



## SUDAN HUMAN RIGHTS MONITOR JUNE – JULY 2011

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### Transitioning through the Divide: Challenges for Constitution-making and State-building

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On 9 July, Sudan’s Southern region officially seceded from the rest of the nation, becoming the Republic of South Sudan (RoSS). The secession follows the overwhelming January 2011 vote in favor of separation in the referendum for self-determination prescribed by the 2005 Comprehensive Peace Agreement (CPA).<sup>1</sup>

The birth of the new state evoked euphoria among Southern Sudanese at home and abroad. However with the secession comes a multitude of new challenges to the governments of Sudan and South Sudan as they struggle for redefinition and coexistence. The governing structures of both states are in flux as they transition to new entities. The South must create new structures appropriate for a newly independent country while the North must re-define the foundation of the state on its most basic levels in an environment characterised by severe repression. These

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<sup>1</sup> The CPA ushered in a five-year interim period designed to facilitate a process of legal reform and democratic transformation in Sudan to “make unity attractive”, as well as empowering the South with greater autonomy, both in the South regionally and through quotas in the National Assembly. Concomitant to the CPA was the passage of the Interim National Constitution (INC), which, among other purposes, was meant to initiate a process of legal reform in Sudan in order to bring existing domestic law in line with the country’s international commitments.

dramatic changes are taking place in the context of a marked shift in international monitoring and presence with the drawdown of the United Nations Mission in Sudan (UNMIS) and the creation of the new UN missions in the South and in Abyei.

The human rights crisis in Sudan is intricately related to the country's history of armed conflict and longstanding political repression in its peripheries. For much of its post-independence history, Sudan has been plagued by civil war, which has been fuelled by complex struggles over ethnicity, economic and political marginalization, and political and ideological struggles over the nature of the state and the basis of law. Although Southerners have realized their goal of self-determination, many of the root causes of Sudan's multiple conflicts remain unchanged.

There are troubling signs that the ruling northern National Congress Party (NCP) intends to pursue actions that will lead to further international isolation of Sudan and that the gains of the interim period will be lost during the processes of constitutional revision and amendment of existing legislation.<sup>2</sup>

#### *Constitutional Revision and Legal Reform in the Post-Referendum Period*

The Interim National Constitution (INC) ushered in by the 2005 CPA will remain in place as the governing document of Sudan until a new constitution is created. Constitutions have been referred to as "mirrors of the national soul." In Sudan, this mirror will reflect a country which is not only geographically distinct from the nation that negotiated the INC, but will represent a different economic structure, an altered ethnic, religious, and political composition, and a greatly reduced international presence.

The context in which the constitution will be revised is a cause for concern, due to ongoing conflicts in Darfur and South Kordofan<sup>3</sup> and renewed political repression throughout the country.<sup>4</sup> Although the creation of a new constitution brings with it a number of opportunities for improvements in democracy and respect for rights, there is also a serious danger that it may result in increased repression and human rights violations, as the NCP moves to consolidate its hold over what is left of the country. There are several credible allegations that an internal rift

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<sup>2</sup> Though one of the aims of the CPA was to provide a platform for democratic transition in Sudan, the process of law reform was marred by political maneuvering in the National Assembly between the NCP and SPLM, and alternating periods of opening and closing space for civil society and opposition in the North.

<sup>3</sup> Several of Sudan's conflicts have been accompanied by allegations of serious violations of international human rights and humanitarian law. Conflict in Sudan has been characterised by endemic levels of devastation with scorched villages, killings of civilians, ethnic cleansing, and acts of genocide in the government-led campaigns in South Sudan and Darfur, and most recently, South Kordofan.

<sup>4</sup> Newspapers have been subjected to pre-publication censorship and forced to close, and journalists who report on controversial issues have faced criminal charges. Civil society and opposition events are continuously interrupted and demonstrators and human rights defenders subjected to harassment, arrest, torture (including sexual violence) and extrajudicial killings. These abuses are compounded by continued attacks on civil society that have historically played an important role in the protection and promotion of human rights through monitoring and documentation of abuses, civic education, legal aid, and advocacy.

within the NCP has deepened<sup>5</sup> due to the humiliating loss of the South, a decision that has brought moderates under pressure from the NCP's Islamist hardliners. The secession of the South brings economic trauma with the loss of significant oil revenues, and rising prices in the North are increasing popular discontent. The Arab Spring and revolutions in the neighboring countries of Egypt and Libya have made the government increasingly fearful of potential popular uprising<sup>6</sup> making further repression more likely.

On 19 December 2010 in El Gedarif, eastern Sudan, President Omar al-Bashir stated that when the INC expired, the country would return to *sharia* law and that there would be little room to speak of culture and ethnicity.<sup>7</sup> The NCP's announced intentions to use *sharia* as the main source of domestic law and to restrict ethnic and cultural diversity are troubling for a number of reasons. Firstly, ethnic and cultural diversity is a reality of life in Sudan, not a political construct. The refusal of the central government to acknowledge and respect diversity is one of the root causes of conflict in Sudan and efforts to restrict diversity are likely to lead to further instability. Additionally, there are a wide variety of views on the appropriate relationship between religion and the state within Islam. Controversial issues such as the relationship between the two and devolution and separation of powers, if handled improperly, have the potential to further marginalise communities in Sudan and contribute to increased instability.

