



# SUDAN

**SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE**  
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**AMNESTY**  
INTERNATIONAL



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# GLOSSARY

ACHPR	African Commission on Human and Peoples' Rights
ACJPS	African Centre for Justice and Peace Studies
AU	African Union
CCSD	Central Committee of Sudanese Doctors
CSOS	Civil Society Organizations
DBA	Darfur Bar Association
DDPD	Doha Document for Peace in Darfur
DPA	Darfur Peace Agreement
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
JEM	Justice and Equality Movement
NCF	National Consensus Forces
NCP	National Congress Party
NCSP	National Council for Strategic Planning
NISS	National Intelligence Security Service
OCHA	The UN Office for the Coordination of Humanitarian Affairs
PCP	Popular Congress Party
RSF	Rapid Support Forces
SAF	Sudan Armed Forces
SLA/AW	Sudan Liberation Army/Abdul Wahid
SLA/MM	Sudan Liberation Army/Minni Minnawi
SPLA/M-N	Sudan People's Liberation Army/Movement-North
SRF	Sudan Revolutionary Front
UNAMID	African Union-United Nations Hybrid Operation in Darfur
UPR	Universal Periodic Review

# 1. INTRODUCTION

Amnesty International submits this briefing to the United Nations Human Rights Committee (the Committee) ahead of its examination, in September 2018, of Sudan's fifth periodic report on the implementation of the International Covenant on Civil and Political Rights (the Covenant or ICCPR). The submission highlights Amnesty International's concerns in Sudan in relation to several questions on the Committee's List of Issues to be taken up in connection with its consideration of the state report.

Amnesty International remains concerned at Sudan's failure to comply with its obligations under the Covenant, particularly in relation to the right to life - unlawful killings and attacks against civilians in conflict-affected areas (arts. 6 and 7); arbitrary arrests and detentions under the National Security Act; the situation of internally displaced persons (art. 9); discrimination and violence against women and girls (art. 3); undue restrictions on the rights to freedom of thought, conscience and religion (art. 18), freedom of expression (art. 19), and the rights to peaceful assembly and association (arts. 21 and 22). A dire humanitarian situation continues in South Kordofan and Blue Nile. While a unilateral ceasefire was extended, the peace process remained stalled. In early February 2018, the African Union High-Level Implementation Panel (AUHIP) mediation suspended Sudan peace talks between Sudan People's Liberation Movement-North (SPLM-N) Al-Hilu and Government of Sudan (GoS) indefinitely. SPLM-N, Al-Hilu extended its unilateral ceasefire for four months in the Two Areas on 30 January. On 28 March, the GoS extended the unilateral ceasefire for three months and another six months in July 2018.

This briefing draws on Amnesty International's ongoing research on Sudan; it is not an exhaustive account of the organization's human rights concerns in the country.

## 2. CONSTITUTIONAL AND LEGAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED

### *Article 2 and paragraph 1 of the List of Issues*

Sudan's Parliament approved controversial amendments to the 2005 National Interim Constitution in January 2015.<sup>1</sup> These amendments increased the powers of the National Intelligence and Security Service (NISS) and granted the President greater powers to appoint and remove senior officials, including state governors and other senior constitutional, judicial, military, police and security post holders. The

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<sup>1</sup> The new amendment to Article 151 of the interim constitution that regulates the role of National Intelligence and Security Services (NISS) read: "The National Intelligence Security Service is a regular force whose mission is to oversee internal and external national security operation. The security service work to combat all political, military, economic and social threats as well as terrorism and trans-national crimes." See more here: Sudan: Amnesty International submission to the UN universal periodic review, (AFR 54/3532/2016)

constitutional amendment to Article 151 transformed the NISS from an intelligence agency focused on information gathering, analysis and advice to a fully-fledged security agency exercising functions usually carried out by the armed forces or law enforcement agencies.<sup>2</sup> The climate of impunity fostered by lack of accountability for crimes under international law and serious human rights violations remained prevalent, especially in conflict areas.<sup>3</sup>

According to the State report it has embarked on series of law reforms and noted that, “this matter has been entrusted to committees of experts, judges and counsellors who are directing their attention at a number of laws, chief among them the Criminal Code, the Code of Criminal Procedure, the Evidentiary Act and the Code of Civil Procedure. The authorities are also reviewing 63 other laws including the 2009 Press and Publications Act, the 2010 National Security Act and others.”<sup>4</sup>

The report further argued, “There are no loopholes in the judicial system of the Sudan to prevent the application of the provisions of international treaties that have been ratified by the State”.

International human rights treaties are an integral part of Sudan’s Bill of Rights under article 27 (3) of the Constitution. It seems, article 27 (3) marked the transition from a dualist system (requiring implementing legislation) to a monist system (international law applies directly). Yet, the automatic transformation of international law faces great challenges in Sudan due to the conflict between domestic laws and the ICCPR provisions. In practice Sudan’s courts, including the Constitutional Court, have failed to recognize the principle of precedence of international law over national law, as provided by customary international law and the Vienna Convention on the Law of Treaties, to which Sudan is a party.<sup>5</sup>

## 2.1 RECOMMENDATIONS FOR THE STATE'S AUTHORITIES

- Amend the provisions of its internal law, including the Constitution, laws and others, which may prevent Sudan to comply fully with its obligations under international law and, in particular, obligations arising from international human rights law and international humanitarian law;
- Promptly implement the recommendations made by UN human rights bodies and mechanisms, including mechanisms mandated by the Council and the 2016 Universal Periodic Review;
- Provide a mid-term report to the Council on concrete measures taken to implement the recommendations made to it during its UPR that enjoy its support, and the recommendations made by the Independent Expert during his 2017 report.

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<sup>2</sup> Amnesty International, *Amnesty International Report 2015/16 - Sudan*, 24 February 2016, available at: <http://www.refworld.org/docid/56d05b1249.html>

<sup>3</sup> *Amnesty International August 2015: Don't we matter? Four years of unrelenting attacks against civilians in Sudan's south kordofan state* (Index: AFR 54/2162/2015)

<sup>4</sup> See for instance Human Rights Committee, fifth periodic report submitted by the Sudan, UN Doc. CCPR/C/SDN/5, 11 October 2017, para. 15

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsiaRHSdhmd%2brlq%2bwz9j30NcXbj7kKWZVmLma%2fu6aDrgklzgE%2b8hFgEvP40i90FHU548vG4V2bgDrACNsSIB8uAgaUNlpaG2eMODvCqll%2fnXrX>.

<sup>5</sup> A constitutional court verdict dismissed claims of arbitrary detention and torture: *Mohamed Salah Mohamed Abdel Rahman v Government of Sudan and NISS* on 10 April 2017.

# 3. RIGHT TO LIFE, PROHIBITION OF TORTURE AND OTHER ILL-TREATMENT

## *Articles 6 and 7, and paragraph 12 of the List of Issues*

Sudanese government forces have continued to engage in a now seven-year campaign of indiscriminate ground and aerial attacks in rebel-held areas in the Nuba Mountains in South Kordofan and Blue Nile, since fighting between Sudanese Government forces and the Sudan People's Liberation Army-North (SPLA-N), an armed opposition group, began in June 2011.

