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Feature

The Case of Lubna Hussein: A Rallying Cry against Sudan's Public Order Legislation?

The arrest of Lubna Hussein, a journalist and a public information officer at the UN Mission in Sudan (UNMIS) has thrust Sudan's public order legislation into the spotlight. Ms. Hussien was arrested on 3 July 2009 along with 12 other girls and charged with violating public order. The basis for the charge, the women were informed upon their arrest, was that they had been wearing trousers.

The case has garnered widespread media attention, but unfortunately the only exceptional element is the profile and position of the target of the arrest. Ordinary women, particularly those from Southern Sudan and those who are poor, are regularly prosecuted for such infractions. Specialised courts which prosecute offenders lack procedural guarantees and typically enforce sentences on an expedited basis.

Ms. Hussein has previously written critically about the implementation of these laws and has been adept at using her own experience to draw attention to these problematic practices, speaking out publicly and sending out hundreds of invitations to her presumed punishment. This article will seek to reinforce these efforts by laying out the history of these laws in Sudan and highlighting some of the ways in which they have been applied.

The Origins of the Public Order Laws

The public order laws being used to try Ms. Hussein are part of a broader effort to impose Muslim values, as interpreted by the government, on the population. Although in the colonial and immediate post-colonial period Sudanese law drew primarily on British law, the penal code of British colonial India, and the Egyptian civil code, there have, more recently, been increasing moves to incorporate *sharia*, or Islamic law, and to enforce Muslim values and public morality. In September 1983, the Nimeiri government introduced a version of the criminal code known as the September laws which incorporated elements of *sharia*, including harsh corporal punishments, such as flogging.

These initial steps were accelerated in the wake of the 1989 military coup. The 1991 Criminal Act and Criminal Procedures Act drew on elements of *sharia* much more heavily than the 1983 revision. This move took greater practical effect when, in 1996, by the Khartoum state governor issued the Public Order Act. The Public Order Act mainly applies

Contents

Feature.....	1
The Case of Lubna Hussein: A Rallying Cry against Sudan's Public Order Legislation..	1
Monitoring Reports.....	6
Overview.....	6
Political Developments.....	6
International Engagement.....	7
Arbitrary Arrest and Ill-Treatment.....	8
Deaths in Police Custody.....	10
Security Concerns.....	10
The Death Penalty and Unfair Trials.....	11
Freedom of Expression.....	11
Alshriek Dam	12

two articles, 151 and 152 referring to “public order”, of the 1991 Criminal Act. The Public Order Act is state legislation.

Article 151 states that:

- (1) There shall be deemed to commit the offence of gross indecency, whoever commits any act contrary to another person’s modesty, or does any sexual act, with another person not amounting to adultery, or sodomy, and he shall be punished, with whipping not exceeding forty lashes and he may also be punished with imprisonment for a term not exceeding one year or with a fine.
- (2) Where the offence of gross indecency is committed in a public place or without the consent of the victim the offender shall be punished with imprisonment for a term not exceeding 2 years or with a fine.

Article 152 states:

- (1) Whoever commits, in public place, an act, or conducts himself in an indecent manner, or a manner contrary to public morality, or wears an indecent or immoral dress, which causes annoyance public feelings, shall be punished, with whipping not exceeding forty lashes, or a fine or both.
- (2) The act shall be deemed contrary to public morality, if it is so considered in the religion of the doer, or the custom of the country where the act occurs.

Many women and men have been arrested under these articles from the street, public places or their own cars, simply for spending time together without being able to show proof of a recognised, first degree relationship (a wife, sister, mother, etc). This practice continues in public parks, streets and other public places in Sudan. At times, such arrests even occur in private homes. Such nosiness has damaged the social life of the people of Sudan.

In November 1996, the government of Sudan ordered all women in the country to wear the “hijab”. In relation to this, the government of Khartoum State issued the 1996 Khartoum State Public Order Act and established police unit called public order police to enforce it. Through the Act and the public order policy the government in Khartoum has enforced the 1991 Criminal Code provisions relating to public order offences so widely as to constitute harassment and public humiliation for women.

Objections to the Public Order Laws

From a legal and practical perspective, the Public Order Laws relied upon in this context are problematic for three reasons. First, their application is inconsistent and may be considered discriminatory. Second, the special courts which enforce these laws lack due process guarantees. Third, the punishments enforced for these crimes violate international standards relations to torture and cruel, inhuman or degrading treatment or punishment.