Other signs also indicate that the country is moving towards a more repressive system of governance based upon the NCP's particular interpretation of Islamic law.<sup>8</sup> With Southern secession, the NCP has lost their political counterweight in the National Assembly<sup>9</sup>, putting it in a stronger position to introduce more stringent legislation with minimal space for dialogue with opposition and civil society. The NCP Justice Minister Mohamed Bushara has already submitted a draft constitution for review by the Council of Ministers without consulting with the opposition or civil society. Many of the elements of the 1991 Sudanese Criminal Code, which was drafted to reflect the Islamist interpretation of law held by the National Islamic Front, the predecessor to the NCP, are still in place. Despite efforts by members of the opposition and civil society to promote reform during the interim period, revisions to existing laws were mainly cosmetic, and in some cases, contradicted provisions of the INC.<sup>10</sup>

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<sup>5</sup> Despite increased popular dissent and growing anti-government feelings, the government may actually be increasing its hold: the NCP's largest and most organised political opposition party, the Sudan Peoples' Liberation Movement, is losing its largest base of support with the secession of the South, increasing the NCP's already dominant position. Despite an initial framework agreement reached on 28 June to bring a cessation to the conflict in South Kordofan and recognising the party's right to exist, the SPLM's Northern counterpart, the SPLM-NS, was forced to close its offices in the North and several of its members arrested in early August. The agreement quickly fell apart, with some suggesting that it was due to the Islamist rift within the NCP.

<sup>6</sup> See the African Centre for Justice and Peace Studies, "Stemming the Tide: Arrests of Students and Youth Continue in Efforts to Curb Potential Organising Power", May 2011.

<sup>7</sup> Though the vast majority of the population in the North is Muslim and Arabic is a unifying language, a number of other regional and ethnic languages are still widely used.

<sup>8</sup> IWPR, "Rights Disregarded Under Sudan's Weak Constitution", 8 July 2011

<sup>9</sup> Throughout the interim period, the NCP was still able to push through legislation in the National Assembly through their majority over the SPLM, even when acts were in clear contradiction with the INC

<sup>10</sup> For more information, see the African Centre for Justice and Peace Studies, "Law Reform in Sudan", in the *Sudan Human Rights Monitor*, August – September 2009

The National Assembly has also proposed further revisions to Sudan's Press and Publications Law, as well as the Police Act, both of which were revised during the interim period and are already highly restrictive laws. Several journalists have indicated that a revised Press and Publications law will likely be much more repressive than the current law, given the current harsh environment for the media in Sudan and the closure of six newspapers since Southern secession.

Regarding constitutional transition in the South, the government of South Sudan successfully adopted its transitional constitution ahead of independence. However the legal system is still developing and there are tensions between the government's professed adherence to democratic standards and its tendencies toward restricting the expression of political views that are in opposition to the mainstream SPLM positions.<sup>11</sup> Throughout the interim period the SPLM was accused of intimidating smaller opposition parties and rampant corruption.<sup>12</sup> The negotiations over the transitional constitution in the spring of 2011 engendered further resentment from members of opposition groups, civil society, and even members of the SPLM caucus in the Legislative Assembly, as a core group of the SPLM seemed determined to push through the initial draft of the document with little substantive debate.

Among its many pending tasks, the government of the Republic of South Sudan will embark on a process of developing a permanent constitution as well as an electoral system and laws dealing with the regulation of the media and political parties. The manner in which it goes about devising these new documents and systems will be indicative of its leanings when it comes to issues of democracy and human rights.

In order to create documents that reflect popular will and therefore contribute to the stability of the two states, the constitutional negotiation and reform processes must be inclusive in their procedural and substantive elements and carefully monitored by civil society and the international community.

### *Adopting Inclusive Notions of Citizenship and Belonging*

The process of negotiating citizenship within and between Sudan and the Republic of South Sudan has been highly contentious, both as an issue that relates to other contentious issues that have yet to be negotiated between the NCP and SPLM,<sup>13</sup> and for forming the basis of the polity

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<sup>11</sup> Redress, "Sudan Criminal Law Reform Update", Lutz Oette, June – July 2011. A number of developments in the South in recent months have a worrying familiarity with patterns characteristic of an authoritarian state, and many post-liberation governments have a propensity to govern as such. There are little distinctions between the SPLA and SPLM. There has also been lack of proper consultation over constitutional arrangements, broad executive powers, restrictions of freedom of expression, excessive use of force, and the absence of accountability for abuses, highlighting actual and potential problems in the exercise of power in a fragile political environment.

<sup>12</sup> Efforts at reform and ameliorating areas where they stand accused of corruption and abuse are allegedly ongoing by the SPLM. Of the process of state-building in the newly independent South, the SPLM's Minister of Information Barnaba Marial Benjamin stated that "when you have a five year old baby, there may be breakages that are not intended. But you don't throw the child out, because you know they can grow into a responsible person".

<sup>13</sup> The issue of citizenship is intertwined with the issues of border demarcation, wealth sharing/oil, and Abyei among others.

in the truncated Sudanese state. In emerging states re-defining who constitutes members of the political community, reliance on the principles of non-discrimination on ethnic, racial, and religious grounds forms the basis of a stable state, while exclusion and discrimination often sow seeds of political unrest, economic collapse, and war.<sup>14</sup> Substantive discussions on issues such as minority rights and protections for non-Muslims have yet to take place in Sudan. Bashir's comments in December and more recent indications from senior NCP members suggest that the NCP intends to formulate citizenship rights on exclusionary criteria. These signs point to an interpretation of citizenship based on homogeneity and religious concordance, ignoring the realities of roughly one million Southerners in Sudan,<sup>15</sup> as well as pastoralists and nomadic groups whose ancestral lands straddle the partially un-demarcated border. For many of these groups, their livelihoods are dependent on "soft" borders where they can easily access the North and South. Forcing these groups to choose between attaining Sudanese or Southern Sudanese citizenship could polarise identity issues in the volatile border regions, as well as exacerbate conflict over access to land.