In 2015 Amnesty International obtained evidence suggesting that government aircraft had deliberately bombed hospitals and other humanitarian facilities, and that Sudanese forces had dropped cluster bombs on civilian areas of South Kordofan's Nuba Mountains in February, March and June 2015.<sup>6</sup> Amnesty International reported that between January and April 2015, the Sudanese air force dropped 374 bombs in 60 locations across South Kordofan. The aerial bombardments and ground shelling resulted in the deaths of an estimated 35 civilians and injured a further 70 individuals.<sup>7</sup> Since 2011, the Sudanese Air Force (SAF) has bombed 26 health facilities (hospitals, clinics and health units). There are only two hospitals operating to serve a population of 1.2 million people. In one case, Médecins Sans Frontières documented how a Sudan Air Force fighter jet dropped 13 bombs, two of which landed in a hospital compound and the others just outside the hospital fence.<sup>8</sup>

Al-Fadil Khalifa Mohamed's wife, Nahid Said Komi, was 27 years old and eight months pregnant when she was killed on 6 February. Al-Fadil described the attack to Amnesty International. "It was around 6:30 p.m. The Antonov came from over the mountain, from the southeast, which was an unusual direction and took us by surprise. We had arranged for my wife to live in a tukul (hut) built in the rocks so that she would be safe during her pregnancy. When she heard the plane, she came out to make sure that children in the area, including our young son, were safe and had gone to hide. And then the bomb fell, only about 10 meters from where she was standing. She was killed immediately. Another woman, a neighbor, was also killed. She was about 30 years old. Her name was Nura Kodi Komi. There were also five children who were injured. I ran to where she was, but she was already dead. Our baby was still alive. But there was no medical treatment available to save the baby's life. It was too far and too dangerous and we had no vehicle to make it to Gidel Hospital. The bomb killed my wife, but two people died".<sup>9</sup>

The government of Sudan and various armed groups in June 2016 announced a unilateral ceasefire in Darfur, Blue Nile, and South Kordofan. However, ceasefire violations have taken place many times since 2016, especially in Darfur.

In 2016, Amnesty International obtained evidence that suggested that Sudanese government forces had repeatedly used chemical weapons in Jebel Marra.<sup>10</sup> Satellite imagery, more than 200 in-depth interviews with survivors and expert analysis of dozens of images of injuries indicated that at least 30 probable

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<sup>6</sup> The Sudan Consortium "Eight cluster bombs fall on Umdorein County", June 2015 [http://www.sudanconsortium.org/darfur\\_consortium\\_actions/reports/2015/SKBNJune2015FINAL.pdf](http://www.sudanconsortium.org/darfur_consortium_actions/reports/2015/SKBNJune2015FINAL.pdf)

<sup>7</sup> Amnesty International: Don't We Matter? Four Years of Unrelenting Attacks against Civilians in Sudan's South Kordofan State, 4 August 2015, <https://www.amnesty.org/en/documents/afr54/2162/2015/en/>

<sup>8</sup> Médecins Sans Frontières, "MSF hospital bombed in South Kordofan," 22 January 2015, <http://www.msf.org/article/sudan-msf-hospital-bombed-south-kordofan>

<sup>9</sup> Amnesty International: Don't We Matter?: Four Years of Unrelenting Attacks against Civilians in Sudan's South Kordofan State, 4 August 2015, <https://www.amnesty.org/en/documents/afr54/2162/2015/en/>

<sup>10</sup> Amnesty International, Amnesty International Report 2016/17 - Sudan, 22 February 2017, available at: <http://www.refworld.org/docid/58b033af4.html>

chemical attacks took place in Jebel Marra between January and September 2016. An estimated 200 to 250 people may have died from exposure to chemical weapons agents, with many – or most – being children. Most survivors of the suspected chemical weapons attacks had no access to adequate medical care.<sup>11</sup>

On 28 June 2018, Amnesty International has released exclusive satellite and photo images showing extensive damage caused by ongoing attacks on villages in the region. The images show at least 18 villages in the eastern parts of the Jebel Marra area of Darfur were burnt by government and allied militia forces over the past three months. These images corroborate witness accounts, earlier collected by Amnesty International, from at least 13 affected villages.<sup>12</sup>

### 3.1 RESTRICTED HUMANITARIAN ASSISTANCE

In South Kordofan and Blue Nile, Sudan's on-going denial of humanitarian access to opposition-held areas affected by the conflict since it erupted in June 2011 has led to a worsening humanitarian situation, with severe repercussions on people's access to food, water and health services, leaving them vulnerable to famine and disease.<sup>13</sup>

The Famine Early Warning Systems Networks (FEWS NET) in September 2018 reported that internally displaced persons (IDPs) and poor households in SPLM-N controlled areas would continue to face significant food consumption gaps and be in an Emergency (IPC Phase 4).<sup>14</sup>

In Darfur, there were no NGOs providing humanitarian assistance in many parts of Jebel Marra, with the exception of some very limited assistance in the government-controlled towns on the plains surrounding the area.<sup>15</sup>

### 3.2 INTERNATIONAL CRIMINAL COURT

Although Sudan is not a state party to the Rome Statute of the International Criminal Court, the United Nations Security Council (SC) referred the situation in Darfur to the ICC in Resolution 1593 (2005). The SC found then that the situation in Darfur "constitute a threat to international peace and security". Therefore, the ICC may exercise its jurisdiction over genocide, crimes against humanity and war crimes committed on the territory of Darfur, or by Sudanese nationals from 1 July 2002 onwards. So far, Sudan continued to refuse to execute five arrest warrants issued by the ICC for Sudanese nationals, including two warrants for President Omar al-Bashir on charges of genocide, crimes against humanity and war crimes allegedly committed in Darfur.<sup>16</sup>

### 3.3 UNLAWFUL KILLINGS AND EXCESSIVE USE OF FORCE

Sudanese authorities have on many occasions used excessive force to disperse assemblies, often resulting in killings. In February 2016, NISS and NCP-affiliated students violently disrupted a political opposition group public seminar at the University of El Geneina, during which several students were seriously injured. One student, Salah al Din Qamar Ibrahim, 30, died on 2 February from injuries sustained when he was attacked by NISS. On 19 April 2016, Abubakar Hassan Mohamed Taha, an 18-year-old student at the University of Kordofan, was executed by alleged NISS agents in Al Obied, the capital city of North Kordofan state. His death sparked country-wide student protests.<sup>17</sup> On 27 April 2016, 20-year-old Mohamad Al Sadiq Yoyo, a

<sup>11</sup> Amnesty International, *Sudan: Scorched earth, poisoned air Sudanese government forces ravage Jebel Marra, Darfur*, 29 September 2016, ([AFR 54/4877/2016](#))

<sup>12</sup> Amnesty International, *Sudan: down-sized un mission for an over-sized human rights crisis*, 28 June 2018, ([AFR 54/8680/2018](#))

<sup>13</sup> Amnesty International, *Don't We Matter?: Four Years of Unrelenting Attacks against Civilians in Sudan's South Kordofan State*, 4 August 2015, <https://www.amnesty.org/en/documents/afr54/2162/2015/en/>

<sup>14</sup> FEWS NET, *Fuel shortages and high prices negatively impact cropping season* <http://fewsn.net/east-africa/sudan/key-message-update/july-2018>

<sup>15</sup> Amnesty International, *Sudan: down-sized un mission for an over-sized human rights crisis*, 28 June 2018, ([AFR 54/8680/2018](#))

<sup>16</sup> Amnesty International, *Amnesty International Report 2016/17 - Sudan*, 22 February 2017, available at: <http://www.refworld.org/docid/58b033af4.html>

