over 60 days and subjected to bright lights, death threats, insults and intermittent beatings.<sup>35</sup> Most detainees interviewed by Human Rights Watch had no access to lawyer or family visits, and were not legally charged with any crime.<sup>36</sup>

On April 6, 2014, al-Bashir said he would release all “political detainees” and ease restrictions on opposition parties and the media. However, Sudanese human rights groups have reported that many people, including Darfuri students and blogger Tajeldin Ahmed Arja, remained in NISS detention without charge for their real or perceived political views.<sup>37</sup>

#### *Amendments to the Armed Forces Act*

In July 2013, parliament passed amendments to the Sudan Armed Forces Act of 2007 that subject civilians to the jurisdiction of military courts for a range of broadly defined offences such as undermining the constitutional system, leaking classified information, and the publication of “false news.”<sup>38</sup> The provisions allow authorities to prosecute “anyone who commits a crime against the state’s security.” The provisions are incompatible with guarantees in the Covenant on due process, and Sudan should reform the law to prohibit trials of civilians by military authorities.

#### **Freedom of conscience and religious belief (art. 18)**

In the months leading up to and following the secession of South Sudan in 2011, public rhetoric hostile to southerners and non-Muslims markedly increased.<sup>39</sup> Official tolerance for hostile rhetoric appeared to increase, and Christian groups in particular reported an increase in harassment with staff being forced to leave the country, denied visas, and Churches being denied access to land.

In May 2012, following armed conflict between Sudan and newly-independent South Sudan at Heglig near their border, a group of male residents living in Al Jereif reportedly followers of an imam at a nearby mosque attacked, destroyed, and vandalized the compound property.<sup>40</sup> The

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<sup>34</sup> “Sudan: No Justice for Protest Killings”, Human Rights Watch news release, <http://www.hrw.org/news/2014/04/21/sudan-no-justice-protest-killings> .

<sup>35</sup> Ibid

<sup>36</sup> Ibid.

<sup>37</sup> Human Rights Watch, “Sudan: No Justice for Protester Killings,” April 21, 2014, <http://www.hrw.org/news/2014/04/21/sudan-no-justice-protest-killings>.

<sup>38</sup> Human Rights Watch, “Sudan: New Law Allows Military Trials of Civilians,” Human Rights Watch press release, July 9, 2013, <http://www.hrw.org/news/2013/07/09/sudan-new-law-allows-military-trials-civilians>.

<sup>39</sup> Human Rights Watch, “Sudan: Don’t Strip Citizenship Arbitrarily,” March 2, 2012, <http://www.hrw.org/news/2012/03/02/sudan-don-t-strip-citizenship-arbitrarily>

<sup>40</sup> Human Rights Watch, “Sudan: Repression Intensifies After Border Violence,” May 17, 2012, <http://www.hrw.org/news/2012/05/17/sudan-repression-intensifies-after-border-violence>.

incident was one of many during that period that pointed to a failure by Sudanese authorities to curb religious intolerance and uphold and protect the rights of non-Muslims.

In early 2013, during a crack-down on civil society organizations, authorities also shut down Nuba and Christian groups, arresting staff and confiscating property. Church leaders were questioned about sources of funding, and the government deported or otherwise forced to leave Sudan more than 170 foreign church members.

### *The crime of apostasy*

Under article 126 of Sudan's criminal code, a Muslim who renounces Islam is guilty of apostasy, punishable by death unless he or she recants within three days. The provision should be repealed, as it contravenes basic freedom of religion protections in Sudan's constitution as well as article 18 of the Covenant.

On May 15, 2014 a judge in Khartoum sentenced a pregnant 27 year old, Mariam Yahya Ibrahim, to death for the crime of "apostasy," and to 100 lashings for "adultery."<sup>41</sup> These convictions and harsh sentences contravene Sudanese and international law, including the ICCPR, and point to Sudan's continuing discrimination against religious minorities and women's rights in contravention of the Covenant.

### **Freedom of expression, freedom of assembly and of association (arts. 19, 21 and 22)**

Sudan has continued well-documented patterns of restricting the media through direct and indirect censorship, blacklisting journalists, and prosecuting journalists, and ordering editors to report only within the "red lines" determined by the government.<sup>42</sup>

In 2011, a prominent independent journalist, Faisal Mohamed Salih, was charged with the publication of false news and defamation in May 2011 after he published an article calling for an independent investigation into the alleged torture and rape of the activist Safia Ishag Mohamed. Salih was again harassed repeatedly by NISS officials after making statements critical of the government following the fighting in Heglig in May 2012.<sup>43</sup> During that period, security officials cracked down heavily on the media, confiscating and censoring papers and blacklisting journalists.<sup>44</sup>

Despite a pledge in May 2013 to halt prepublication censorship of newspapers, whereby security officials remove articles before a newspaper goes to print, authorities have continuously

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<sup>41</sup> "Pregnant Sudanese Christian Woman Sentenced to Death", Sudan Tribune, 5 May, 2014, <http://www.sudantribune.com/spip.php?article51018>. Mariam, who has been in prison, with her young son and new baby, for months, was initially accused of adultery because she is married to a non-Muslim of South Sudanese origin – a marriage the court did not recognize. The court added the apostasy charge after Mariam told the court she is Christian, according to reports by rights groups and lawyers involved in the case: See Human Rights Watch dispatch op. cit.

