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## INTRODUCTION

Amnesty International submits this briefing to the United Nations Human Rights Committee (the Committee) ahead of its examination, in July 2014, of Sudan's fourth 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.<sup>1</sup>

Amnesty International remains concerned at Sudan's failure to comply with its obligations under the Covenant, particularly in relation to unlawful killings and attacks against civilians in conflict-affected areas, arbitrary arrests and detentions under the National Security Act, the situation of internally displaced persons, discrimination and violence against women and girls, restrictions on freedom of conscience and religion and of expression, assembly, and association. This briefing draws on Amnesty International's ongoing research on Sudan, which involves regular contact with local and international non-governmental organizations, UN agencies, victims and their families, lawyers, and journalists.

## RIGHT TO LIFE (ARTICLE 6)

The right to life is enshrined in Sudan's Constitution (hereafter the Constitution). Article 28 of the Constitution states: "every human being has the inherent right to life, dignity and the integrity of his/her person, which shall be protected by law; no one shall be arbitrarily deprived of his/her life".

### **Targeting of civilians by government forces and militias (Issue 13 in the list of issues)**

Government forces, government paramilitary forces, and other armed militias and armed groups continued to perpetrate violations of human rights and international humanitarian law in Darfur, Southern Kordofan and Blue Nile. Over the last year, these violations also spread to Northern Kordofan.

In Darfur, the government has failed to protect civilians from abuses during a surge in fighting between predominantly Arab tribes over land and other natural resources. Amnesty International has found that civilians in Central Darfur were deliberately targeted and subjected to unlawful killings, sexual violence including rape, shootings and lootings during the fighting between the Misseriya and the Salamat tribes. The organization spoke with many refugees who had fled to Chad, and who gave eyewitness accounts of unarmed people being shot. Some of these refugees

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<sup>1</sup> Human Rights Committee, List of issues in relation to the fourth periodic report of the Sudan, 22 November 2013, CCPR/C/SDN/Q/4, (Hereafter: The Committee, LOI Sudan)

were hit by stray bullets while fleeing. The attackers shot indiscriminately from the back of pick-up trucks, while others entered homes and shops, beating and killing unarmed civilians, looting goods and burning properties.

Government forces and elements of the government paramilitary forces and other armed militias were involved in the fighting, particularly in large-scale attacks against civilians in and around Um Dukhun, Central Darfur.<sup>2</sup> Amnesty International also documented the involvement of the Border Guards in several large-scale attacks against civilians in Jebel Amer, in January 2013.<sup>3</sup>

Sadia, from the Barti tribe, had been living in Um Dukhun, Central Darfur, for four years. Armed men wearing green fatigues came into her house at around 8 am one morning in April 2013. They demanded money and a mobile phone from her husband, Adam Mohamed Abdallah, but he refused. She watched as they forced him to lie down on the floor and shot him in the chest, killing him. Sadia also witnessed her neighbours, Abdulrahman, his wife Halima and their 7-month-old daughter Amal being shot dead while attempting to escape their compound. Sadia told Amnesty International that Halima was shot in the neck, killing her and her infant daughter whom she was carrying on her back, at the same time. Sadia managed to escape to Chad with her children.

Amnesty International found that there was little or no action by the Sudanese authorities to protect civilians in conflict-affected areas of Darfur. In instances of inter-communal violence, local and regional authorities took some action to defuse fighting, but this was largely ineffective in stopping wide-scale human rights abuses, as it was predominantly focused on reconciliation efforts and happened months after the fighting had begun.

Similarly, the Sudanese authorities took little or no action to investigate violations of human rights and international humanitarian law, or to hold to account those who it found to be responsible. It is for this reason that the organization finds Sudan's claim that "[t]he judicial system [...] never condones impunity"<sup>4</sup> to be highly questionable. In Southern Kordofan and Blue Nile, attacks against civilians have persisted since the start of the conflict in 2011. Hundreds of thousands of people have been displaced as a result of the fighting between the Sudanese Armed Forces (SAF) and the Sudan People's Liberation Army- North (SPLA-N). Amnesty International has documented indiscriminate attacks and attacks targeting civilians

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<sup>2</sup> Amnesty International, 'We can't endure anymore': the impact of inter-communal violence on civilians in Central Darfur, 14 March 2014. Available at: <http://www.amnesty.org/en/library/info/AFR54/002/2014/en>

<sup>3</sup> See Amnesty International, Darfur: Government forces involved in gold mine attacks, 30 January 2013. Available at: <http://www.amnesty.org/en/news/darfur-government-forces-involved-gold-mine-attacks-2013-01-30-0>

<sup>4</sup> Replies of the Sudan to the list of Issues, 23 April 2014, CCPR/C/SDN/Q/4/Add.1, para. 13.