<sup>17</sup> Amnesty International, *"Sudan: Government must investigate brutal killing of 18-year old university student by intelligence agents"*, 20 April 2016.

second-year student in the Art Department at the Omdurman Al Ahlia University in Khartoum State, was shot dead by NISS agents. No investigation has been conducted into their death.<sup>18</sup>

Over the last few years, Amnesty International has been documenting the targeting by Sudanese security agents of student political activists from Darfur, perceived to be armed group supporters. In 2015 alone, the police and the security services arbitrarily arrested and detained at least 200 students from Darfur. Since 2012, Amnesty International documented at least 13 students from Darfur killed in various universities across Sudan, possibly by police officers, NISS agents and/or ruling party affiliated students. No investigation has been conducted into their death.<sup>19</sup>

### 3.4 RECOMMENDATIONS FOR STATE AUTHORITIES

- Take necessary steps to ensure full and effective protection of civilians in conflict areas as required by international humanitarian law and by the Covenant;
- Allow unhindered access to all areas of South Kordofan and Blue Nile to UN agencies, international humanitarian organizations and human rights organizations, for the purposes of providing assistance to civilians affected by the conflict including food, health services and other assistance as well as monitoring the human rights situation;
- Investigate and, if there is sufficient admissible evidence, prosecute all those suspected of criminal responsibility for crimes under international law or human rights violations and abuses, committed either by state or non-state agents, in fair trials before ordinary civilian courts and without recourse to death penalty;
- Launch impartial and effective investigations into all unlawful killings that have occurred since 2003 in Sudanese universities and publicly publish their findings. The investigations should provide a full accounting of the dead and injured, the circumstances surrounding each death or injury, and evidence that indicates the extent to which the security services and third parties were implicated. The investigations should result in suspected perpetrators being brought to justice in fair trials without recourse to the death penalty;
- Cooperate fully with the International Criminal Court and its Prosecutor, as provided by SC resolution 1593 (2005);
- Promptly accede to the Rome Statute of the International Criminal Court and International Convention for the Protection of All Persons from Enforced Disappearance, also recognizing the competence of the Committee against Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties.

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<sup>18</sup> Amnesty International, Amnesty International Report 2016/17 - Sudan, 22 February 2017, available at: <http://www.refworld.org/docid/58b033af4.html>

<sup>19</sup> <sup>19</sup> Amnesty International, *Sudan: 'uninvestigated, unpunished': human rights violations against Darfuri students* (AFR 54/4848/2017).

# 4. LIBERTY AND SECURITY OF THE PERSON AND HUMANE TREATMENT OF PERSONS DEPRIVED OF THEIR LIBERTY

## *Articles 7, 9, 10, 19, 21 and 22 and paragraph 19 and 20 of the List of Issues*

During the reporting period, across Sudan, National Intelligence Security Service (NISS) officials and members of other security forces targeted opposition political party members, human rights defenders, students, internally displaced persons from Darfur and political activists for arbitrary arrest, detention and other human rights violations. Most of those detained reported that they were subjected to torture and other ill-treatment while in detention.

In May, June and August 2014, three leading opposition political party leaders were arrested and detained, namely al Sadiq al-Mahdi, leader of Sudan's National Umma Party (NUP), Ibrahim al-Sheikh, leader of the Sudanese Congress Party (SCP) and Mariam al-Sadiq al-Mahdi, deputy leader of Sudan's National Umma Party (NUP).<sup>20</sup>

On 6 and 7 December 2014, Farouk Abu Issa, leader of the opposition alliance National Consensus Forces (NCF), Amin Maki Madani, the head of the Alliance of Sudanese Civil Society Organizations and former senior member of the NCP in Blue Nile state Farah Al-Agar were arrested by NISS officials after signing a document calling for democratic change in the country, dismantling of the de facto one-party state and an end to conflict in Sudan.<sup>21</sup> Both Dr Amin Maki Madani and Farouk Abu Issa had been charged with capital offences under the 1991 Penal Code including "undermining the constitutional system." They were released, and the charges were dropped on 9 April 2015, after spending 124 days in detention.<sup>22</sup>

At least 30 political activists were arrested across the country during the election period in April 2015. In North Darfur, students at Al-Fasher University organized peaceful protests on 14 April 2015 calling for a boycott of the presidential elections and a change of government. The police and NISS arrested 20 students and charged them with various offences under the Criminal Act, including establishing a "criminal and terrorist organization", rioting and causing a public nuisance. They were subjected to torture and other ill-treatment while in detention. They were all released.<sup>23</sup>

A court in Khartoum tried and convicted three members of the opposition Sudanese Congress Party including its political secretary, Mastour Ahmed Mohamed, on 6 July 2015. They were convicted of disturbing the public peace and each subjected to 20 lashes.<sup>24</sup>

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<sup>20</sup> Amnesty International Urgent Action, *opposition leader detained without charge*, (AFR 54/019/2014).

<sup>21</sup> Human Rights Council, Report of the Independent expert on the situation of human rights in the Sudan, Aristide Nononsi, A/HRC/20/60, 28 August 2015.

<sup>22</sup> Human Rights Council, Report of the Independent expert on the situation of human rights in the Sudan, Aristide Nononsi, A/HRC/20/60, 28 August 2015.

<sup>23</sup> Amnesty International, *Amnesty International Report 2015/16 - Sudan*, 24 February 2016, available at: <http://www.refworld.org/docid/56d05b1249.htm>

<sup>24</sup> Amnesty International, *Amnesty International Report 2015/16 - Sudan*, 24 February 2016, available at: <http://www.refworld.org/docid/56d05b1249.htm>

On 1 February 2016, NISS officials arrested four students from Darfur in Khartoum after a protest organized by the United Popular Front, affiliated with the Sudan Liberation Movement-Abdul Wahid Al Nour, against the conflict in Jebel Marra.

In April 2016, violent confrontations between students and security agents went on for three weeks at the University of Khartoum. The protests erupted because of reports that the government was planning to sell some of the university's buildings. Dozens of students were arrested during these protests, including five who were detained without charge in Khartoum.<sup>25</sup> They were released in late April, but some were rearrested in May.

NISS agents raided the office of a prominent human rights lawyer, Nabil Adib, in Khartoum on 5 May 2016 and arrested 11 people, including eight students who had been expelled or suspended from the University of Khartoum. All were released by late June.<sup>26</sup>

In Central Darfur state, on 31 July 2016, NISS agents arrested 10 people who had attended a meeting with the US Special Envoy for Sudan and South Sudan during his visit to the region. Of the 10, seven were internally displaced persons. They were all released in September 2016.<sup>27</sup>

In 2017, three political opposition activists were held in detention without charge following their arrests in January and February by the NISS in Khartoum and were released at the end of April. They were arrested because they supported the civil disobedience protests in November and December 2016 against economic austerity measures.<sup>28</sup>

Dr Hassan Karar, former chairperson of the Central Committee of Sudanese Doctors (CCSD), was rearrested on 20 April and detained for four days at the office of the NISS Prosecutor of Crimes Against the State. He was detained for his role in supporting a nationwide doctors' strike to protest the deteriorating health service. Dr Mohamed Yasin Abdalla, also a former chairperson of the CCSD, was arrested on 22 April 2017 in Khartoum at the office of the Prosecutor of Crimes Against the State. He was released without charge on 28 April 2017. Both were accused of, but not formally charged with, forming an illegal entity and threatening the health system of the country.