On 21 July, the NCP adopted amendments to the 1994 Sudan Nationality Act (SNA) that are likely to strip citizenship from Southern Sudanese residing in Sudan. This legislation provides that: "An individual will automatically lose his Sudanese nationality if he is deemed to have acquired South Sudanese nationality or acquired it in accordance with the law."<sup>16</sup> Although at the time of writing these amendments had not yet been signed into law by the presidency, it is understood that once the Bill is signed, residents of Sudan who qualify for Southern Sudanese citizenship would be automatically stripped of their Sudanese citizenship and given only a nine month interim period to regularise their stay in Sudan.

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<sup>14</sup> Open Society Foundations, "International Law and the Right to a Nationality in Sudan", Bronwen Manby, 2011.

<sup>15</sup> See the African Centre for Justice and Peace Studies, "Southerners in the North: Caught on the 'Wrong' Side of the Border", in the *Sudan Human Rights Monitor*, October – November 2010. Many of the identity conflicts that were present in the civil war have become further polarised and hindered cooperation between the North and South, having tremendous impacts on the lives of Sudanese on the opposite side of the border, particularly for Southerners living in the North. Northerners in the South are traders and business owners for the most part and traditionally have not been vulnerable. During the war, approximately four million Southerners fled to the North and neighbouring countries, and roughly 200,000 were kidnapped by proxy militias and sold as slaves in the North. Southerners displaced in the North have been living on the fringes – those in official government recognised IDP camps in Khartoum have difficulty accessing services, which were being relegated by the governmental humanitarian body to national and international humanitarian NGOs. Those who settled in unofficial slums have been unable to obtain permission to own land and find their livelihoods, including brewing of alcohol, frequently subject to attack from the regime and Public Order police. As a result of these factors and more generalised discrimination, they have largely remained destitute. With the signing of the CPA, many displaced Southerners returned, either under an official repatriation programme sponsored by the international community or on their own initiative. Many Southerners in the North have lived their whole lives there, or have been gone for such a long time as to have their entire livelihoods and families in the North. While they identify as Southerners, there are little to no job and educational opportunities, infrastructure, or access to basic medical care in the South. For some, staying in the North is the best option available.

<sup>16</sup> UN High Commissioner for Refugees, "Citizenship Issues in Post Secession Sudan," August 2011.

For its part, the government of South Sudan has included a provision in its constitution allowing all non Southern Sudanese to apply for citizenship and has extended citizenship to Southerners returning from the North.<sup>17</sup>

The NCP's decision to strip Southerners of Sudanese citizenship rights seems to be retributive in nature. The NCP has cited the high percentage of the Southern vote for secession as grounds for denying citizenship – despite the low turnout for the referendum in the North. Attacks on Southerners are also a convenient way to divert criticism for a government that feels under pressure, with NCP spokesperson Ibrahim Gandour commenting that extending citizenship to Southerners would assist the Southern goal of monopolising natural resources for a population as low as two million in the South, while leaving up to seven million Southern<sup>18</sup> citizens in Sudan. The NCP may also be keeping citizenship rights as a potential bargaining chip in further discussions on post- independence arrangements. The former CPA partners have indicated that the issue of citizenship would be further elucidated in the post-referendum negotiations.<sup>19</sup>

While citizenship will form the basis of belonging and participation in the two states and is a crucial issue for both states in forging their new identities, there has also been a lack of progress in post-referendum negotiations on other critical issues including border demarcation in sensitive areas, and the potential sharing of oil revenues, amongst others. Conflict in the volatile “three areas” undermines the “mutually beneficial” relationship agreed to by the parties in Addis Ababa in November 2010 and threatens to derail upcoming negotiations. The process of renegotiating each country's constitution - and the conclusion of outstanding post-referendum arrangements - will form the basis on which the post-CPA relationship is constructed in the critical post-secession period.

## Political Developments

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### *The Crisis in South Kordofan*

Conflict broke out between the Sudanese Armed Forces (SAF) and the Sudan Peoples' Liberation Movement-North (SPLM-N) in the contested state of South Kordofan in early June following the disputed May elections for the governor and state assembly. The conflict has been characterized by SAF aerial assaults of Nuba-populated areas, looting and pillaging by NCP affiliated militias, arbitrary arrests of civilians based on suspected affiliation with the SPLM-N or the Nuba community, and massive displacement, some of which was documented by the African Centre in the report “[On the Brink Again: Conflict and Ethnic Cleansing in South Kordofan](#)”. Despite the

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<sup>17</sup> Pambazuka News, “South Sudan: Nation in the Post-CPA Era – Prospects and Challenges”, Christopher Zambakari, 28 July 2011.

<sup>18</sup> Though the exact numbers of Southern citizens in the North are unknown, seven million seems to be an inflated number. During the census process the NCP was accused of undercounting Southerners (presumably to prevent them from being included in voter registration for national elections), and several thousand returned to the South in advance of the referendum.

<sup>19</sup> *Ibid*

immense need for humanitarian assistance, access has been restricted by both parties, making it difficult for humanitarian actors to provide services and materials to those in need.

The two parties signed a framework agreement addressing political and security issues in Blue Nile and Southern Kordofan on 28 June 2011 under the auspices of the AU High Level Implementation Panel. This agreement was meant to supplement an eventual agreement on a cessation of hostilities in Southern Kordofan, but the cessation of hostilities has yet to come and aerial assaults and targeting of civilians by the SAF and other NCP affiliated militias continued after the signing of the agreement. An August 2011 report on abuses committed in Southern Kordofan by the Office of the UN High Commissioner for Human Rights found that violations allegedly committed by the SAF, the Popular Defense Forces, and the police may constitute war crimes and crimes against humanity. The report called for an independent inquiry into the alleged abuses to assign responsibility for the crimes committed. No action has been taken to conduct this inquiry.