In practice, the application of the Act has varied from one state to another and there has been a lack of clarity with regard to interpretation and enforcement. For example, the Wali of South Darfur has used these provisions to criminalise women working after 6:00 PM. In other states, the act has rarely been invoked. In addition, police have extremely broad discretion in interpreting the law, and can make arrests based solely on their own interpretation of what is or is not indecent making it incredibly difficult for women to predict what attire might be problematic. Indeed, the Director of the Public Order Police explained in an interview that the public order police had received a formal circular giving them unlimited power to arrest and charge any person whom they perceived, in their personal

judgement to be committing an act deemed to offend public feelings. When asked about the criteria of the dress that would be considered to be unlawful, he replied that any dress a policeman judges to be tight, exposing or which might cause sexual arousal.

The lack of consistency in the interpretation of the law is problematic in that it makes it difficult for individuals to reliably predict whether certain conduct is prohibited or not. In addition, the philosophical underpinnings of the law are troubling. This type of regulation of women's attire by law seems to be motivated not by public safety or the order proclaimed by the Act itself, but rather a desire to enforce moral and/or religious standards by law. These laws have been used to correct other perceived moral failings, such as the consumption of alcohol. What are the implications of such an approach on civil rights and, in particular, the right to privacy? What are the implications for maintaining unity in a country as diverse as Sudan if the moral prerogatives of a small number, following a single interpretation of Islam, are allowed to determine legislation for the country as a whole?

Indeed, there is evidence that this legislation is applied in a discriminatory way. First, prosecutions are often targeted at women, for offenses such as wearing pants and smoking *shisha*. These restrictions often impede women's economic activity, for example by restricting hours of work as in South Darfur.

An additional problem is raised by the application of these laws, which ostensibly aim to enforce Muslim values, to Non-Muslim women. The penalty for these offenses is 40 lashes if the offender is Muslim. Penalties for non-Muslims typically include imprisonment and payment of a fine, but may also include flogging, not to exceed 40 lashes, under the 1991 Criminal Act.

This application of the law goes against the spirit of accommodation enshrined in the Comprehensive Peace Agreement and the Interim Constitution. Article 157(1)(a and b), protects non-Muslims in the nation's capital. This article ensures that the rights of non-Muslims are protected in accordance with the general principles provided for under Articles 154 (which addresses the particular need to respect all religions, beliefs and customs in the capital) and 156 (which provides that law enforcement agencies in the national capital shall be trained and made sensitive to the cultural, religious and social diversity in Sudan) of the Interim Constitution. Prosecutions of Non-Muslims in the nation's capital are a powerful symbol, capable of undermining confidence in the capacity of the government to create an environment in which the rights of all are respected.

An additional concern is the special procedures under which these laws are enforced. In Khartoum, and other northern states, public order laws are typically enforced by the public order police (also known as social security police). Offenders are tried by public order courts which do not adhere to the due process of law, including the right of the accused to defend him or herself. In these courts, which are similar to exceptional courts set up to deal with other specific issues, women are arrested from their homes or public places and put to trial the following day, where the judges issue summary rulings. Women are often flogged on the spot. They have limited access to defence counsel, which can only be arranged by friends or relatives. The judges in the public order courts, who do not want their decisions reviewed by higher courts, usually do not inform the accused about their opportunity to appeal. Overall, proceedings do not meet Sudanese and international norms for a fair trial.

In addition, cultural factors intervene to prevent comprehensive challenges to these laws. An arrest alone on such grounds attaches significant stigma to the person arrested, and people often prefer to be flogged in silence than to draw attention to themselves by prolonging the proceedings.

There are also concerns that the use of flogging may constitute torture or cruel, inhuman or degrading treatment or punishment. Such treatment is prohibited by Article 5 of the African Charter on Human and Peoples' Rights. The Charter has been incorporated in national law through the commitments of the Comprehensive Peace Agreement and Interim

Constitution, which in Article 27 states “[a]ll rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified by the Republic of the Sudan shall be an integral part of this Bill”.