In May 2017, activists Dr Mudawi Ibrahim Adam and his colleague Hafiz Idris Eldoma were charged with six offences, two of which are punishable by life imprisonment or death.<sup>29</sup> They were arrested by the NISS along with a third activist in 2016 in connection with their work for the Sudan Social Development Organization-UK (SUDO-UK) which works on humanitarian and development projects across the country. They were subjected to ill-treatment on arrest. Dr Mudawi Ibrahim Adam and Hafiz Idris Eldoma were released on 29 August 2017 after eight months of wrongful imprisonment.<sup>30</sup>

Naser Aldeen Mukhtar Mohamed, the former chairperson of the Darfur Students Association at the Holy Quran University, was released without charge on 28 January 2018. He was arrested on 22 August 2017 and detained in solitary confinement at the NISS detention centre. Naser Aldeen Mukhtar, 23 years old, was subjected to torture and other ill-treatment during his detention. He was beaten kicked and whipped with electric cables for more than five hours during his first day of detention. When taken for interrogation, he was usually blindfolded, handcuffed and his legs shackled. During interrogation, he says he was threatened with death and rape, as well as being subjected to ethnic insults. He was repeatedly questioned about his activism with the Darfur Students' Association.<sup>31</sup>

Nabil Mohamed El-Niwari, a Sudanese political activist and member of the opposition party Sudan Congress, was arrested by the NISS in Khartoum on 5 September in connection with his political activities.<sup>32</sup> He was released without charge in November 2017.

At least 140 opposition party members, human rights defenders, students and women rights activists were arrested and detained by the NISS and police between 6 January and 10 February 2018. The arbitrary detentions followed sporadic protests by opposition activists in January and February against the rise in food

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<sup>25</sup> Sudan: Student activists detained without charge (AFR 54/3861/2016)

<sup>26</sup> Amnesty International, Amnesty International Report 2016/17 - Sudan, 22 February 2017, available at: <http://www.refworld.org/docid/58b033af4.html>

<sup>27</sup> Sudan: Eight arrested, whereabouts unknown (AFR 54/4617/2016)

<sup>28</sup> Courageous and resilient: Activists in Sudan speak out (AFR 54/7124/2017)

<sup>29</sup> Sudan: Human rights defender facing death penalty: Dr Mudawi Ibrahim Adam (AFR 54/6300/2017)

<sup>30</sup> Sudan: Dr Mudawi released after eight months of wrongful imprisonment (Press Release, 30 August)

<sup>31</sup> Amnesty International, Urgent action, Sudan: further information: student held in solitary confinement released: Naser Aldeen Mukhtar Mohamed, (AFR 54/7831/2018)

<sup>32</sup> Sudan: Detained opposition activist denied lawyer visits: Nabil Mohamed El-Niwari (AFR 54/7101/2017)

prices since the beginning of January 2018. Some were released without charge in February and the rest released in April 2018.<sup>33</sup>

Matar Younis Ali Hussein, 48, a religious teacher with a visual impairment was arrested and detained on 1 April 2018. Matar Younis has been a vocal critic of the government's policy in Darfur.<sup>34</sup> He was charged with three charges under the 1991 Penal Code by the NISS Prosecutor Office on 24 June. The charges included 'Undermining the Constitutional System' (Article 50), 'Waging War Against the State' (Article 51), both carrying the death penalty or life imprisonment, in addition to a charge of 'espionage' (Article 53).<sup>35</sup> Matar Younis Ali Hussein was released without charge on 26 July.<sup>36</sup>

Activist Husham Ali Mohammad Ali was arrested on 18 November 2017 from his apartment in Jeddah, Saudi Arabia by the Saudi Security agency and deported to Sudan on 29 May 2018. The NISS arrested him upon arrival. He is currently held at the NISS headquarters in Khartoum North. Husham Ali, an opposition activist in Sudan for many years, continued to contribute to various online forums after moving to Saudi Arabia in 2010 and is also involved in supporting civil society groups in Sudan. After the Sudanese government's repression of civil society in Sudan in 2013, he became more active online and wrote various posts and articles to expose government corruption. He also published information about torture in detention by the Sudanese authorities and expressed his support for the November and December 2016 civil disobedience campaign in Sudan on his Facebook page.<sup>37</sup>

## 4.1 RECOMMENDATIONS FOR THE STATE

- Release immediately and unconditionally all individuals who have been detained solely for the peaceful exercise of their human rights, including political activists, human rights defenders, students and journalists;
- Repeal the provision in the National Security Act of 2010 that provides NISS officials the power to arrest and detain individuals and all other legislation which grants immunities and protection from criminal prosecution to security force agents;
- Prohibit torture and other ill-treatment in law and in practice, and incorporate the crime of torture into national legislation in line with regional and international standards;
- Investigate all allegations of torture and other ill-treatment, as well as deaths in custody, and take all necessary steps to bring suspected perpetrators to justice in fair trials without recourse to the death penalty;

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<sup>33</sup> Amnesty International, *Urgent Action Appeal, Sudan: Hundreds Arrested, Whereabouts Unknown, 15 February 2018* :

<https://www.amnesty.org/en/documents/afr54/7886/2018/en/> and update of 2 March :

<https://www.amnesty.org/en/documents/afr54/7976/2018/en/>

<sup>34</sup> Amnesty International, *Urgent Action, Sudan: religious teacher arbitrarily detained: Matar Younis Ali Hussein, 18 April 2018, (AFR 54/8232/2018)*

<sup>35</sup> Interview with Matar's Lawyer on 9 July 2018. Amnesty International, Sudan: further information: detained religious teacher faces death penalty: Matar Younis Ali Hussein, 11 July 2018, <https://www.amnesty.org/en/documents/afr54/8759/2018/en/>

<sup>36</sup> Amnesty International Press release, *Sudan: freedom for teacher who faced execution for criticizing government, 26 July 2018, https://www.amnesty.org/en/press-releases/2018/07/sudan-freedom-for-teacher-who-faced-execution-for-criticizing-government/*

Amnesty International, *Urgent Action, Saudi Arabia: Sudanese activist at imminent risk of deportation: Husham Ali Mohammad Ali, 4 April 2018, (MDE 23/8078/2018)*

<sup>37</sup> Amnesty International, *Sudan: Human rights activist arbitrarily detained and at risk of torture must be immediately released, 31 May 2018, https://www.amnesty.org/en/latest/news/2018/05/sudan-human-rights-activist-arbitrarily-detained-and-at-risk-of-torture-must-be-immediately-released/*

# 5. ADMINISTRATION OF JUSTICE AND IMMUNITY FOR STATE AGENTS

## *Articles 2 and 14, and paragraph 21 of the List of Issues*

Sudan has a positive obligation to ensure that the national legal framework enables the full realization of human rights. This means that Sudan should not institute legislation which may undermine, hinder or negate the realization of these rights. The continued existence, for example, of legislation which confers broad discretionary powers to state agents, while guaranteeing impunity for violations, is inconsistent with Sudan's obligations under international law. In addition, Sudan has an obligation to protect human rights by ensuring that corrective action is taken when human rights are abused by either state agents or by non-state actors. Likewise, it has an obligation to ensure prompt and credible investigations into crimes under international law and that all those suspected of criminal responsibility are brought to justice in fair trials before ordinary civilian courts and without recourse to death penalty. Finally, Sudan also has an obligation to ensure that anyone under its jurisdiction is afforded equal protection under the law.<sup>38</sup>

Despite numerous reports on and evidence of arbitrary arrests, excessive and unlawful use of force, unlawful killings, torture and other ill-treatment by security forces or police, the Sudanese government does not appear to have conducted prompt, independent and effective investigations into the reports; or brought charges against those reasonably suspected of criminal responsibility; or prosecuted them in fair trials. It also does not appear to have taken any positive action to prevent further crimes under international law or human rights violations, such as reforms to the national security agency, the police and policing practice.