by both parties, including indiscriminate bombardments by SAF.<sup>5</sup>

More recently, fighting intensified in parts of South Kordofan and Blue Nile. This followed an announcement by the government in April 2014 of its “Decisive Summer Operation” to end all rebellion in Darfur, South Kordofan and Blue Nile.<sup>6</sup> During this offensive, Amnesty International received information indicating that the SAF continued to target civilian areas and structures and carry out indiscriminate attacks, including the bombing of Mother of Mercy Hospital in South Kordofan on 1 May 2014.<sup>7</sup>

### **Restricted humanitarian assistance (Issue 14 in the list of issues)**

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. The Office for the Coordination of Humanitarian Affairs (OCHA) reported that the humanitarian situation in South Kordofan is “potentially catastrophic”.<sup>8</sup> The Famine Early Warning Systems Networks (FEWS NET) reported in its May 2014 update that the population in SPLM-N controlled areas of South Kordofan is in the most acute phase of food insecurity.<sup>9</sup>

Shortly after the start of the conflict, the Sudanese government explicitly conditioned the delivery of humanitarian assistance to areas held by the SPLA-N on a ceasefire with the SPLA-N, insisting it “will not accept that the rebels benefit

<sup>5</sup> See Amnesty International, Sudan: ‘We had no time to bury them’: War crimes in Sudan’s Blue Nile state, 11 June 2013. Available at: <http://www.amnesty.org/en/library/info/AFR54/011/2013/en> . Amnesty International, Sudan’s civilians in crisis: Indiscriminate attacks and arbitrary arrests pervade Southern Kordofan, 11 December 2012. Available at: <http://www.amnesty.org/en/library/info/AFR54/051/2012/en>. Amnesty International, Sudan: civilians caught in unending crisis in Southern Kordofan, 17 April 2013. Available at: <http://www.amnesty.org/en/library/info/AFR54/009/2013/en>

<sup>6</sup> Sudan Safari, Defence Minister announces Decisive Summer Operation against rebels, 14 April 2014. Available at: [http://english.sudansafari.net/index.php?option=com\\_content&view=article&id=5814:defence-minister-announces-decisive-summer-operation-against-rebels&catid=6:slid&Itemid=6](http://english.sudansafari.net/index.php?option=com_content&view=article&id=5814:defence-minister-announces-decisive-summer-operation-against-rebels&catid=6:slid&Itemid=6)

<sup>7</sup> Amnesty International spoke to several local human rights monitors who confirmed the attack. Also see for example, Nuba Reports, Sudan Sudan Targets Only Hospital in Nuba Mountains, 5 May 2014. Available at: <http://nubareports.org/sudan-targets-only-hospital-in-nuba-mountains/>

<sup>8</sup> South Kordofan and Blue Nile, Population movements fact sheet, 19 May 2014. Available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/South%20Kordofan%20and%20Blue%20Nile%20Population%20Movements%20Fact%20Sheet%20-%2019%20May%202014.pdf>

<sup>9</sup> See, FEWS NET : <http://www.fews.net/east-africa/sud%3%A1n/food-security-outlook-update/thu-2014-05-29>

from humanitarian assistance to the civilians”.<sup>10</sup> A “tripartite proposal” on humanitarian access was put forward by the African Union (AU), the UN and the League of Arab States in February 2012, and accepted by the SPLM-N.<sup>11</sup> On 4 and 5 August 2012, the Sudanese government and the SPLM-N signed separate memoranda of understanding with the tripartite partners, thus formalizing their adherence to the agreement.<sup>12</sup>

The agreement expired in November 2012, and at the time of writing, despite several rounds of negotiations between both parties, further agreement on the modalities of humanitarian assistance between the Government of Sudan and the SPLM-N has not been reached.

In Darfur, the Government of Sudan continues to restrict access to zones affected by conflict to the African Union – UN Mission in Darfur (UNAMID), as well as other UN agencies and humanitarian organizations.

Government restrictions on UNAMID’s access to conflict-affected areas has severely hindered the latter’s ability to monitor the situation and carry out its civilian protection mandate in these areas.<sup>13</sup> Sudanese authorities also use bureaucratic impediments, particularly regarding the provision of visas and permits, to restrict access to certain areas.