<sup>42</sup> Human Rights Watch World Report 2013, Sudan Country Chapter: <http://www.hrw.org/world-report/2013/country-chapters/sudan>. Human Rights Watch World Report 2014, Sudan Country Chapter: <http://www.hrw.org/world-report/2014/country-chapters/sudan>.

<sup>43</sup> Human Rights Watch, "Sudan: Repression Intensifies After Border Violence," May 17, 2012, <http://www.hrw.org/news/2012/05/17/sudan-repression-intensifies-after-border-violence>

<sup>44</sup> Ibid.

censored media.<sup>45</sup> They have suspended publication of some papers, confiscated printed editions, suspended individual journalists, blocked websites, and harassed and threatened journalists with prosecution for criticizing the government.

In September 2013, authorities tightened restrictions on media to prevent coverage of the protests. Security officials instructed newspaper editors not to publish articles related to the protests, confiscated editions of three newspapers, summoned several journalists for questioning, jammed the reception of international TV stations, and blocked the Internet for one day. Most newspapers and the TV stations have resumed, but remain under tight scrutiny.<sup>46</sup>

The first few months of 2014 saw a new wave of restrictions, with 15 newspapers subjected to confiscation of print runs and other papers being closed by NISS.

*Excessive use of force to disperse demonstrations in 2013 (See also, section on Right to Life, art. 6, above)*

The repeated use of excessive and lethal force against unarmed protesters by Sudanese forces, such as those that took place in September and October in Wad Madani, Khartoum, and other towns and the protests in Nyala, South Darfur, or at El Fashir University, North Darfur (documented above), compounded by a failure to impose any accountability, constitute further ways in which the Sudanese government is responsible for serious violations of the freedom of expression and the right to peaceful assembly.

#### *Restrictions on Civil Society*

Sudanese authorities have routinely targeted and harassed, intimidated, and closed civil society organizations over the years. In recent years the NISS appeared to target several groups that received foreign funding.<sup>47</sup>

In December 2012, security officials shut down three civil society groups and one literary forum, and summoned leaders of other groups for questioning. Authorities have obstructed groups from legally registering and refused permission for or cancelled public activities in towns across Sudan.

In early 2013, authorities also shut down Nuba and Christian groups, arresting staff and confiscating property. Church leaders were questioned about sources of funding, and the government deported or otherwise forced to leave Sudan more than 170 foreign church members.<sup>48</sup>

The closures underscored wider repression that Human Rights Watch documented following South Sudan's independence. In response to widespread popular protests in January 2011 and

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<sup>45</sup> Human Rights Watch, *World Report 2014*, (New York: Human Rights Watch, 2014), Sudan, <http://www.hrw.org/world-report/2014/country-chapters/sudan?page=3>.

<sup>46</sup> Ibid.

<sup>47</sup> Human Rights Watch, *World Report 2014*, (New York: Human Rights Watch, 2014), Sudan, <http://www.hrw.org/world-report/2014/country-chapters/sudan?page=2>

<sup>48</sup> "Sudan: End Crackdown on Civil Society," Human Rights Watch news release, January 13, 2013, <http://www.hrw.org/news/2013/01/13/sudan-end-crackdown-civil-society>.

between June and early August 2012, authorities arrested thousands of protesters, activists, and opposition members, and detained hundreds, subjecting many of them to ill-treatment and torture.<sup>49</sup>

Authorities targeted civil society groups during that crackdown, accusing them of links to the protesters and opposition groups. In recent months, authorities have prevented various groups from holding events on the constitution-making process, women's rights, and other topics of public concern.<sup>50</sup>

In September 2011, security forces also rounded up suspected opposition members and supporters when fighting between government forces and the rebel group, Sudan People's Liberation Movement-North, spread from Southern Kordofan to Blue Nile in September 2011.<sup>51</sup>

## **Selected Recommendations for the Government of Sudan**

### **Legal Reforms:**

- Remove immunities under the laws for members of the state security forces. Investigate and discipline or prosecute as appropriate those responsible for human rights abuses, including killings, torture and ill-treatment of detainees, and rape and other sexual violence.
- Repeal amendments to Sudan Armed Forces Act of 2007 that allows prosecution of civilians in military courts for broadly defined crimes against the state.
- Repeal adultery and public morality crimes from the criminal code, and repeal forms of corporal punishment that contravene basic rights protected in the constitution and the ICCPR.
- Fulfill obligations, pursuant to UN Security Council resolution 1593, to cooperate with the ICC, including surrendering to the court those subject to ICC arrest warrants.