#### *Uncertainty in Abyei and the Installation of the UN Interim Security Force for Abyei (UNISFA)*

In late May, the SAF invaded Abyei town in the contested region of Abyei and dissolved the Abyei Area Administration. The invasion followed an alleged SPLM attack on a UN convoy escorting SAF members of the Joint Integrated Units (JIUs) out of Abyei area, a provision of the March Kadugli agreement aimed at stabilising the region. At the time of South Sudan's independence, the SAF continued to occupy the contested region of Abyei.

On 20 June the NCP and SPLM signed a Framework Agreement in Addis Ababa that outlined steps to demilitarize Abyei, the creation of a joint administration, and a new police force. The agreement authorized the deployment of a new Interim Security Force for Abyei, comprised of Ethiopian peacekeepers under the auspices of the UN. On 27 June, the UN Security Council established the UN Interim Security Force for Abyei (UNISFA). The peacekeeping force, authorized for a period of six months, is composed of 4,200 military personnel, 50 police and civilian support and operates under a Chapter VII mandate to protect UN personnel and civilians and ensure security in Abyei Area.<sup>20</sup> Although the framework agreement included the provision that security forces from Sudan and the Republic of South Sudan must withdraw to outside Abyei Area, the spokesperson for the SAF announced on 30 July that the SAF would only withdraw completely from Abyei and allow the Abyei Administration to be re-established once UNISFA was fully deployed.<sup>21</sup> This policy of the government of Sudan, if accurately reflected by the statement, is extremely problematic. It is well known that UN Missions generally take several months to fully deploy and the existence of SAF in Abyei is a potential conflict trigger and an understandable irritant to the South.

Only three days after secession, President Bashir warned the South not to take unilateral action on Abyei, citing the May attack as an action of self-defense and declaring that the SAF wouldn't "hesitate to take up arms against the South" should they make any moves to claim Abyei.<sup>22</sup> He

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<sup>20</sup> UN Security Council, "Security Council Resolution 1990", 27 June 2011

<sup>21</sup> Global Media Services, "SAF Ready for Abyei Withdrawal after Complete Arrival of Ethiopian Troops", 30 July 2011

<sup>22</sup> Sudan Tribune, "Al-Bashir says Abyei dispute could lead to war with South Sudan", 12 July 2011.

also affirmed that Abyei remains an “integral part” of North Sudan despite the Framework Agreement.

Peacekeepers began to arrive in Abyei in mid July however in early August, four members of UNISFA were killed and seven injured when their vehicle hit a landmine outside Abyei.<sup>23</sup>

In a late August meeting with leaders of the Dinka Ngok and former members of the Abyei Area administration, UNISFA head Tadesse Werede Tesfay called for the immediate withdrawal of the SAF as “key to resolving the log jam”. The Dinka Ngok demanded a timeline for the return of IDPs and government compensation for property lost during the fighting in May that forced them out of Abyei.<sup>24</sup>

#### *National Assembly Receives Draft Revisions to Popular Consultations Bill*

On 20 July, the National Assembly passed a new bill on the popular consultations in Blue Nile and South Kordofan. The law extended the time period for popular consultations by six months to January 2012.<sup>25</sup> It further empowered the presidency to extend the time period further at the request of a Popular Consultation Commission to be established in the future.

The Governor of Blue Nile State and chairperson of the SPLM-N Malik Agar rejected the law, stating that he had not been consulted on the content and that Blue Nile’s citizens should “resist the unjust and oppressive law which was passed by a single party that represents no one but itself”.<sup>26</sup> Shortly thereafter, the SPLM members of the Blue Nile Popular Consultation Commission dropped out of the Commission due to differences between the parties over the modalities of extending the popular consultation process, security arrangements, and mediation between the state’s legislative assembly and the Government of Sudan should consultations reflect the need for changes to the CPA.<sup>27</sup>

#### *Signature of Doha Peace Document for Darfur*

On 14 July, a peace agreement was signed in Doha, Qatar, between the government and rebel Liberation and Justice Movement (LJM), led by Dr. El Tigani Sissi. The July agreement followed the framework agreement reached during the All Darfur Stakeholders’ conference in May.<sup>28</sup> Though the progress made at the conference is promising, it is important to note that there has been significant controversy with regard to the representativeness and legitimacy of the participants.

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<sup>23</sup> The UN reported that the Sudanese government delayed air clearance for the wounded peacekeepers to be evacuated by air - the Sudanese government denied this, stating that permission for the aircraft was granted promptly, and that the land mine had been planted by the SPLM.

<sup>24</sup> Radio Miraya, “UNISFA Urges SAF Withdrawal from Abyei”, 29 August 2011.

<sup>25</sup> Sudan Tribune, “Sudan Parliament to Deliberate on Popular Consultation Law”, 19 July 2011.

<sup>26</sup> Sudan Tribune, “Sudan’s Blue Nile State Governor Calls for Resistance against Proposed Law”, 18 July 2011.

<sup>27</sup> The Carter Center, “The Carter Center Calls for a Peaceful Resolution of the Stalemate in the Blue Nile Popular Consultation”, 7 September 2011.

<sup>28</sup> UN OHCHR, “Statement of the Independent Expert on the Situation of Human Rights in the Sudan”, 10 June 2011

For its part, the Sudan Liberation Movement/Abdul Wahid (SLM/AW) has continued to refuse to engage in negotiations with the government, and the Justice and Equality Movement (JEM) has demanded that the peace agreement be renegotiated through renewed talks in Doha, as the current agreement is “giving Khartoum the green light to continue operations in Darfur...we will not be part of any agreement that does not diagnose the root causes of the Sudanese problem”.