The International Committee of the Red Cross (ICRC)’s main activities have been suspended since February 2014 and the French development organization l’Agence d’Aide à la Coopération Technique et au Développement, (ACTED), had its office in

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<sup>10</sup> Sudan Tribune, ‘Only ceasefire can allow return of aid groups to Blue Nile and Kordofan – Sudan’s FM,’ 29 September 2011

<sup>11</sup> Joint AU/LAS/UN Proposal for Access to Provide and Deliver Humanitarian Assistance to War-Affected Civilians in Blue Nile and South Kordofan States, 9 February 2012. Available at: <https://groups.google.com/forum/#!msg/sudan-john-ashworth/ahafKC5-Cw4/eu-6HPcPvT8J>

<sup>12</sup> See Memorandum of Understanding between the Sudan People’s Liberation Movement/North and the African Union/League of Arab States/United Nations Tripartite on Humanitarian Assistance to war-affected civilians in Blue Nile and South Kordofan States, 4 August 2012. Since that time, the Sudanese government has allowed international organizations and government humanitarian actors to carry out joint assessment and field monitoring missions in government-controlled areas to provide humanitarian assistance to the affected civilian population.

<sup>13</sup> For example, UNAMID reported that their requests to visit Um Dukhun when the conflict between the Misseriya and the Salamat started in April 2013 were repeatedly denied on the basis that inter-communal violence is not part of UNAMID’s mandate. Also see: Joint statement on Darfur by UNAMID Deputy JSR and UN Humanitarian Coordinator in Sudan, 27 March 2014. Available at: <http://unamid.unmissions.org/Default.aspx?tabid=11027&ctl=Details&mid=14214&ItemID=23358&language=en-US>



El Fasher shut down.<sup>14</sup>

## Recommendations for the State

- Immediately cease all violations of international humanitarian law and human rights law in Darfur, South Kordofan and Blue Nile, including indiscriminate bombardments in civilian areas;
- Take necessary steps to ensure the full and effective protection of civilians in conflict areas as required by international humanitarian law and by the Covenant;
- Initiate prompt, effective and impartial investigations into all violations of international human rights and humanitarian law including unlawful killings, and bring those suspected of related offences, including persons with command or other superior responsibility, to justice before ordinary civilian courts in fair trials without resort to the death penalty or other cruel, inhuman or degrading punishments. The outcome of investigations and the trials should be publicised so as to raise awareness that such attacks are crimes under Sudanese and international law.
- Lift all restrictions on movement to all parts of Darfur for UNAMID, humanitarian organizations and human rights monitors. Issue orders to provide UNAMID and other humanitarian or human rights organisations with full freedom of movement in their areas of operation;
- Grant immediate and 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;
- Provide immediate and effective support and protection to survivors of human rights violations, including of sexual violence, and provide reparation for the victims of human rights violations committed by members of the paramilitary government forces in accordance with international law and standards;
- Promptly accede to the Rome Statute of the International Criminal Court and ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and implement their provisions in law, policy and practice.

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<sup>14</sup> See ICRC, Sudan: Continued suspension of activities has severe humanitarian impact, 19 May 2014. Available at: <http://www.icrc.org/eng/resources/documents/news-release/2014/05-18-sudan-severe-humanitarian-impact-suspension-icrc-activities.htm>. Radio Dabanga, French aid organization shut down in Darfur, 19 Mars 2014. Available at: <https://www.radiodabanga.org/node/69273>

## **RIGHT TO LIBERTY AND SECURITY OF PERSON, TREATMENT OF PERSONS DEPRIVED OF THEIR LIBERTY AND RIGHT TO FAIR TRIAL (ARTICLES 9, 10, AND 14)**

Sudan's Bill of Rights guarantees the right to liberty and security under Article 29 of the Constitution, which states:

*“every person has the right to liberty and security of person; no person shall be subjected to arrest, detention, deprivation or restriction of his/her liberty except for reasons and in accordance with procedures prescribed by law”.*

It also guarantees the right to a fair trial under Article 34 and the right of detainees to be immediately informed of the reasons for their arrest and to have charges promptly brought against them. Article 34 also states the right of the accused to be tried in their presence on any criminal charges without delay, as well as their right to defend themselves through a lawyer of their choice when possible.

### **Arbitrary detentions by the National Intelligence and Security Services (NISS) using powers under the National Security Act (NSA) (Issue 20 in the list of issues)**

In practice, the government, through the NISS, continues to arbitrarily arrest perceived opponents of the ruling National Congress Party (NCP) in violation of the Sudanese Constitution and Article 9 of the Covenant.

Article 50 of the 2010 NSA stipulates that the NISS can arrest and detain any person for up to 30 days without judicial oversight. The detention can then be extended for up to a total of four and a half months, should the Director of the NISS consider it a necessity for the completion of the investigation. The NSA does not specify the grounds on which such detentions may be justified. Without judicial safeguards, detainees are often held incommunicado, leaving them vulnerable to torture and other ill-treatment. Article 51 of the NSA provides for the rights of the detainee, but does not create effective mechanisms to ensure these rights are protected.