Instead, the legal framework governing the security services guarantees them impunity for human rights violations, thereby institutionalising policing practices detrimental to human rights. Sudanese laws that govern the armed forces, the police and the NISS all contain provisions conferring immunity on perpetrators of human rights violations.<sup>39</sup> The National Security Act 2010,<sup>40</sup> the Police Act, and the Armed Forces Act all include immunities for acts committed "in good faith" and "in the course of duty." Immunities can only be waived by the relevant governing bodies of the Ministry of Interior, Defence or the Director of the NISS.<sup>41</sup>

The Government of Sudan "has repeatedly stated the immunities are 'procedural rather than substantive' and that the practice is to waive a person's immunity whenever there is *prima facie* evidence to justify the laying of charges against the person."<sup>42</sup> Sudan's Constitutional Court has also held that immunities provided

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<sup>38</sup> Amnesty International, *Sudan: 'uninvestigated, unpunished': human rights violations against Darfuri students (AFR 54/4848/2017)*.

<sup>39</sup> REDRESS: *Human Rights Concerns and Barriers to Justice in Sudan: national, regional and international perspectives, a compilation of Sudan Law Reform Advocacy Briefings*, February 2014, <http://www.redress.org/downloads/country-reports/140228HumanRightsConcernFINAL.pdf>.

<sup>40</sup> Article 52, National Security Act, 2010, <http://tinyurl.com/jb6xunq>.

<sup>41</sup> Article 52(1) states any act committed by the NISS while pursuing their duties with "good intentions" should not be considered a crime. The Police Act, 2008 also includes immunities. Article 45(1) states actions of a police officer do not constitute crimes if they take place while he is performing his duties or as a result of official orders. Article 45(2) further prevents initiation of criminal proceedings against a member of the police, if the Police Legal Affairs Unit decides the crime was committed in the course of official duties, he should not be tried, save for special permission being issued by the Minister of Interior or his delegate.

<sup>42</sup> See above, page 24. Also see, Sudan's response to UN Human Right committee on ICCPR, *Replies of the Sudan to the list of issues*, 12 May 2014,

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fSDN%2fQ%2f4%2fAdd.1&Lang=en,paragraph.3,page.2](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fSDN%2fQ%2f4%2fAdd.1&Lang=en,paragraph.3,page.2).

See for instance Human Rights Committee, Fifth periodic report submitted by the Sudan, UN Doc. CCPR/C/SDN/5, 11 October 2017, para. 52

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsiaRHSdhmd%2briq%2bwz9j30NcXbj7kZWVmLma%2fu6aDrgkizgE%2b8hFgEvP40i9OFHU548vG4V2bgDrACNsSIB8uAgaUNlpaG2eMODvCqII%2fnXrX>.

for NISS personnel are not in conflict with the Constitution.<sup>43</sup> However, the Minister of Justice, Awad Elhassan Elnour Khalifa, on 29 June 2015, acknowledged the immunities granted for members of the regular forces [armed forces, police and the NISS] “represent [an] impediment to justice.”<sup>44</sup> Despite this acknowledgement, neither the Minister, nor other relevant ministries, have taken any action to remedy the problem, and security agents continue to perpetrate human rights violations with impunity.

The provisions providing immunity make it impossible for victims or their families to enforce their right to an effective remedy for crimes under international law and human rights violations perpetrated by the security forces. They have been so far unable to pursue criminal and civil procedures against any member of the security forces. The National Security Act, in particular, has created a culture of impunity in which NISS agents can commit human rights violations without any judicial oversight or accountability.

## 5.1 NO JUSTICE FOR THE VICTIMS OF SEPTEMBER 2013 PROTESTS

In 2014, Amnesty International and the African Centre for Justice and Peace Studies (ACJPS) published a report which documented excessive use of force during September 2013 protests against cuts in fuel subsidies, and high food price. At least 185 were killed the majority were shot in the head or chest. Many others were shot in the back.<sup>45</sup> Hundreds were injured, and more than 800 others arrested, some held for weeks. These detainees were subjected to torture and other forms of ill-treatment.<sup>46</sup> The families of those killed are still awaiting justice, truth and reparation, but only one case has advanced to trial.<sup>47</sup> The government claimed that it had established three State commissions of inquiry to investigate the September 2013 protests. Now, five years on the findings of these investigation have not yet been made public.

## 5.2 RECOMMENDATIONS FOR THE STATE

- Promptly ratify and adhere to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol and implement them fully in law, policy and practice.
- Amend the National Security Act 2010 to effect institutional and behavioural reform of the NISS, remove its powers of arrest and detention without a warrant of arrest, repeal provisions for arbitrary arrest and detention and establish a judicial oversight mechanism;
- Remove all immunities provided to members of the NISS under Article 52 of the National Security Act 2010;
- Ensure that all allegations of crimes under international law and human rights violations by security forces, including unlawful killings, unnecessary or excessive use of force, torture and other cruel, inhuman or degrading treatment or punishment, are subject to prompt, thorough, independent and impartial investigations;

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<sup>43</sup> REDRESS on behalf of *Dr. Farouk Mohamed Ibrahim v. Sudan*, <http://www.redress.org/case-docket/redress-on-behalf-of-dr-farouk-mohamed-ibrahim-v-sudan>.

<sup>44</sup> *The Minister of Justice' statement to parliament acknowledged immunities represent an obstacle to justice*, reported by Radio Dabanga, 1 July 2015, <http://tinyurl.com/z4xsjqk>.

<sup>45</sup> Amnesty International, *Sudan: excessive and deadly: the use of force, arbitrary detention and torture against protesters in Sudan*, (Index: AFR 54/020/2014).

<sup>46</sup> Human Rights Watch, *"We Stood, They Opened Fire" Killings and Arrests by Sudan's Security Forces during the September Protests*, 21 April 2014, <https://www.hrw.org/report/2014/04/21/we-stood-they-opened-fire/killings-and-arrests-sudans-security-forces-during>

<sup>47</sup> Amnesty International, the African Centre for Justice and Peace Studies and Human Rights Watch, *Joint Press Release, Sudan: No Justice for Protester Killings*, 22 September 2016, <https://www.hrw.org/news/2016/09/22/sudan-no-justice-protester-killings>

# 6. FREEDOM OF EXPRESSION, PEACEFUL ASSEMBLY AND ASSOCIATION

## *Articles 19, 21, 22 and 25 and paragraph 25 of the List of Issues*

### 6.1 SILENCING THE PRESS

During the reporting period, the government of Sudan continued its harassment and censorship of newspapers which regularly faced arbitrary confiscation of their publications. In 2015, at least 21 different newspapers had editions confiscated by the NISS on 56 different occasions. Newspapers also faced arbitrary requirements imposed by the NISS. For example, they were forbidden from reporting critically on the conduct of the security services, the armed forces, the police and the president. Further, they were banned from reporting on corruption cases, human rights violations and the situation in conflict areas.<sup>48</sup>

*Al Midan* newspaper, affiliated with the Sudanese Communist Party, was prevented from publishing in January and February 2015. Its editor, Madiha Abdallah, faced several charges under the 1991 Criminal Act, including undermining the constitutional order, which carries the death penalty.<sup>49</sup>