Other rebel movements and members of Darfuri civil society have criticised the pact, comparing it to the now dissolved 2006 Darfur Peace Agreement (DPA) signed in Abuja with the SLM/Mini Minawi (SLA/MM), which has been widely condemned for its lack of comprehensiveness (it too included only one rebel faction) and for pitting rebel factions against each other.

President Bashir stated that the Doha Peace Document was final and non-negotiable. He warned non-signatories and those not in Doha that the government is prepared to continue fighting against them.<sup>29</sup> The hold out rebel movements were given a three-month period to review the agreement before signing. Qatari mediator Ahmed bin Abdullah Al Mahmoud stated that the three months was “more than enough”, and that if stalling continued, Qatar would be unable to continue its efforts to solve the conflict.<sup>30</sup>

*UNMIS Withdrawal, the Creation of UN Mission in the Republic of South Sudan (UNMISS), and Mandate Renewal for the African Union/UN Hybrid Mission in Darfur (UNAMID)*

On 9 July, the mandate of UNMIS officially expired alongside the CPA following months of deliberation over the future presence of the UN in Sudan. The government of Sudan firmly refused to allow a successor to UNMIS in Sudan despite heavy international pressure to do so. Senior NCP official Rabie Abdul Ati argued against a continued UN presence stating that “the Sudanese Armed and Security Forces are capable of realizing peace and security in the north of Sudan”.<sup>31</sup> The withdrawal of UNMIS was scheduled for completion by 31 August 2011. A 11 July UN Security Council Resolution underscored the need for a smooth transition to the UNISFA, and the successor to UNMIS in the South, UNMISS.

On 8 July, UNMISS was established by UN Security Council Resolution 1996 to assist the Government of South Sudan in consolidating peace and establishing conditions for development. The mission was mandated under Chapter VII of the UN Charter for a period of one year.

The Security Council renewed the mandate of UNAMID for a period of one year on 29 July with the adoption of Security Council Resolution 2003. The Council noted that the environment in

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<sup>29</sup> Sudan Tribune, “Sudan’s President says Darfur Peace Document is not negotiable”, 25 June 2011. Bashir also revealed that the government strategy for Darfur includes a military aspect aiming to fight rebel groups refusing to negotiate with the government and gangs engaged in looting and banditry. Bashir vowed that Khartoum would control the pro-government militias, as well as launch an internal dialogue amongst Darfuris and the LJM in July. The AU Panel has also begun a similar internal consultation process.

<sup>30</sup> Sudan Tribune, “Darfur Mediators defend Doha deal and urge rebel groups to join peace”, 17 July 2011

<sup>31</sup> Sudan Vision, “Sudan Rejects International Pressure to Extend UNMIS Mandate”, 6 July 2011

Darfur remains counter-productive to the potential success of a Darfur-based political process, citing ongoing restriction on civil and political liberties and the ongoing state of emergency.<sup>32</sup>

## Monitoring Report

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### Freedom of Expression and Association

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- On 2 June, the Editor of the Juba-based *The Citizen* newspaper, Nhial Bol, was arrested by police and told to stop his activities if he wanted to live to see 9 July. He was taken to police custody, where a police officer told him that “he was against the government and his writing has spoiled us”. Bol had recently written an editorial stating that the draft constitution of South Sudan was undemocratic.<sup>33</sup>
- On 4 June, the National Intelligence and Security Services (NISS) prevented the Al Shroug Cultural Forum in El Gedarif in eastern Sudan from taking place. The forum was focused on identifying problems facing the region.
- On 8 June, Adil Karrar,<sup>34</sup> the last of the 30 January detainees, was released. He had spent four months in solitary confinement.
- On 19 June, NISS in Khartoum arrested 16 activists demonstrating outside UN headquarters for greater civilian protection in South Kordofan. They were taken into NISS custody and released shortly thereafter. Among the arrested are:
  - Mohamed Aurwa Abdlah
  - Muhid Sidig
  - Sebuhi Mustafa
  - Walid Yusef
  - Talal Abdrhman
  - Amjad Farid
  - Nazik Ahmed
  - Najlaa Sid Ahmed
  - Amel Hbani
  - Nab Madani
  - Asma Haroun
  - Rashida Shmes
  - Al Moiz Abdulwhah
- On 8 July at 9 PM, the NISS arrested 24 participants in the Communist Party Conference held in Port Sudan. They were released at 12 AM after their photos were taken and conference documents confiscated.
- On 8 July, the National Media Council adopted a resolution to close six newspapers operating in North Sudan. A spokesperson for the National Media Council stated that the government would no longer consider these newspapers as registered under Article 28 of the Press and Publications Law of 2004, since they were no longer in the jurisdiction of the Republic of Sudan. The newspapers closed are:

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<sup>32</sup> Security Council Report, “Sudan, South Sudan, and Darfur”, September 2011

<sup>33</sup> Sudan Tribune, “A senior journalist says his life threatened by South Sudan’s security organs”, 12 June 2011

<sup>34</sup> For more information, see the African Centre for Justice and Peace Studies, “National Security in Khartoum Interrogates Children of Detained Activist”, 6 May 2011

- The Khartoum Monitor (English)
- Sudan Tribune (English)
- The Advocate (English)
- The Juba Post (English)
- *Ajras Alhurria* (Arabic)
- On 12 July, the NISS announced that it had released “all detainees”. The Sudanese Media Centre declared that 66 political detainees, including 11 foreigners, were released from NISS custody. Those released mainly stand accused of colluding with rebel groups. While the release of detainees was promising, several other detainees whose cases were being monitored remained in detention, and others were subjected to re-arrest by the NISS. One source reported that there were at least 13 prisoners from Southern Kordofan, 11 in Darfur, and 17 from Abu Shouk IDP camp present in NISS custody in Khartoum at the time of the release.
- On 12 July, the NISS charged Idris Yousef Abdelrahman, a civil affairs officer with the joint UN/AU Mission in Darfur (UNAMID) with “undermining the constitutional system” and “waging war against the state” under articles 50 and 51 of the 1991 Criminal Code. Mr. Abdelrahman was originally arrested on 27 April, and appears to have been targeted on the basis of his tenure with UNAMID.