The NSA also provides for the immunity of NISS agents from prosecution and disciplinary measures for all acts committed in the course of their work. Although such immunities can be waived by the NISS Director, in practice it has created a system of total impunity. There have been no known cases to suggest that such immunities are waived in practice.

Despite repeated calls from UN bodies, human rights NGOs and others, the Sudanese government has failed to carry out the substantial reform that the NSA needs and, as such, it has failed to bring about much needed protection for

detainees.<sup>15</sup>

Amnesty International has over the years documented scores of arbitrary detentions where individuals were arrested without being informed of the reasons for their arrest or the charges against them, and were held without access to lawyers or to their families. In most cases, when families inquire about the whereabouts of the person detained, the NISS either deny the arrest or inform the family that they can only request a visit after 15 days.

The NISS detained 32 ethnic Nuba women from Southern Kordofan in November 2012 because of their suspected affiliation with the banned political opposition party SPLM-N. They held them at El Obeid Prison for between five and eight months without access to lawyers, courts, or medical care, before their release without charge.<sup>16</sup>

### **Repression of protests and harassment of perceived opponents to the government (Issue 26 in the list of issues)**

The Sudanese government has continued to arbitrarily arrest and detain human rights defenders, political dissidents, journalists and civil society activists during protests. Amnesty International documented a crackdown on dissent around the September 2013 protests against cuts in fuel subsidies. Authorities reported that they had arrested 600 people. Amnesty International received reports from activists, journalists and lawyers in Sudan indicating that there were over 800 arrests. Many were released within hours or days, after they were summarily tried and either fined or lashed, in violation of Article 7 of the Covenant. Others remained in detention for periods varying between weeks and months without being charged and without access to their families, to a court or to a lawyer.<sup>17</sup>

A wave of arrests was carried out during the night of 30 September 2013 and the early hours of the following day. At least 17 members of the Sudanese Communist Party were arrested in and around Khartoum.

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<sup>15</sup> See for example: Amnesty International, Sudan: Time for change- a need to end continuing human rights violations, Amnesty International's submission to the UN Universal Periodic Review, November 2010. Available at: <http://www.amnesty.org/en/library/info/AFR54/034/2010/en>. Report of the Working Group on the Universal Periodic Review, 11 July 2011, A/HRC/18/16, para. 83. Report of the Independent Expert on the situation of human rights in the Sudan, 18 September 2013, A/HRC/24/31, para. 78 (g)

<sup>16</sup> Amnesty International, Sudanese women held without a trial, 19 February 2013, <http://amnesty.org/en/library/info/AFR54/005/2013/en>

<sup>17</sup> Amnesty International, Sudan escalates mass arrests of activists amid protest crackdown, 2 October 2013. Available at: [Http://Www.Amnesty.Org/En/News/Sudan-Escalates-Mass-Arrests-Activists-Amid-Protest-Crackdown-2013-10-02](http://www.Amnesty.Org/En/News/Sudan-Escalates-Mass-Arrests-Activists-Amid-Protest-Crackdown-2013-10-02)

On 27 September 2013, the NISS arrested Dr Sidgi Kabbalo, a member of the Central Committee of Sudan's Communist Party, shortly after he returned from the UK. Family members attempted to visit him on 30 September, but were told to return in 15 days. The NISS would not disclose the whereabouts of Sidgi Kabbalo to his family. He was released without charge on 15 October.

Youth activists were also targeted during this spate of arrests carried out by the NISS. On 23 September, six armed men from the NISS raided the home of Mohayed Siddig – a founding member of the youth movement “Sudan Change Now”. They arrested him after searching his home for more than two hours and confiscating his wife's laptop, as well as CDs and documents. Mohayed Siddig was held incommunicado without charge for over a month.

Other members of “Sudan Change Now” were also arrested, including Dahlia Al Roubi, Rayan Zein Abideen, Omar Ushari and Khalid Omar. On 30 September Dahlia and Rayan were taken to the NISS building in Emarat area where they were held without charge, and without access to lawyers, a court, or their families. They were released a week later.

### **Recommendations for the State**

- Repeal the 2010 National Security Act and initiate institutional reform of the National Intelligence and Security Service to bring it into line with the Covenant and other international human rights treaties and standards. In particular, powers of arrest and detention should be reformed and a mechanism for judicial oversight of detention should be established;
- Ensure that prompt, thorough, impartial and independent investigations are carried out into cases of arbitrary arrest and detention and that any security agents found responsible for offences involving human rights violations are subjected to fair disciplinary proceedings or criminal proceedings as appropriate.
- Ensure that all persons charged with a criminal offence have the right to a prompt and fair trial in full accordance with Article 14 of the Covenant and without recourse to the death penalty;
- Ensure the immediate and unconditional release of all individuals whose deprivation of liberty results from the peaceful exercise of their rights to freedom of expression, association and assembly.