On 16 February 2015, NISS agents confiscated the entire print run of 14 newspapers from the printers, without explanation. Some of the newspapers were directly or indirectly funded and supported by the ruling political party, the National Congress Party (NCP). On 25 May 2015, NISS agents confiscated the entire print run of nine newspapers in Khartoum.<sup>50</sup>

During 2016, 12 newspapers had their issues confiscated on 22 different occasions. Dozens of journalists were arrested and interrogated by the NISS Media Office and the Press and the Publications Prosecution Office in Khartoum.<sup>51</sup>

In the second half of 2017, authorities confiscated print-runs belonging to six newspapers on 26 occasions. Restrictions on the right to freedom of expression continued with newspaper editors and journalists regularly instructed not to cover subjects considered as a security threat. Twelve journalists were repeatedly summoned and investigated by the NISS, and two others were convicted for reporting on issues said to be a threat to security. For example, in May, the Press and Publications Court in Khartoum convicted Madiha Abdallah, former Editor of Sudanese Communist Party newspaper *Al-Midan*, of “dissemination of false information” and fined her 10,000 Sudanese pounds (around USD1,497), for publishing an article on the conflict in South Kordofan in 2015.<sup>52</sup>

In the first half of 2018, the Sudanese government continued their suppression on press freedom including by re-introducing pre-press censorship, confiscating entire print runs of independent newspapers and arbitrarily arresting journalists.

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<sup>48</sup> Amnesty International, *Amnesty International Report 2015/16 - Sudan*, 24 February 2016, available at: <http://www.refworld.org/docid/56d05b1249.html>

<sup>49</sup> Amnesty International, *Amnesty International Report 2015/16 - Sudan*, 24 February 2016, available at: <http://www.refworld.org/docid/56d05b1249.html>

<sup>50</sup> Amnesty International, *Amnesty International Report 2015/16 - Sudan*, 24 February 2016, available at: <http://www.refworld.org/docid/56d05b1249.html>

<sup>51</sup> Amnesty International, *Amnesty International Report 2016/17 - Sudan*, 22 February 2017, available at: <http://www.refworld.org/docid/58b033af4.html>

<sup>52</sup> Amnesty International Annual Report 2017/18, 25 February 2018, <https://www.amnesty.org/en/countries/africa/sudan/report-sudan>

## 6.2 CLAMPDOWN ON POLITICAL OPPOSITION AND CIVIL SOCIETY ORGANIZATIONS

During the reporting period, Sudanese opposition political parties and independent civil society organizations were constantly prohibited from organizing any public events outside their premises. The Sudanese authorities cited unidentified security considerations to justify the restriction on the right to freedom of peaceful assembly. At least five independent civil society organizations were shut down since 2014. On 20 January 2016, Sudan's Parliament passed an amendment which increased the penalty for "rioting" from two years imprisonment, to a maximum of five years'.

The right to freedom of peaceful assembly was heavily restricted before and during the elections held from 13-17 April 2015. Opposition political parties were repeatedly prevented from organizing public events during the pre-election campaign period from 24 February to 10 April 2015. On 28 February 2015, the police violently dispersed a meeting of opposition political parties in Dongola, capital of Northern state, seriously injuring many participants. On 12 March 2015, the police in North Kordofan prevented members of the National Umma Party from organizing a public event. Police arrested 50 party members and closed the party's office. On 2 April 2015, local authorities in Al-Nihoud in West Kordofan state prohibited a public event arranged by the Sudanese Congress Party to publicize its call to boycott the election.<sup>53</sup> On 5 September 2015, the authorities shut down the Republican Party's offices in Omdurman.

Undue restrictions on the right to freedom of peaceful assembly continued in 2017. On 17 February 2017, NISS banned a meeting of the Teachers Central Committee at the Umma National Party offices in Omdurman city. It also prohibited the Umma National Party from holding a public meeting in Wad Madani in Al Jazeera State on 18 March 2017.<sup>54</sup>

Civil society organizations have also faced undue restrictions in their operation. In June 2014, the Sudanese authorities closed Salmah Women's Resource Centre. On 21 December 2014, the NISS raided the office of Sudan Human Rights Monitor (SHRM) while it was hosting a meeting to prepare for Sudan's UPR in 2016. Five computers were seized, and one journalist arrested. In January 2015, the NISS shut down three civil society organizations on the basis that they were violating their registration licenses. On 18 January, the NISS closed the Mahmoud Mohamed Taha Cultural Centre in Omdurman,<sup>55</sup> and prevented the commemoration of the 30th anniversary of Mohamoud Mohamed Taha's execution.<sup>56</sup> The Centre was registered with the Ministry of Culture in Khartoum in 2009.

The NISS raided the office of the NGO TRACKS (Khartoum Centre for Training and Human Development) on 29 February 2016 and confiscated mobile phones and laptops, as well as documents, the passports of those present and two vehicles. They detained the Director of TRACKS, Khalafallah Mukhtar, for six hours, along with another TRACKS employee and Mustafa Adam, a visitor and Director of Al-Zarqaa, another civil society organization.<sup>57</sup> On 22 May 2016, the NISS arrested eight TRACKS employees and affiliates. Five were released on bail in June, but three were detained without charge for nearly three months by the Office of the Prosecutor for State Security before being transferred to Al-Huda Prison pending trial. In August, a total of six TRACKS employees and affiliates were charged with various offences including crimes against the state that carry the death penalty. They have been released after being sentenced to time served by a court in Khartoum on 6 March 2017.<sup>58</sup> The UN Working Group on Arbitrary Detention had declared their detention arbitrary in August 2016 due to the non-observance of international norms related to the right to a fair trial.<sup>59</sup>

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<sup>53</sup> Amnesty International, *Sudan: state sponsored assault on freedom of expression around elections*, 23 April 2015, <https://www.amnesty.org/en/press-releases/2015/04/sudan-state-sponsored-assault-on-freedom-of-expression-around-elections/>

<sup>54</sup> Amnesty International Annual Report 2017/18, 25 February 2018, <https://www.amnesty.org/en/countries/africa/sudan/report-sudan>

<sup>55</sup> Amnesty International, *Sudan: entrenched repression - Freedom of Expression and Association under Unprecedented Attack* ( AFR 54/1364/2015)

<sup>56</sup> Mahmoud Muhammad Taha, founder of the Republican Brothers movement in 1945, opposed the implementation of Sharia law in 1983. He was arrested and sentenced to death for "apostasy" by Jaafar Numeri's regime (1969-85) and executed on 18 January 1985.