### **On Darfur:**

- End all attacks in Darfur in violation of international law that result in serious human rights violations, including deliberate attacks on civilians and indiscriminate aerial bombings, and hold all those responsible to account, regardless of rank.
- Ensure unfettered access by UNAMID and humanitarian agencies to all parts of Darfur, including conflict zones, pursuant to the Status of Forces Agreement between Sudan and UNAMID, and international humanitarian law.

### **On Southern Kordofan and Blue Nile:**

- End all attacks in Southern Korodfan and Blue Nile in violation of international law that result in serious human rights violations, including deliberate attacks on civilians and

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<sup>49</sup> "Sudan: Torture, Abuse of Demonstrators," Human Rights Watch news release, July 11, 2012, <http://www.hrw.org/news/2012/07/11/sudan-torture-abuse-demonstrators>.

<sup>50</sup> "Sudan: End Crackdown on Civil Society," Human Rights Watch news release, January 13, 2013, <http://www.hrw.org/news/2013/01/13/sudan-end-crackdown-civil-society>.

<sup>51</sup> "Sudan: Political Repression Intensifies", Human Rights Watch news release, 21 September, 2011, <http://www.hrw.org/news/2011/09/21/sudan-political-repression-intensifies>.

indiscriminate aerial bombings, and hold all those responsible to account, regardless of rank.

- Urgently facilitate unimpeded access by humanitarian aid groups to deliver assistance to civilians in all parts of Southern Kordofan and Blue Nile;
- Permit safe passage for all civilians attempting to leave areas where there is active fighting and bombings;

#### **To combat trafficking in persons:**

- Encourage the National Assembly to swiftly pass anti-trafficking legislation that complies with Sudan's human rights obligations and issue regular public reports documenting progress on prosecutions of traffickers and security officials who collude with them.
- Investigate security force collusion with traffickers, particularly police commanders in Kassala, and prosecute personnel who are responsible; enact law that criminalizes official's participation or complicity in torture to comply with article 7 of the Covenant and the Convention Against Torture;
- Investigate and prosecute people suspected of trafficking people in eastern Sudan;
- Respect the right of all Eritrean and other refugees in Sudan to move freely in Sudan.

#### **To end Excessive Use of Force against Protesters:**

- Law enforcement and security organs in Sudan should not permit forces to use live ammunition against unarmed protesters. All such organs should issue clear orders to their forces that any use of force must be strictly necessary and proportionate to a real and imminent threat, and that use of excessive force will be punished. Resort to lethal force should be limited to specialized units, with the appropriate training, when such force is strictly necessary to save life.
- The Ministry of Justice should complete and make public the results of their investigations into the killings and injuries that occurred during the September and October 2013 protests across Sudan. The investigation should provide a full accounting of the dead and injured, the circumstances surrounding each incident resulting in death or injury, evidence that indicates the extent to which government security forces are implicated in human rights violations, and credible evidence of any third party responsibility for the abuses.
- The Ministry of Interior should ensure that security forces respond to and cooperate with investigations. Legal immunities for any security forces implicated in shooting civilians should be waived by the relevant authorities.

#### **Arbitrary Detentions, Treatment in Detention:**

- The NISS should immediately release all individuals whose detention is arbitrary under the Covenant including, those still being held in connection with the 2013 protests who have not been brought before a judicial body, lawfully charged with an offence, and remanded by the judicial body to face trial promptly in accordance with fair trial standards under the ICCPR.
- The National Intelligence and Security Services (NISS) should publish the names of all people in detention, identify all places of detention, and ensure relatives, legal counsel, and independent monitors all enjoy access to the detainees.
- The National Assembly should reform the 2010 National Security Act so that it conforms

to the ICCPR, in particular to ensure that all detainees be brought promptly before a judicial officer to be charged and face a fair trial in a reasonable time or released and that they can effectively exercise the right to challenge the lawfulness of their detention.

- Ensure that conditions of detention conform to the United Nations Standard Minimum Rules for the Treatment of Prisoners, including those in relation to the detention of minors; permit and facilitate visits by legal counsel, medical personnel and family members.
- Investigate all allegations of mistreatment, torture, and death in detention, and promptly take steps to prosecute and/or discipline any NISS officials, police and other officials responsible for the abuse.
- Publicly and unequivocally condemn the practice of torture and other forms of mistreatment in detention. Take all necessary measures, including instructing the police, armed forces and security personnel to end all mistreatment of detainees, making clear that there is never a justifiable reason for mistreatment, including extracting confessions, retribution for alleged support of rebel groups, or other punishment.
- Ratify the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading and Treatment or Punishment and its Optional Protocol, which allows independent, international experts to conduct regular visits to places of detention.

#### **Freedom of Expression:**

- Immediately stop all censorship of newspapers and other media outlets in violation of freedom of expression guarantees.
- Take all measures including issuing public orders to security services to end harassment of journalists and human rights defenders and ensure those found responsible for harassment are subject to disciplinary measures or criminal prosecution.