## **REFUGEES, ASYLUM SEEKERS AND INTERNALLY DISPLACED PERSONS (ARTICLES 2, 7 AND 12 - ISSUE 5 IN THE LIST OF ISSUES)**

In 2013 and 2014 there has been large-scale displacement of people within Sudan and from the country, particularly within and from Darfur. Over half a million people have been displaced from their homes in 2013 and 2014 due to an upsurge in

violence in Darfur, including 35,000 who fled to Chad and Central African Republic at the time of fighting. According to UN estimates, over 300,000 people have been internally displaced within Darfur in the first months of 2014 following a wave of violence involving government security forces and armed movements as well as inter-communal violence.<sup>18</sup> This is in addition to the two million people who face long-term displacement in Darfur, since the start of the conflict in 2003. In 2013, the main cause of displacement was the upsurge of inter-communal violence among Arab tribes over land and resources.<sup>19</sup>

Since the end of February 2014, violence, displacement and civilian deaths have significantly increased with the deployment of the pro-government Rapid Support Force (RSF). The RSF, a renamed Janjaweed militia, has reportedly razed 35 villages to the ground, causing more than 40,000 people to flee their home in South Darfur.<sup>20</sup> In North Darfur fighting between Musa Hilal's armed group and government forces has caused further displacement and casualties.

Based on interviews with internally displaced persons and humanitarian workers, Amnesty International has established that few measures have been taken by the Sudanese government to protect IDPs, leaving them vulnerable to attacks, abduction, looting and sexual violence.<sup>21</sup> Many IDPs are currently living in remote areas with little or no access to humanitarian assistance.

### **Situation in camps for Internally Displaced Persons (IDPs)**

The situation of people in Darfur's IDP camps continues to be precarious. Abuses by armed groups and by members of government paramilitary forces, remain commonplace in several of the camps. On 22 March 2014, the Khor Abeche IDP camp in South Darfur was attacked by heavily armed men, who looted and burned the camp to the ground.

Women and girls continue to face great risks inside and around the camps in Darfur with rape and other forms of sexual violence remaining prevalent in and around the camps. Amnesty International collected testimonies from Darfuri refugees in Chad who indicated that there is a high prevalence of rape and other forms of sexual violence in villages in Darfur and in and around the IDP camps. Male and female community leaders reported that women and girls are often abducted and raped when they are working in the fields, or when they fetch wood or water. Women

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<sup>18</sup> OCHA, Sudan: 2014 Population Displacement in Darfur, 26 May 2014. Available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Darfur%20Update%20-%2026%20May%202014.pdf>

<sup>19</sup> Referred to above, in the section on Right to life.

<sup>20</sup> Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur, 15 April 2014. Available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2014/279](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2014/279)

<sup>21</sup> Phone interviews with IDPs and humanitarian workers in Darfur, December 2013 to April 2014.

leaders from the Masalit community in Goz Amir camp, Chad told Amnesty International:

“Rape happens a lot. Particularly women who go to get wood on their own, they usually get kidnapped, raped, and released after a few days. Many women are too afraid to speak about it, but we recognise them because some come back without much clothes on them... And people don't report out of fear that these Janjaweed who are our neighbours will harm us. We can't complain to the police. We will be even more punished.”

Abdelrahman used to live with his family in an IDP camp near Mukjar. He told Amnesty International: “Internally displaced people's camps in Darfur are in bad conditions? There is a high level of insecurity at all times. There is a lot of crime, and many women get raped when they leave the camp to go get firewood or water.” He added that in March 2013, his brother's widow went to collect firewood one day and was attacked by three armed Janjaweed on horseback. She managed to flee and ran inside the woods before she made it back to the camp, but with some of her clothes torn.

### **Recommendations for the State**

- Provide adequate protection and guarantee the security of displaced people in IDP camps.
- Provide immediate and effective protection to displaced women and girls from sexual violence, including rape, and provide reparation for the survivors of sexual violence in accordance with international law.
- Carry out full independent investigations into all allegations of sexual violence, and hold perpetrators to account.

## **VIOLENCE AND DISCRIMINATION AGAINST WOMEN (ARTICLES 2, 3, 7, 19 AND 26 - ISSUE 11 IN THE LIST OF ISSUES)**

### **The public order regime**

Flogging, stoning, amputation and cross-amputation are forms of punishment that inherently constitute torture and are prescribed under some provisions of the 1991 Criminal Code.

One example of these laws is Article 152 of the Criminal Act of 1991, which provides for flogging for “indecent or immoral dress” and “indecent behaviour”.