<sup>57</sup> Amnesty International, *Urgent Action, Sudan: Ten civil society activists harassed by NISS*, 17 March 2016, (AFR 54/3634/2016)

<sup>58</sup> Amnesty International, *Further information, Sudan: further information: three human rights defenders freed*, 9 March 2017, (AFR 54/5828/2017)

<sup>59</sup> 22 NGOs call for strong, action-oriented resolution on Sudan at UN Human Rights Council, 21 September 2016, <http://www.acjps.org/22-ngos-call-for-strong-action-oriented-resolution-on-sudan-at-un-human-rights-council/>

## 6.3 RECOMMENDATIONS FOR THE STATE

- Ensure everyone can freely exercise the rights to freedom of peaceful assembly and of association without discrimination, in line with the International Covenant on Civil and Political Rights and amend existing legislation that imposes undue restrictions to these rights;
- Allow human rights defenders, political opponents and journalists to express their views freely and gather in public spaces without fear of reprisals;
- Bring the 2009 Press and Publications Act and all other relevant legislation in line with international law and standards on the right to freedom of expression, in particular, the sweeping powers accorded to the National Council for Press and Publications (NCP).<sup>60</sup>

# 7. TREATMENT OF ALIENS, INCLUDING REFUGEES, ASYLUM SEEKERS AND MIGRANTS, AND POPULATION DISPLACEMENT

### *Articles 2, 6, 7, 9, 13 and 26*

The United Nations High Commissioner for Refugees, as of December 2017, estimated that Sudan hosted 924,810 refugees and asylum-seekers.<sup>60</sup> The majority come from South Sudan [over 700,000] and Eritrea. According to IOM Pilot Study on Migrants' Motivations, Intentions and Decision Making in Khartoum, "The top five countries of origin for migrants in Sudan ... were Eritrea, Ethiopia, Nigeria, Somalia and Syria."<sup>61</sup>

Sudanese law gives asylum-seekers and refugees only basic rights, such as rights to public relief and assistance; basic education; and litigation before all courts.<sup>62</sup> The new Asylum Regulation Act of 2014 maintains long-standing restrictions on freedom of movement and does not provide for adequate judicial guarantees to challenge deportation orders and revocation of refugee status.<sup>63</sup>

These restrictions are applied unevenly, depending on country of origin. Eritrean refugees are required to stay in camps; most Chadian refugees live in villages on the Chad border. Refugees who bypass freedom of movement restrictions may become vulnerable to round-ups by security services, detention, deportation and *refoulement* (forced return to a country where they would be at risk of being persecuted or suffering other

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<sup>60</sup> UNHCR, 2017 Year-End report, <http://reporting.unhcr.org/sites/default/files/pdfsummaries/GR2017-Sudan-eng.pdf>

<sup>61</sup> International Organization for Migration (IOM). (2017). *Migrants in Sudan Pilot Study on Migrants' Motivations, Intentions and Decision Making in Khartoum*. Retrieved from <https://sudan.iom.int/sites/default/files/reports/IOM-MigrantsInSudan-2017.pdf>

<sup>62</sup> Sudan: Asylum Act 2014, available at:

<https://static1.squarespace.com/static/5831e53a6b8f5bca573b84b2/t/585ab450ebbd1a4dd38f9bf9/1482339409078/Sudan-asylum-act-2014.pdf>

<sup>63</sup> See also; Oette, L., & Babiker, M. (2017). Migration Control à la Khartoum: EU External Engagement and Human Rights Protection in the Horn of Africa. *Refugee Survey Quarterly*, 36(4), 64–89, <https://academic.oup.com/rsgq/article-abstract/36/4/64/4554492>. See Article. 14(2)(a) (place of residence), as well as Article. 11 (Revocation of refugee status) and Article. 12 (Establishment of Council of Appeal and Procedures) of the Asylum Regulation Act, 2014.

serious human rights violations).<sup>64</sup> An increase in reported cases of *refoulement* in recent years may have pushed more refugees in Sudan to move to other countries.<sup>65</sup>

Meanwhile, Sudan as a country of asylum, transit and origin for refugees, asylum-seekers and migrants engaged with the European Union (EU) on the EU-Horn of Africa Migration Route Initiative (known as the Khartoum Process) since 2014. The Process brings together EU and African states and regional bodies to tackle irregular migration.<sup>66</sup> The EU's partnership with Sudan on the issue of migration raises a number of serious human rights concerns, especially as Sudan has tasked the Rapid Support Forces (RSF) to curb irregular migration. RSF has been implicated in serious war crimes in the past.<sup>67</sup>

## 7.1 DISPLACEMENT IN SUDAN

In total, there are two million displaced persons in Sudan.<sup>68</sup> In Darfur, there are 1.6 million displaced persons in 60 camps.<sup>69</sup> A lack of basic services and infrastructure in addition to insecurity in some areas in Darfur continues to prevent the return of displaced people to their areas of origin.

For example, between March and May 2018, Sudanese government forces carried out land attacks in East-South Jebel Marra area. The attacks took place in the areas where SLA/AW maintained a significant presence. An estimated 12,000 to 20,000 people were displaced since March 2018 as a result of attacks by government forces into SLA controlled area and they are currently living in difficult conditions without access to humanitarian assistance.<sup>70</sup>

Amnesty International received information about a number of attacks on IDP camps in Darfur since August 2017.<sup>71</sup> For example, Kalma IDP camp, one the largest camp in South Darfur, situated about 15 km east of Nyala the capital of South Darfur state, was attacked in September 2017, resulting in five people killed and 33 injured, during a protest against the visit of President Omar Al Bashir to South Darfur.<sup>72</sup> In January 2018, RSF soldiers entered Nertiti camp in Central Darfur and arrested and arrested six IDP leaders.<sup>73</sup> In the same month, Hasahisa IDP camp in Zalingei was attacked by RSF and one person was killed and five were injured.<sup>74</sup> On 21 May 2018, five members of the RSF on board a pick-up truck mounted with machine-guns attacked an Khamsa Dagaig IDP camp in Central Darfur's city of Zalingei using live ammunition. A 22-year-old woman was shot in the head and later died at the hospital. Ten displaced people, including children, were injured in their head, neck, arms and legs.<sup>75</sup> On 22 May 2018, armed tribal militia attacked Ardayba and Jemma IDP camps in the city of Garsila, in central Darfur State. The same camps were attacked again the following morning and five people were killed and many more wounded.<sup>76</sup>

Clashes in Blue Nile between the two SPLM-N factions reported in February 2018 on 17, 22 and 29 February with displacement of at least 500 households.<sup>77</sup>

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<sup>64</sup> See also: Amnesty International, *Human Rights Impacts and Risks Associated with the Khartoum Process, Submission to the UK All-Party Parliamentary Group for Sudan and South Sudan*, October 2016, (AFR 54/5337/2016).

<sup>65</sup> See, for example: 'UNHCR concerned over forced returns of refugee and asylum-seekers from Sudan,' UNHCR press statement, 4 July 2014, available at [www.unhcr.org/news/briefing/2014/7/53b69a4f9/unhcr-concerned-forced-returns-refugee-asylum-seekers-sudan.html](http://www.unhcr.org/news/briefing/2014/7/53b69a4f9/unhcr-concerned-forced-returns-refugee-asylum-seekers-sudan.html); 'Concluding observations on the fourth periodic report of the Sudan,' Human Rights Committee, 19 August 2014, CCPR/C/SDN/CO/4, page 7; 'Sudan: Hundreds Deported to Likely Abuse', Human Rights Watch, 30 May 2016, available at [www.hrw.org/news/2016/05/30/sudan-hundreds-deported-likely-abuse](http://www.hrw.org/news/2016/05/30/sudan-hundreds-deported-likely-abuse); Amnesty International, 'Sudan must end forced returns of asylum seekers to Eritrea'

<sup>66</sup> Declaration of the Ministerial Conference of the Khartoum Process (EU-Horn of Africa Migration Route Initiative), Rome, 28 November 2014

<sup>67</sup> Amnesty International, *Sudan: Scorched earth, poisoned air Sudanese government forces ravage Jebel Marra, Darfur, 29 September 2016*, (AFR 54/4877/2016)