## Arbitrary Arrest and Torture

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### *The Case of Hawa Abdallah Mohamed*

On 6 May 2011, 40 land cruisers filled with NISS personnel surrounded the home of Ms. Hawa Abdallah Mohamed, firing into the air and calling Ms. Abdallah’s name. Ms. Abdallah is a member of the Fur ethnic group living in Abu Shouk IDP in El Fashir, North Darfur, and works as a translator for UNAMID.

NISS agents entered her home and began searching for her, while agents outside continued to fire into the air. Ms. Abdallah, who resides with her family, was arrested alongside the rest of her family, which included minors. Her uncle, Ahmed Mohammed, was arrested and kept in jail for three days.

Ms. Abdallah was forced to enter a NISS vehicle, where she was beaten on her head and feet. She was accused of conspiring to overthrow the government and supporting the International Criminal Court (ICC). The car continued to NISS offices in Hai Almsani in Al Fashir. When she inquired as to her offence, officers instructed her to wait. Ms. Abdallah was subjected to verbal abuse by members of the NISS (including by high ranking security officers), who called Ms. Abdallah “Hawa Jango” (a racial slur), and a “dangerous woman”.

Ms. Abdallah was interrogated as to her relationship with the Sudan Liberation Army/Abdul Wahid (SLA/AW), and accused of transmitting funds for them. She was also accused of taking photos of the NISS and sending them to the ICC. NISS agents threatened to execute Ms. Abdallah; at one point, an officer ordered a subordinate to execute Ms. Abdallah outside. After they took her outside, they put an empty gun to her head and shot her in a faux execution. Ms.

Abdallah began choking on the smoke from the gun, and briefly couldn't breathe. An officer told her "this is the first step and we will now proceed to the second step, the worst." The NISS then ripped Ms. Abdallah's *hijab* (headscarf) from her head and burnt it in front of her. A group of officers then told her to place her UN badge around her neck and told an officer to retrieve a Bible. They then took a photo of her with the Bible and proceeded to beat her, accusing her of "wanting to bring Israel into Sudan."

During the period of 6 – 8 May, she was tortured and interrogated as to whether she received funds from foreign embassies and outside the country, or if she was printing counterfeit money to damage the national economy and destabilise the NCP. She was also accused of smuggling arms and funds to Darfuri rebel groups. She was accused of converting Darfuri children in IDP camps to Christianity.

On 8 May, NISS took Ms. Abdallah to the bank, where they forced her to give them a copy of her bank statement to ascertain whether she was receiving money from outside Sudan. They found only .22 cents in her bank account. The NISS then forced Ms. Abdallah to sign the bank statement as evidence, and took her to the airport to be transferred to Khartoum. Ms. Abdallah reported being verbally abused and aggressively strip searched by two NISS officers while in transit.

After Ms. Abdallah arrived at Khartoum airport, a NISS vehicle with tinted windows blindfolded Ms. Abdallah and transported her to a NISS facility an hour away. There, she was placed in a cell 1.5 x 1.5 metres for ten days. She was not allowed to have any contact with visitors and allowed only limited trips to the bathroom. After ten days, the NISS took her to another office in Khartoum, where she was told by an officer that "a person like her should not be alive".

Ms. Abdallah was again subjected to the same accusations made against her in El Fashir. When she denied them, she was beaten with metal poles on her head and feet and subjected to electroshock. One day she was brought to a dark room, where she reported seeing blood on the floor and smelling a terrible odor. She was then told that she had 24 hours to confess or told she would be brought to the room for "severe punishment". Ms. Abdallah was interrogated on six different occasions. After 20 days of detention, Ms. Abdallah became ill. She was denied access to a doctor and instead provided a limited amount of antibiotics.

Ms. Abdallah was later told that her family had come to visit her, and was placed in a car blindfolded. When the blindfold was taken off, she found herself at the UN headquarters in Khartoum. She met with Mr. Ibrahim Gambari, the head of the UN/AU joint peacekeeping mission in Sudan, and Ambassador Susan Rice, the US Permanent Representative to the UN. Ms. Rice spoke with Ms. Abdallah for five minutes, after which she was brought back to NISS detention where she was interrogated again on the names of community leaders that regularly meet with NGOs in Abu Shouk. Ms. Abdallah was suddenly blindfolded and transported to an unknown location, where her fingerprints were stamped and she was pushed out of the car. Ms. Abdallah's release was on 12 July, when the NISS released 66 political detainees.

Other incidents

- In late June, the Darfur Student Association of Port Sudan University made an official complaint accusing the NISS of targeting Darfuris, often subjecting Darfuri students to arbitrary searches and prohibiting them from conducting social, cultural, and political activities in the University. In June, the following students were arrested:
  - Hussein Mohamed Bashir (member of the United Popular Front (UPF), which supports the SLM/AW), in front of the University;
  - Mahadi Mohamed Ibrahim, SPLM member, near a restaurant on 27 June;
  - Anoar Adam Hussein (UPF), on a public bus from Khartoum to Kalananib checkpoint near Port Sudan on 25 June;
  - Hafiz Marba (UPF), on 22 July; and
  - Hufiza Aljmri, Sudan Alliance member, after he publicly condemned the arrest of one of the Darfuris. He was held for one hour before the NISS discovered he was not Darfuri. He was then released and given 10,000 Sudanese pounds for transport to his home.
- On 15 July, Red Sea University suspended six students, including Daud Mohamed Nour and Hasshinn Osman Hamad, for two years due to their involvement in an inter-tribal fight on campus which occurred 18 June. Three of the suspended students were subjected to torture while in NISS Custody. They are:
  - Musa Mohamed Daod,
  - Monsour Mohamed Saeed, and
  - Mohamed Osman Idriss.
- On 20 July, the NISS in Nyala arrested SPLM members Mohamed Al Sadig Mahdi, a Political Affairs Secretary, and Siddig Robert. The NISS also confiscated a landcruiser and pickup truck. In El Fashir, two SPLM members were arrested from the SPLM's office. They are:
  - Ahmed Adam Mohammed
  - Azledeen Mohamdain Agar

SPLM members in El Gezira state were told that they could no longer participate in political activities.