Article 152 of Sudan's Criminal Code is part of a broader set of laws and practices, known as the Public Order Regime, which provides for the imposition of corporal punishment for what is seen as “immoral” behaviour in public, or sometimes in private. While it applies to both men and women, the Public Order Regime has largely affected women in Sudan, regardless of their religious beliefs or traditions.

Those sentenced to flogging are overwhelmingly all women. The public order laws do not specify what is covered by “immoral” or “indecent” dress, so the police, prosecution and courts have broad discretion to judge whether a person has acted in “an indecent manner, or “a manner contrary to public morality”, or “wears an indecent, or immoral dress, which causes annoyance to public feelings.” In addition to its vagueness, the law is discriminatory in its application and imposes unreasonable restrictions on the human rights of freedom of peaceful assembly and expression. The Public Order Regime includes the establishment of a Public Order Police (POP) and public order courts which can impose corporal punishment of up to 40 lashes, in violation of Article 7.

This situation persists despite the State’s claim that it has started the process of reforming the Criminal Act 1991.<sup>22</sup> The flogging of women in Sudan for “indecent or immoral dress” under Article 152 of the 1991 Criminal Act came into the spotlight in 2009 through the case of journalist Lubna Hussein, who was arrested and charged for wearing trousers in public.<sup>23</sup>

In most documented cases of flogging over the last years, the sentence was not carried out and the charges were dropped. However, it is believed that the punishment is more widely implemented in marginalised areas of Sudan.

More recently, Amira Osman Hamed, aged 35, was arrested on 27 August 2013 and charged with ‘indecent or immoral dress’ by the POP for refusing to cover her hair with her headscarf. Amira, a civil engineer, was working in Jabal Awliya, in the outskirts of Khartoum, when 10 policemen approached her and threatened to take her to the police station because she refused to wear her headscarf. She was then taken to the prosecutor’s office who charged her with “indecent dress” under Article 152 of Sudan's 1991 Criminal Code.<sup>24</sup> She was released on bail after being held for four hours at the police station. The charges against Amira Osman Hamed have not been dropped and her trial is pending.

Najlaa Mohammed Ali, a lawyer and human rights activist, and Amin Senada, also an activist, were arrested in Port Sudan on 21 October 2013 after members of Sudan’s police and security forces raided their car.<sup>25</sup> They accused Amin Senada of having his hand on Najlaa Mohammed Ali’s shoulder and ordered both to go with

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<sup>22</sup> Replies of the Sudan to the list of Issues, 23 April 2014, CCPR/C/SDN/Q/4/Add.1, para. 9 and 11.

<sup>23</sup> Amnesty International, Sudanese authorities must abolish the punishment of flogging and repeal discriminatory laws, 29 August 2009. Available at: <http://www.amnesty.org/en/appeals-for-action/sudanese-authorities-must-abolish-punishment-flogging-repeal-discriminatory-laws>

<sup>24</sup> Amnesty International, Sudan: Woman leaves hair uncovered, risks flogging: Amira Osman Hamed, 17 September 2013. Available at: <http://www.amnesty.org/en/library/info/AFR54/020/2013/en>

<sup>25</sup> Amnesty International, Sudan: Two activists at risk of flogging for ‘indecent behaviour’, 12 November 2013. Available at: <http://www.amnesty.org/en/for-media/press-releases/sudan-two-activists-risk-flogging-indecent-behaviour-2013-11-12>

them to the Department of Public Order, threatening the use of force if they refused to comply. At the Department of Public Order, the police and security officers also claimed they had found the two activists kissing in the car. Najlaa Mohammed Ali and Amin Senada were charged with ‘indecent behaviour’ under Article 152 of Sudan’s 1991 Criminal Code, which carries a maximum sentence of 40 lashes. On 4 December in court in Port Sudan, Najlaa Mohammed Ali and Amin Senada learned that the charges against them had been dropped after the judge ruled that there was insufficient evidence against them and testimonies from the police contradicted one another.<sup>26</sup>

On 14 February 2013 government doctors implemented a penalty of cross-amputation on a man who had been convicted for robbery. Although this was the first case documented by human rights groups since 2002, the Deputy Chief Justice Abdul Rahman Sharfi stated that 16 amputations sentenced were carried out in Sudan since 2001.<sup>27</sup>

### **Recommendations for the State**

- Immediately stop charging people under the public order laws and drop all charges under these laws immediately and unconditionally.
- Abolish all penalties of stoning, mutilation, cross-mutilation and flogging.
- Repeal the public order laws, including Article 152 of the Criminal Code of 1991.