The African Commission has already ruled against the use of flogging in case Number 236/2000, concerning the conviction and sentencing of eight students in 1999 to fines and flogging for the offence of violating public order (Article 152 of the 1991 Criminal Act). In the words of the Commission:

[t]here is no right for individuals, and particularly the Government of a country to apply physical violence to individuals for offences. Such a right would be tantamount to sanctioning State-sponsored torture under the Charter and contrary to the very nature of this human rights treaty.

In finding a violation of Article 5 of the African Charter, the ACHPR requested the government to immediately amend the 1991 Criminal Act to ensure conformity with its obligations under the African Charter and other relevant international human rights instruments, in particular by abolishing the use of flogging as a penalty. The Commission also requested that the government take appropriate measures to ensure the compensation of the victims.

Despite the Commission’s findings, however, the law under which the victims in the communication were punished has continued to be applied to other individuals. The Commission’s decision is clear evidence that these punishments violate Sudan’s international commitments, and therefore also its own domestic law.

Developments in the Lubna Hussein Case

Lubna Hussein and her colleagues were arrested by the public order police from the Um Kulthoum restaurant in the Riyadh area east of Khartoum on 3 July. Among those detained with Ms. Hussein, four were from Southern Sudan and three were under the age of 18. Ten out of the 13 girls ended up receiving ten lashes and being fined 250 Sudanese pounds while the remaining three asked for their lawyers to be present and had their cases transferred to the deputy prosecutor, according to an interview given by Ms. Hussein to the *Al Arabiya* news station.

Two days after speaking out about her case and issuing an invitation to all political parties, journalists and ordinary people of Sudan to attend her trial, Ms. Hussein was subjected to further investigation by the attorney general who referred her case to the court. An initial hearing took place on 29 July, and proceedings were adjourned to 4 August.

Other Arrests on the Grounds of Public Order

D and A, two girls from Southern Sudan, were stopped by public order police on 26 March 2009 at about 5:00 PM, while walking home with their colleagues. Both girls were Christian and were attending university in Khartoum. The police forces had been on a truck stopped near the Afraa mall and approached the girls, focussing especially on D. Her colleagues objected, but the police insisted on taking the girls to the public police station in the Daim area. They were accused of wearing improper dress (specifically trousers). The girls were questioned and then charged under Article 152 of the 1991 Criminal Act. The girls were released into the custody of their relatives. The trial took place on Sunday, 29 March 2009 at the public order court and a verdict of 40 lashes or a fine was handed down. Although a representative from the special commission for protection of the human rights of non-Muslims attended the trial, the two girls paid the fine and were released. D mentioned

in her statement that three Ethiopian girls had been imprisoned on the same charges, not having money to pay the fine or lawyers to represent them.

In 2007, ten girls were arrested from a restaurant in the Alamarat area in Khartoum by the public order police under Article 152, accused of dressing indecently (they were wearing trousers and skirts with t-shirts) and smoking *shisha* in a public place. After they were arrested, public order police confiscated and searched their cell phones. On the basis of these searches, they filed another accusation against one on the basis of the fact that she had received a joke considered to be indecent. She was accused of possession of indecent material, under Article 153. In addition, to the punishment set out in Article 152 she received another one month imprisonment, a fine of about 400 Sudanese pounds (USD \$200) and 40 lashes for this charge.

In another incident, on 19 June 2009, a journalist, Dr. Mohamed Sharaf Edeen, was arrested by public order police while driving home with his wife and baby. He was taken to the police station where he was accused of engaging in indecent acts, by virtue of being in the company of a woman not seeming to be his wife. In this case, Dr. Edeen was able to produce his marriage certificate and the charges were dropped. Indeed a court convicted the policemen on 6 August 2009 of misconduct dismissing them and fining them 200 Sudanese pounds each on the basis of the incident.

Conclusion

It is worth noting that when the government of Sudan submitted its third periodic report on the implementation of the International Covenant on Civil and Political Rights on 10 January 2007, it clearly that, "the Public Order Act and Public Order courts were abolished". This was clear and deliberate misrepresentation of reality in Sudan, neither had the Public Order Act been abolished, nor had the public order courts. These courts are continuing to operate, as demonstrated by the Lubna Hussein case, and to deliver harsh judgments. Notwithstanding the claim that the courts had been abolished, the government defended the Public Order Act in paragraph 30 of the report, which states:

An objective examination of the Public Order Act (now abolished) shows that this Act does not contain provisions that contravene the inviolability of individuals on grounds of the interest of the society. The Act was only a compilation of legal provisions from local regulations and instructions, in addition to a revival of some articles from the Penal Code of 1991. As a matter of fact, there were some negative aspects in the implementation of this act, including:

- (a) inaccurate formulation of some provisions that were not in keeping with legislative formulation;
- (b) abuse of powers or authority by some members of the police;
- (c) an increase in the cases of false impersonation of police officers; and
- (d) the multiple use of the term "public order" in other organs which were not part of the public order police.