### Deaths of Children by Ethanol Poisoning in Khartoum

From 22 – 24 June, 61 street children were found dead in Khartoum (18), Khartoum Bahri (9), and Omdurman (34) due to ethanol poisoning. Twenty three are currently being treated in hospitals in Omdurman and Khartoum hospitals.

Mohamed Ahmed Saeed of the Criminal Department of the Police stated that children often purchase toxic substances for medicinal and mechanical purposes from the market, and often abuse it. The police have arrested six people for supplying toxic substances, as well as warning as to the dangers of drinking industrial alcohol.

Throughout Khartoum, there are roughly 35,000 homeless children and youth, many who are without their families and have been displaced by Sudan's civil war and the conflict in Darfur.

The causes of their deaths are unclear; some police officers have suggested that the poisonous substances were deliberately given to them by "ill-intentioned" people. While sniffing glue and drinking locally brewed alcoholic beverages is not a new trend for Sudan's homeless (also called

“shamassa”), the simultaneous deaths of so many youth merits investigation. The consumption of alcohol in Northern Sudan is strictly forbidden under *sharia* law, and so its usage is not widespread.

## Unfair Trial

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- On approximately 22 March, Hamid Mohamed Omar, a 26-year old market worker in Kosti, Central Sudan, was found guilty of killing a blind homeless man near the market where he worked. Mr. Omar had found the blind homeless man one morning after morning prayers unconscious with a serious blow to his head. Mr. Omar took the man to the hospital, where he paid for his medical treatment. On 19 March, the homeless man died. Kosti police charged Mr. Omar with the man’s murder, bringing him to the local magistrate to testify. The police then brought Mr. Omar to custody.

The following day, a police officer by the name of “Hassan” took Mr. Omar from custody and brought him to another police station. “Hassan” told Mr. Omar since the police had no leads on the blind man’s death, he would be charged for his murder. After Mr. Omar denied the accusation, police officers began punching and beating Mr. Omar for an hour and a half, threatening him with death if he did not confess. The next day, Mr. Omar confessed before the Kosti Court judge.

- In late June, the Supreme Court of Khartoum ordered the South Darfur Court to retry three minors sentenced to death in Nyala in October 2010, stating that the judge had not followed proper procedures to validate their ages.<sup>35</sup>
- On 29 May, proceedings brought by the prosecutor of the Press and Publications Court against Professor Omar el Gerai, a journalist and activist, and Abdallah Sheikh, the editor of *Ajras Alhurria*, began in Al Shemali Court in Khartoum North. The two journalists are being tried for an article published 6 March by Professor el Gerai in *Ajras Alhurria* entitled “Rape...under *Sharia* law”, (available [here](#) in Arabic). The article detailed the brutal treatment of the youth activist and *Girifna* member Safiya Ishag, who was raped multiple times and subjected to torture in NISS custody following her participation in the 30 January demonstrations in Khartoum. In his piece, Mr. el Gerai called for a formal investigation. Prior to the initial hearing, the lawyers of Professor el Gerai and Mr. Sheikh had only been told informally of the charges leveled against their clients under the 1991 Sudanese Criminal Code, and were told by the prosecutor that they would have to wait and see on 29 May.

At least 10 other journalists face criminal charges for reporting on Ms. Ishag’s case.

- On 5 July, Chief Judge of Khartoum North’s Criminal Court, Modather Al Rasheed, found Fatima Al Kharzali and Saad Aldeen Ibrahim, a journalist and the Chief Editor of *Al Gerida*, respectively, guilty of “publication of false news” under Article 66 of the 1991 Sudanese Criminal Code and Articles 66 – 68 of the 2009 Press and Publications Act. Ms. Al Kharzali authored an article published by *Al Gerida* detailing Ms. Ishag’s case. Ms. Al Kharzali was sentenced to a fine of 2,000 Sudanese pounds (roughly \$670). When she refused to pay, she was sentenced to one month in prison. She is currently in the court’s custody awaiting

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<sup>35</sup> For more information, see the African Centre for Justice and Peace Studies, “Special Courts in Darfur Sentence Nine Individuals, including Four Children, to Death”, 27 October 2010.

transfer to Khartoum's Women's Prison. Mr. Ibrahim was sentenced to a fine of 5,000 Sudanese pounds (roughly US \$1670).

- On 25 July, Judge Modather Al Rasheed of the Press and Publications Court of Khartoum found the journalist Amal Habbani guilty of violating Article 66 ("false news") under the Press and Publications Act of 1991. Earlier in the year, Ms. Habbani had also reported on the Ms. Ishag's case. Ms. Habbani was fined 2,000 Sudanese pounds (roughly US \$660). Ms. Habbani refused to pay the fine, electing to undergo the alternative penalty of one month in prison.<sup>36</sup> Her fine was paid two days later and she was released from prison.
- On 26 July, Judge Osama Ahmed Abdalla of the Al Nasr Court in Khartoum sentenced Hamid Al Kodah to amputation of his right hand and a fine of 1,700 Sudanese pounds. Mr. Abdalla was convicted of robbery under Article 174 of the 1991 Sudanese Criminal Code. The Judge found that Mr. Abdalla had ten counts of the same violation. Mr. Abdalla was not provided with a defence lawyer.