## **FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION (ARTICLE 18 – ISSUE 23 ON THE LIST OF ISSUES)**

Although Sudan’s Constitution provides for the right to freedom of creed and worship<sup>28</sup>, the act of apostasy is criminalized under the 1991 Criminal Code, in violation of Article 18 of the Covenant.

Meriam Yehya Ibrahim, a 27-year-old Christian Sudanese woman was sentenced to death by hanging for ‘apostasy’ and to 100 lashes for ‘adultery’ by a court in Khartoum on 15 May.<sup>29</sup>

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<sup>26</sup> Amnesty International, Urgent Action: Charges for Indecent Behaviour dropped, 5 December 2013. Available at: <http://www.amnesty.org/en/library/asset/AFR54/029/2013/en/57ab8bb1-cf48-4158-8380-3be0ebca0385/afr540292013en.pdf>

<sup>27</sup> Amnesty International, Sudan: Judges to be trained to carry out amputations, 12 March 2013. Available at; <http://www.amnesty.org/en/for-media/press-releases/sudan-judges-be-trained-carry-out-amputations-2013-03-12>

<sup>28</sup> Article 38, The Interim National Constitution of the Republic of Sudan 2005

<sup>29</sup> Amnesty International, Sudan: ‘Abhorrent’ death sentence for woman on grounds of her religion, 15



Meriam was arrested and charged with adultery in August 2013 after a family member reportedly claimed that she was committing adultery because of her marriage to her Christian South Sudanese husband. The court added the charge of apostasy in February 2014 when Meriam asserted that she was a Christian and not a Muslim. Meriam Ibrahim remains in prison with her two children at the time of writing.

Treating adultery and apostasy as criminal offences is not consistent with Sudan's obligations under the ICCPR. The criminalization of adultery violates the rights to freedom of expression and association and invariably discriminates against women in its enforcement.

### **Recommendations for the State**

- Immediately and unconditionally release Meriam Yehya Ibrahim.
- Repeal Articles 126 and 146 that criminalize apostasy and adultery respectively, in conformity with Sudan's obligations under Articles 18, 19 and 22 of the ICCPR.

## **FREEDOM OF OPINION, EXPRESSION, PEACEFUL ASSEMBLY AND ASSOCIATION AND RIGHT TO LIFE (ARTICLES 6, 19, 21, 22)**

### **Freedom of expression (Issue 24 in the list of issues)**

In spite of the Government's claim that "[f]reedom of expression is well guaranteed in Sudan and in accordance with the [Covenant]",<sup>30</sup> restrictions on freedom of expression, peaceful assembly, and association which are incompatible with Sudan's obligations under the Covenant have continued in the context of preparations for the national elections which are scheduled for 2015.

The Sudanese government has continued to curtail freedom of the press. There was an upsurge in sweeping restrictions on freedom of expression since the start of 2014, with over 15 newspapers subjected to post-print censorship by having entire print runs confiscated. Other newspapers have been shut down by the NISS, with no

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May 2014. Available at: <http://www.amnesty.org/en/for-media/press-releases/sudan-aborrent-death-sentence-woman-grounds-her-religion-2014-05-15-1>, Amnesty International, Sudan: Woman facing death sentence on grounds of her religion must be released, 14 May 2014. Available at: <http://www.amnesty.org/en/for-media/press-releases/sudan-woman-facing-death-sentence-grounds-her-religion-must-be-released-2014>

<sup>30</sup> Replies of the Sudan to the list of Issues, UN Doc. CCPR/C/SDN/Q/4/Add.1, 23 April 2014, para. 25.

specific reason provided.

### **Freedom of Peaceful Assembly and Association and Right to life – excessive use of force to disperse demonstrations (Issue 25 in the list of issues)**

After South Sudan's secession in 2011, Sudan lost two thirds of its oil revenue and with this, saw its economy deteriorate. With cuts in fuel subsidies, high food prices and an increasingly repressive environment, the years 2012 and 2013 saw a surge in protests, including the protests of September 2013, which were some of the largest in years.

The Sudanese authorities have routinely used unnecessary or excessive force against mostly peaceful protesters over the last two years. Amnesty International has reported on police forces using batons, tear gas and rubber bullets at close range against demonstrators.<sup>31</sup>

On 16 June 2012 a wave of demonstrations began in response to increases in food prices and developed into a wider protest movement seeking broader political change. Demonstrations occurred in the capital, Khartoum, and other cities as well as in provincial towns. From June to August 2012, security forces used batons, tear gas, rubber bullets and live ammunition against largely peaceful demonstrators, causing deaths and injuries.<sup>32</sup> Plain-clothed security officers, deployed in or near hospitals, arrested suspected demonstrators seeking treatment.