These shortcomings were overcome by changing the name of Public Order Police to "Police of Security of Society", abolition of Public Order courts, and procedures were established to combat impunity by bringing police abusers to court and accountability. Furthermore, a plan has been elaborated to upgrade the work of the Department of Security of Society by organizing orientation courses for its members to improve performance, prevent abuses and track cases of false impersonation of police officers

that distort the reputation of public officials, and to adopt social treatment of criminal phenomena rather than prosecution.

However, these measures do not address the fact that there is no clear interpretation in the law as to what constitutes immodest dress nor indecent acts. In most cases, the interpretation depends on the subjective views of judges and police.

Summary justice violates due process, and is stripping ever larger segments of Sudanese women of control over their lives. Most of the women sentenced by Public Order Courts are non-Muslims who have been displaced by the conflict in the South. Undoubtedly, the modest advances in women rights prior to the 1989 have been halted, and an atmosphere which diminishes women's rights and freedoms has been created. Institutionalized harassment and religious strictures have been employed to reduce these rights, for Muslim or non-Muslims alike. Anti-discrimination laws have yet to be enacted.

The punishment provided for in Sudanese legislation, including corporal punishment and flogging constitutes inhuman and degrading punishment in breach of the constitution and international commitments. Other sentences are not proportional to the offences committed.

Recommendations:

- The government of Sudan must fulfil its international and regional obligations, and abolish all provisions which contradict the 2005 Interim Constitution and international human rights standards.
- Police forces lack training in respect of human rights. The government should improve the training of these officers in order to ensure that all persons who are arrested or held in custody are informed of their rights.

Monitoring Reports

Overview

The period of June and July 2009 saw significant movement, however contentious, in the direction of elections and while the Permanent Court of Arbitration's ruling on the Abyei boundary dispute represented a considerable opportunity for the implementation the Comprehensive Peace Agreement.

Political Developments

A major step towards the organisation of election, census results were officially released in June 2009. The results were criticised by the Southern Sudan Peoples' Liberation Movement (SPLM) who claimed that populations in the South had been underestimated. The results were also criticised by the state governments of Western Equatoria and Bahr El Ghazal. There were significant concerns about the implications of the census on Darfur. Some have complained that IDPs and others may be excluded from the elections because of the way in which constituency boundaries are drawn.

Such concerns were echoed by Alain Le Roy, Under-Secretary-General for Peacekeeping Operations, who said on 24 July that "[t]he contested census, large-scale displacement and volatility, particularly in the area bordering Chad, create enormous risks that the people of Darfur will not be in a position to participate in the electoral process." On the other hand, the North Darfur state electoral committee reported that IDPs had been included in electoral

constituencies and other reports indicated that the six most populous northern states, including North and South Darfur had won 50% of electoral seats.

While progress towards elections were made on this front, the deadline for elections set under the interim constitution (Article 216 of the Interim Constitution requires elections be held by the end of the fourth year of the interim period or 9 July 2009). Opposition parties criticised the government for failing to hold the elections and called for consultations to address the constitutional crisis, while government officials pointed out that no remedies had been included in either the CPA or the Interim Constitution provided for any punitive measures in the event that these deadlines were not met.

The National Congress Party hardliners continued their aggressive and intimidating media campaigns against their political opponents, the West, senior leaders of SPLM. Nafie Ali Nafie, who seems to be leading the hardliners, in a public rally in AlGadarif, in eastern Sudan, renewed the Islamic extremist rhetoric and stated that they would continue the Jihad. He went on to say to those that the jihad in the 1990s (meaning the war in the south and the propaganda against the West) was wrong, that the jihad was never wrong and would be continued against the infidels.