<sup>68</sup> UN OCHA, *SUDAN: Humanitarian Snapshot 31 March 2018*,

[https://reliefweb.int/sites/reliefweb.int/files/resources/Sudan\\_Humanitarian\\_Snapshot\\_A3\\_31\\_Mar\\_2018.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Sudan_Humanitarian_Snapshot_A3_31_Mar_2018.pdf)

<sup>69</sup> UN OCHA, *Sudan: Darfur Humanitarian Overview, 1 February 2018*, <https://reliefweb.int/report/sudan/sudan-darfur-humanitarian-overview-1-february-2018>

<sup>70</sup> Amnesty International, *Sudan: down-sized un mission for an over-sized human rights crisis*, 28 June 2018, (AFR 54/8680/2018)

<sup>71</sup> Amnesty International, *Sudan: down-sized un mission for an over-sized human rights crisis*, 28 June 2018, (AFR 54/8680/2018)

<sup>72</sup> Amnesty International, *Amnesty International Report 2017/18 - Sudan*, 22 February 2018, available at:

<http://www.refworld.org/docid/5a9938604.html>

<sup>73</sup> Sudan Tribune, *Sudanese security accused of arresting six IDPs in Central Darfur*, 7 January 2018,

<http://sudantribune.com/spip.php?article64447>

<sup>74</sup> CNBC Africa, *Five internally displaced persons killed as Sudanese Armed Forces and Rapid Support Forces use live ammunition to disperse a protest in Central Darfur*, 25 January 2018, [www.cnbc.com/af/2018/01/25/five-internally-displaced-persons-killed-as-sudanese-armed-forces-and-rapid-support-forces-use-live-ammunition-to-disperse-a-protest-in-central-darfur/](http://www.cnbc.com/af/2018/01/25/five-internally-displaced-persons-killed-as-sudanese-armed-forces-and-rapid-support-forces-use-live-ammunition-to-disperse-a-protest-in-central-darfur/)

<sup>75</sup> Amnesty International, *Press Release, Sudan: Pro-government militia open deadly fire on IDP camp in Central Darfur*, 22 May 2018, [www.amnesty.org/en/latest/news/2018/05/sudan-pro-government-militia-open-deadly-fire-on-idp-camp-in-central-darfur/](http://www.amnesty.org/en/latest/news/2018/05/sudan-pro-government-militia-open-deadly-fire-on-idp-camp-in-central-darfur/)

<sup>76</sup> Statement by Darfur Bar Association 24 May 2018.

<sup>77</sup> South Kordofan and Blue Nile Coordination Unit Report February 2018.

## 7.2 RECOMMENDATIONS FOR THE STATE

- Adopt a national asylum law that is consistent with international asylum and refugee law and standards, including those enshrined in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;
- Respect the international law principle of non-refoulement, which bars the return of asylum seekers and refugees “in any manner whatsoever to the frontiers of territories” where their lives or freedoms would be threatened;
- Ensure that internally displaced persons who wish to may return voluntarily, in safety and with dignity, to their homes or places of habitual residence.

# 8. GENDER EQUALITY, VIOLENCE AGAINST WOMEN AND HARMFUL TRADITIONS

### *Articles 2, 3, 6, 7, 17, 23, 24, 25 and 26*

The Public Order Police (POP) arrested 12 female Christian students on 25 June 2015. Ten of them were charged with “indecent dress”, under Article 152 of Sudan’s 1991 Criminal Act, while the two others were released. The POP subjected the students to degrading treatment and humiliating verbal abuse during their detention. Eight of the girls were later freed, while the remaining two girls appealed their sentences. The appeal court overturned their sentence and dropped the charges in October 2015.<sup>78</sup>

Article 152 of the 1991 Criminal Act gives POP extensive powers to arrest any person deemed to wear “indecent dress” and the punishment if found guilty is 40 lashes, or with a fine, or with both. In practice, the law is used exclusively against women and girls.<sup>79</sup>

Noura Hussein Hammad, a 19-year-old woman, was sentenced to death in May 2018 after she killed her husband in self-defense as he attempted to rape her a second time following their forced marriage when she was under 18. Amnesty International called on the Sudanese authorities to quash the death sentence imposed on her, review the criminal and personal status laws with a view to ending the use of the death penalty, amend the definition of rape to clearly include marital rape, as well as raise the age of consent to marry from 10 years to 18. On 26 June, a Sudanese court quashed Noura Hussein’s death sentence and replaced it with a five-year prison term.<sup>80</sup>

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<sup>78</sup> Sudan: Amnesty International submission to the UN universal periodic review, (AFR 54/3532/2016)

<sup>79</sup> Amnesty International, Urgent action, Sudan: women risk flogging for ‘indecent’ clothing (AFR 54/2046/2015)

<sup>80</sup> Sudan: Quashing of Noura Hussein death sentence must now lead to legal reform, 26 June 2018, <https://www.amnesty.org/en/latest/news/2018/06/sudan-quashing-of-noura-hussein-death-sentence-must-now-lead-to-legal-reform/>

## 8.1 RECOMMENDATIONS FOR THE STATE

- Adopt legislation that prohibits all forms of early and forced marriage and to raise the minimum age for marriage from 10 to 18 years;
- Abolish the penalty of flogging and other forms of corporal punishments in the 1991 Criminal Act, which violates the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;
- Repeal Article 152 of the 1991 Criminal Act, which is vague and discriminatory and contravenes Sudan's international human rights obligations;
- Amend the definition of rape in Article 149 of the 1991 Criminal Act to clearly include marital rape and ensure full and effective investigation of sexual abuse in marriage and intimate relationships;
- Consider ratifying the African Charter on the Rights and Welfare of the Child and other international human rights instruments particularly the Convention on the Elimination of All Forms of Discrimination against Women.

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[info@amnesty.org](mailto:info@amnesty.org)



+44 (0)20 7413 5500

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# SUDAN

## SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

124<sup>TH</sup> SESSION, 8 OCTOBER-2 NOVEMBER 2018

Amnesty International submits this briefing to the United Nations Human Rights Committee (the Committee) ahead of its examination, in September 2018, of Sudan's fifth periodic report on the implementation of the International Covenant on Civil and Political Rights (the Covenant or ICCPR). The submission highlights Amnesty International's concerns in Sudan in relation to a number of questions on the Committee's List of Issues to be taken up in connection with its consideration of the state report.

Amnesty International remains concerned at Sudan's failure to comply with its obligations under the Covenant, particularly in relation to the right to life - unlawful killings and attacks against civilians in conflict-affected areas (arts. 6 and 7); arbitrary arrests and detentions under the National Security Act; the situation of internally displaced persons (art. 9); discrimination and violence against women and girls (art. 3); undue restrictions on the rights to freedom of thought, conscience and religion (art. 18), freedom of expression (art. 19), and the rights to peaceful assembly and association (arts. 21 and 22). Dire humanitarian situation continues in South Kordofan and Blue Nile. While a unilateral ceasefire was extended, the peace process remained stalled. In early February 2018, the African Union High-Level Implementation Panel (AUHIP) mediation suspended Sudan peace talks between Sudan People's Liberation Movement-North (SPLM-N) AI-Hilu and Government of Sudan indefinitely. SPLM-N, AI-Hilu extended its unilateral ceasefire for four months in the Two Areas on 30 January. On 28 March, GoS extended the unilateral ceasefire for three months and another six months in July 2018.

This briefing draws on Amnesty International's ongoing research on Sudan; it is not an exhaustive account of the organizations human rights concerns in the country.