The NISS carried out a wave of arrests across civil society in reaction to the demonstrations, arbitrarily detaining hundreds of individuals, including protesters, but also lawyers, NGO staff, doctors, and members of youth organizations and political parties – regardless of their involvement in the protests.<sup>33</sup> Many were detained without charge, or were tried summarily for rioting or disrupting public order and sentenced to fines or lashes. The NISS tortured or otherwise ill-treated many of those detained following the June demonstrations.

NISS agents slapped, punched and kicked prisoners, and beat them with rubber

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<sup>31</sup> See for example: Amnesty International, Sudan: Security forces must stop using live rounds against demonstrators, 2 August 2012. Available at: <http://www.amnesty.org/en/for-media/press-releases/sudan-security-forces-must-stop-using-live-rounds-against-demonstrators-2012>. Amnesty International, Sudan must end violent repression of student protests, 12 December 2012. Available at: <http://www.amnesty.org/en/for-media/press-releases/sudan-must-end-violent-repression-student-protests-2012-12-12>

<sup>32</sup> Amnesty International, Sudan: End crackdown on protesters and journalists, 22 June 2012, <http://www.amnesty.org/en/for-media/press-releases/sudan-end-crackdown-protesters-and-journalists-2012-06-22>

<sup>33</sup> Amnesty International, Sudan: End crackdown on protesters and journalists, 26 June 2012 <http://www.amnesty.org/en/news/sudan-end-crackdown-protesters-and-journalists-2012-06-22>

hoses. Detainees were made to stand outside for hours in scorching heat, and to adopt stress positions. Many were denied food or water and access to basic hygiene facilities.

A similar modus operandi was seen when protests broke out in cities around Sudan on 23 September 2013, shortly after President Omar Hassan Ahmad al-Bashir announced cuts to fuel subsidies. The unnecessary or excessive use of force by security forces, from the moment the demonstrations began, including the use of live ammunition, resulted in the killing of a number of protestors, which, according to local sources and activists, may have been in excess of 170. The majority of these protesters reportedly died as the result of gunshot wounds to the chest and head.<sup>34</sup> They censored and shutdown newspapers, and arrested hundreds of activists, members of political opposition parties, and journalists.<sup>35</sup>

Not all protestors were peaceful as some reportedly set fire to government buildings, including police stations, petrol stations and buses in Omdurman and Wad Madani. However, this does not justify a response that violates the right to life. The UN Basic Principles of the Use of Force state that even in the context of unlawful or violent assemblies, use of force must be necessary and proportionate and intentional lethal force may not be used except where strictly unavoidable in order to protect life.<sup>36</sup> In the incidences mentioned above, the necessity and proportionality of the State response to these protests can legitimately be called into question.

The Sudanese government also has a duty under Article 6 of the Covenant to investigate all instances of the lethal use of force by State officials. The Sudanese government promised to investigate the circumstances around the unlawful killings, arbitrary detention, torture and other human rights violations involved in the government response to the September 2013 protests. In its response to the List of Issues, the government has claimed that only 60 people were killed by other protestors belonging to armed opposition groups.<sup>37</sup> However, there has been no public reporting on any progress in conducting prompt, thorough, independent and

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<sup>34</sup> Amnesty International, Sudan: Security forces fatally shoot dozens of protesters as demonstrations grow, 26 September 2013. Available at: <http://www.amnesty.org/en/for-media/press-releases/sudan-security-forces-fatally-shoot-dozens-protesters-demonstrations-grow-2>. Also see : ACJPS, Over 170 dead, including 15 children, and 800 detained as demonstrations spread throughout Sudan, 4 October 2013. Available at: <http://www.acjps.org/?p=1663>

<sup>35</sup> Amnesty International, Sudan escalates mass arrests of activists amid protest crackdown, 2 October 2013. Available at: <http://www.amnesty.org/en/news/sudan-escalates-mass-arrests-activists-amid-protest-crackdown-2013-10-02>

<sup>36</sup> UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

<sup>37</sup> Replies of the Sudan to the list of Issues, 23 April 2014, CCPR/C/SDN/Q/4/Add.1, para.26

impartial investigations into the killings and other human rights violations that took place in the context of the demonstrations.

### **Recommendations for the State**

- Take all measures to guarantee that security forces refrain from the unnecessary and excessive use of force during demonstrations, and that they respect the rights of freedom of expression, association and peaceful assembly, including issuing public orders to that effect to security services.
- Ensure that all allegations of human rights violations by security services 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;
- Complete and report publically on the results of investigations into the killings and other human rights violations that occurred during the protests of September and October 2013.
- Immediately end the harassment and arbitrary detentions of human rights activists and members of the opposition solely for peaceful exercise of their rights to freedom of expression and assembly.
- Ratify the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol and implement them in law, policy and practice.



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