The 22 July decision by the Permanent Court of Arbitration in the Abyei boundary dispute, and in particular the commitment by both the SPLM and the National Congress Party (NCP) that they would respect the findings of the Court, constituted positive steps towards peace. Despite the initial calm, however, there have been indications that conflicts may ensue. For example, SPLM officials have since been quoted as saying that despite the ruling, the Heglig oil fields, ruled by the PCA to be outside Abyei, are southern territory.

In other developments, in June former senior SPLM member Lam Akol formed a new political party, the Sudan Peoples' Liberation Movement for Democratic Change (SPLM-DC), denouncing the SPLM leadership as "bankrupt" and "undemocratic". During July, tensions between Sudan and Chad increased and on 17 July Sudan closed border with Chad, following accusations of Chadian involvement in cross border airstrikes.

International Engagement

A major focus of international engagement in the period June-July 2009 continued to revolve around appropriate responses to the arrest warrant issued by the International Criminal Court (ICC) against Sudanese President Al Bashir. On 8-9 June African States Parties to the ICC met in Addis Ababa to consider the operation of the ICC in Africa.

On 15 -26 June the High Level Panel mandated by the AU to assess possibilities for pursuing both peace and justice in Sudan, headed by former South African President Thabo Mbeki visited Sudan. This was the Panel's third visit to Sudan and the Panel is now expected to submit its findings in September.

On 26 June, the Office of the Prosecutor obtained leave to appeal the Pre-Trial Chamber's determination that genocide charges should not be included in the arrest warrant. On 27 July, the Sudan Tribune reported that two pro-government agencies, the Sudan Workers Trade Unions Federation (SWTUF) and the Sudan International Defence Group (SIDG) had retained counsel to represent them in filing briefs opposing the Prosecutors appeal to include the genocide charges.

In early July, the African Union Heads of States Summit issued a decision which states that "AU Member States shall not cooperate pursuant to the provisions of Article 98 of the Rome statute of the ICC relating to immunities, for the arrest and surrender of African indicted personalities". The decision was roundly criticised by NGOs and the Botswana, Ugandan, and South African governments have since distanced themselves from the text.

Following the AU Summit, there was intense diplomatic discussion about the possibility of a visit by Bashir to the Global 2009 Smart Partnership Dialogue in Uganda. Ugandan state

minister for international relations, Henry Okello Oryem made comments suggesting that Bashir could be arrested if he visited. Although President Museveni took steps to distance himself from these comments, ultimately Uganda and Sudan privately agreed that another official should be sent so as to avoid a diplomatic incident.

United States Special Envoy to Sudan Scott Gration visited Sudan in July, meeting with government officials and IDP leaders in Kalma camp among others. While in Sudan, Gration commented that the US sanctions system should be revised. These comments drew criticism from Darfurians in exile in the United States, who argued for a tougher stance.

The joint United Nations African Union Mission in Darfur (UNAMID) originally authorized by UN Security Council Resolution 1769, was reauthorized by the African Union's Peace and Security Council on 22 July 2009. The United Nations Security Council similarly reauthorized the mission on 30 July. On its second anniversary the mission was nearly 70% deployed, but continues to lack key logistical and human resources.

Looking to the future of the mission, Rwanda Lieutenant General Patrick Nyamvumba, was named as force commander and will replace Nigerian Major General Martin Luther Agwai on 1 September. During the period, Susanna Malcorra, Under-Secretary-General of the Department of Field Support (DFS) reportedly stated that the UN now anticipates 90-95% by the end of 2009.

Arbitrary Arrest and Ill-Treatment

The National Interim Constitution of 2005 clearly prohibits arbitrary arrest and torture, stating in Article 33 that "[n]o person shall be subjected to torture or to cruel, inhuman or degrading treatment". Despite this, ill treatment and torture, arbitrary arrest continued in Sudan unabated. Sudan's Criminal Procedure Code also contains safeguards against incommunicado detention. However, Article 31 of the National Security Forces Act, which governs arrests by the NISS, allows incommunicado detention without charge for up to nine months. This increases the likelihood of torture and other ill-treatment. Unfortunately, arbitrary arrests and torture continue, and the following incidents were documented in June and July 2009:

- On 13 June, Mr. Bushara Ali Azirg, a 45 year old teacher from the Fallata tribe, was arrested in Nyala by national security agents, who apparently suspected him of conspiracy with rebel groups to kill the governor of Tulus province. However, Mr. Azirg has, until now, not been charged with any crime.
- In June, a group of Christian clergy were arrested in Khartoum and accused of being involved in a public nuisance while participating in their regular worship. The owner of the house in which the prayers were being conducted was also arrested. The instruments of worship were similarly seized.
- On 11 June 2009, a group of female Darfurian students at the University of Khartoum was attacked at midnight by a group of unidentified men dressed in women's clothes and masking their faces with *burkas*. They are suspected to be NCP members, supported by the security forces. About 20 students were injured and some were arrested. The incident was triggered by a dispute between NCP members and some Darfurian students at the University's student residential halls, and escalated to allegations of attempted rape and burning of student residential facilities.
- In third week of June, the *Sudan Tribune* reporter Isaac Vuni, who frequently covers parliamentary debates and other developments in South Sudan's capital city, Juba, was

detained by police for five days. Mr. Vuni reported that national security officers arrested him while he was covering debates in the Government of Southern Sudan Legislative Assembly. While in custody, the reporter was periodically denied water, food, and access to the toilets.

- On 23 June, the police criminal investigation section issued a release order to the Omdurman prison for women to release Nahla Bashier under the supervision of a member of the community. Despite this order, Nahla remains in prison. Since her arrest last January, she has not been accused of committing any crime or brought to trial.
- Some of the Darfurian students whose arrest in April 2009 was reported in the first edition of this monitor remain in detention. In particular:
 - Hamid Mohammed Hamid, University of Juba, 21 years old
 - Abdel Al Monaim Abdel al Mola Isaa, Khartoum University, 25 years old
 - TahaAhmed Zakria, Sudan University, 23 years old
 - Abd Alsalam Elshiehk Ahmed, 27 years old
 - Mustafa Sharief Mohamed, University of Khartoum, 27 years old
 - Ibrahim Abaker Ibrahim, 25 years old
 - Alghali Ibrahim University of Juba economic 26 years old

remain in detention. The whereabouts of these students are unknown and it is feared that they may be subjected to torture and ill-treatment.

- On 7 July, Mohamed Khedir Abd Alrahim, 31years old, and Mosharaf Abd Almalik, a 32 year old veterinarian, were arrested by national security agents in Al-kalakla area of south Khartoum. They were informed that the reason for their arrest was that they were distributing a statement issued by the Communist Party. During their arrest they subjected to torture and to ill-treatment and had no access to lawyers or their families.
- On 7 July, eight men were arrested in Port Sudan, eastern Sudan following a protest against the governor of Port Sudan State, Mohamed Tahir Ailaa, following a popular forum at which Mr. Ailaa had spoken on behalf of Presidential Adviser Nafie Ali Nafie, who had been unable to attend. The eight men are:
 - (1) Mahmoud Salih Hamd
 - (2) Mohamed Edres Abdo
 - (3) Hamid Edris Suleiman
 - (4) Esmail Abdoalhliem
 - (5) Taha Mohamed Osman Abdo
 - (6) Edris Mohamed Ali
 - (7) Mraies Nouray
 - (8) Edris Nour Omar

All of the detainees belong to the Bin Aamir tribe.

Later that night, Mr. Ahmed Mohamed Ahmed Khire, an advocate based in Port Sudan and a member of the Popular Congress Party headed by Mr. Hassan Abdalla Al Turabi was arrested and sent to join the group listed above, although he had not attended the forum. Mr. Ali Mohammed Adam was also detained with the group later that evening after having gone to the national security offices to inquire about a detained relative.

Then men were transferred at about one o'clock PM on 8 July from the custody of national security agents to the Port Sudan Central police station. They were subsequently released on bail. At least one of the men alleged that he was bitten by security agents. Mr. Edris Mohamed Ali alleged that he was tortured in detention.

The men were charged with disturbing the public peace under Article 69 and creating a public nuisance under Article 77 of the Sudanese Criminal Code. An initial hearing was held on 23 July and the case was postponed to 30 July. On 30 July, the judge, Mutaz Abdalla, received a request from the prosecutor, Mr. Khalil Abass, for a continuance due to the fact that key witnesses are outside Port Sudan. The request was granted and the next hearing is scheduled for 18 August. A group of lawyers is following the case.