### Public Order Harassment

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- On 9 July, a group of 42 Southern Sudanese were celebrating Southern independence in Al Ghaba area, Khartoum. They were arrested by Public Order police, taken to court in the morning, and received 40 lashes each.
- On 26 July, Sudanese riot police raided a female-only youth hostel in Khartoum, finding hookah pipes, cigarettes, and birth control pills, none of which are illegal under Sudanese law.

### Insecurity and Extrajudicial Killings in Darfur

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- On 1 June at 8 AM, a militia comprised of roughly 100 people on horses, camels, and in three landcruisers invaded the ethnically Zaghawa villages of Laminah, Terling and Hella Sheikh Khatir, Abu Zeriga area, near Shangil Tobaya in North Darfur. The militia, led by Ibrahim Abu Dur, is allegedly one of many created by the North Darfur government in December 2010 to attack ethnic Zaghawas in Khor Abeche and Shangil Tobaya following the dissolution of the Darfur Peace Agreement.

Militia members engaged in widespread looting of property and livestock, including seven *murah*, a local term for herds of 100 head of livestock. Twenty one residents managed to trap the militia as they made their way out of Laminah and Terling and recover two of the stolen *murah*. Eyewitnesses reported that this group of residents attempting to secure their property and livelihood was apprehended by personnel in Sudanese Armed Forces (SAF) uniforms and militia members supported by military aircraft as they returned to Laminah and Terling. Nineteen members of the group were arrested and taken to Um Kaja village in Eastern Shangil Tobaya, roughly 2 kilometres away.

Sixteen members of the group were summarily executed by firing squad, including Omar al Abkar, 42, the Principal of Abzoraga Primary School. Those killed include:

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<sup>36</sup> For more information, see the African Centre for Justice and Peace Studies, "Journalist Reporting on Sexual Violence by National Security in Khartoum Sentenced", 25 July 2011.

- Mohamed Wadi Ibrahim Ganee, 42, Zaghawa, farmer
- Adam Wad Ibrahim Ganee, 38, Zaghawa, farmer
- Abdelrahman Dosa Sharif Dhani, 22, Zaghawa, farmer
- Khatal Khater Ghani, 45, Zaghawa
- AsehifAlshikh Tobaik, 71, Zaghawa, a Community Leader of Al Omana village
- Omar al Abkar, 42, Zaghawa, the principal of Abzoraga Primary School
- Guja Ahmed Nour, 42, Zaghawa, farmer
- Nouredain Seneen Idriss, 36, Zaghawa, farmer
- Eltayab Hassan Ibrah, 54, Zaghawa, farmer
- Nouradein Jalab, Zaghawa, farmer
- Khalid Musa Hamsa, Zaghawa, farmer
- Ibrahim Sharief Iman, Zaghawa, farmer

The names of the remaining four subjected to summary execution are unknown.

Three others, Adam Ahmed Arabi, Jamal, and Mubarak Yousif Idriss, managed to elude execution, and were detained at Shangil Tobaya military camp.

The bodies of the executed were left exposed in nearby open areas for the communities to see. Witnesses reported that they felt that the display of the bodies was an effort to dissuade the public from protesting or defending themselves against future military incursions. Seven bodies were dumped in a valley west of Um Kaja, about 1.5 kilometres away from Shangil Tobaya. Six were taken to Shartai Adamin's farm about 2 kilometres northeast of Shangil Tobaya, and another three to Salih village. When the families of the deceased demanded that the bodies be returned for proper burial, their bodies were collected by joint forces and buried on 3 June at 11 AM near a well outside of Shangil Tobaya before their families could identify them or pay their respects.

On 4 June, the North Darfur government formed a Commission of Inquiry chaired by Tiyeen Salih with representation from the governor of North Darfur's office, the attorney general, police, National Intelligence and Security Services, Zaghawa community leaders, and an official of Dar el Salaam area. On 5 June, the Commission of Inquiry travelled to Shangil Tobaya to begin their investigation. Two members of the commission, an official of Dar El Salaam area and Zaghawa Community leader Mohamed Salih Haroun, 70, of Abu Zeriga, travelling in the same car, were stopped by militias at a roadblock. A member of the militia entered the car and shot Mr. Haroun dead. The convoy returned to El Fashir immediately thereafter.

- At 10:30 AM on 30 June, residents of Sag Al Na'am locality, approximately 25 kilometres south of El Fashir, brought the bodies of Hurri Mendi Issa, a member of the Zaghawa tribe, and Adam Abdorahman Annor, a member of the Mima tribe, to El Fashir hospital for autopsy. Both of the deceased were teachers at the Sag Al Na'am Primary School.

According to sources, members of the Popular Defence Forces and Central Reserve Forces based in Kalimendo locality attacked Sag Al Na'am's market around noon on 29 June. Three unknown residents were injured when they were shot and were brought alongside Mr. Issa and Mr. Annor to El Fashir hospital the following day. Shortly after the attack on the market, the gunmen began inquiring as to Mr. Issa's and Mr. Annor's whereabouts. At 2 PM, they

arrived at Sag Al Na'am school and forcibly removed them from the building. They were both shot at point blank range in the head outside. El Fashir's Chief Prosecutor, Director of Police, and Director of the Central Reserve Forces all viewed the bodies. The Chief Prosecutor confirmed the death and indicated that the armed elements responsible for the two men's death and the attacks on Sag Al Na'am's market were still at large.