Deaths in Police Custody

- On 18 June, the *Sudan Tribune* reported that member of the Lopit Community had protested the deaths of five individuals in police custody in Eastern Equatoria, South Sudan in April 2009. The men reportedly suffocated while being held in a container in extremely hot weather on suspicion of killing ten people. The men who died were:
 - On 6 April, Lecha Lobura Hatura,
 - On 7 April, Partict Loucholi Lekerua,
 - Amoto Lefio Larasa,
 - Lahatar Natale, and
 - John Ilongoji Emilio.
- On 11 July, Mohamed Abd Alla Mohamed, a 30 year old Zaghawa living in the Droshab area of Khartoum North. Mr. Mohammed had gone to the Alkadro court to ask that the three men from his tribe be released into his custody. The men had been arrested three weeks previously and subjected to ill-treatment and torture. While he was speaking with court officials, three men from the police criminal investigations unit appeared and asked him to come with them. He was taken to the police station at around 1PM and was seen early in the morning naked and tortured by other prisoners. Then he fainted and was taken to the hospital. He died in the hospital and medical report was issued. The police investigating are still investigating the death of the victim.

Security Concerns

- On 6 June 2009, the Abyei Education Director Alor Deng Majok was murdered by an unidentified group between Kharsana and Kaik, near the Unity State. The unidentified group intercepted Mr. Majok's vehicle while en route to Khartoum on an official mission, dragged him away from the road and shot him in the chest.
- UNAMID reported that nine vehicles were carjacked in Darfur in June.
- A UNAMID police unit was fired upon in June and one officer was shot and taken to the hospital.

- In a 9 July briefing UNAMID reported that residents of IDPs camps "continue to experience indiscriminate shooting by unknown persons during the night in the camps."¹

The Death Penalty and Unfair Trials

Article 34 of the National Interim Constitution includes a number of fair trial guarantees, including the right to the presumption of innocence, to be promptly informed of charges, to a prompt trial and to legal assistance. Unfortunately, many trials in Sudan still do not meet these criteria, and the death penalty continues to be enforced:

- On 6 June, 12 members of the Justice and Equality Movement (JEM) were sentenced to death for their involvement in the May 2008 attack on Omdurman. This brought the total number of death sentence handed down to 103.
- The Sudanese government and the Justice and Equality Movement (JEM) agreed to exchange prisoners of war (POWs) as part of the Doha negotiations. However, the government of Sudan now insists that unless JEM signs a ceasefire agreement, the POWs will not be released. This the first time the GoS has referred to JEM prisoners as POWs, making a mockery of the trials in which JEM prisoners were not recognized as combatants, and subsequently sentenced to death since May 2008. Some of these convicted individuals remain imprisoned in inhumane conditions, and many have been tortured. These individuals are protected under international law by the Third Geneva Convention relative to the Treatment of Prisoners of War, which articulates in Article 4 defines who should be considered protected by the Convention and includes captured military personnel, some guerrilla fighters and certain civilians. The Geneva Convention on POWs applies from the moment a prisoner is captured, until he or she is released or repatriated. and provides that prisoners may not be tortured, and can only be required to give their name, date of birth, rank and service number (if applicable).
- On 24 June 2009, Khartoum North Court condemned to death four persons found guilty of killing US diplomat John Granville and his Sudanese driver Abdul Rahman Abbas. Lawyers representing Granville's family read a letter to the court saying they preferred the killers be jailed, but that since that was not presented as a possibility, so they opted to support the death sentence. However, the four defendants have denied murdering Granville, saying that video-taped confessions shown to the court were extracted under torture. The accused are:
 - 1- Mohamed Makawi Ibrahim, 23 years old, University of Khartoum, Faculty of Engineering,
 - 2- Mohanad Osman Yosif, 29, engineer and armed forces officer,
 - 3- Abd Albasit Al Haj Hassn, 29,
 - 4- Abd Alraoof Abo Zaid Mohamed, 23,
 - 5- Murad Abd Al Rahman Abd Allah Alshaikh, 35 (sentenced to prison).

Freedom of Expression

- Following the arrest of Lubna Hussein (discussed in more detail above), national security forces continued censorship of daily newspapers, issuing orders to all newspapers not to publish any information in relation to the case. Some newspaper received these

¹ "Darfur IDPs experience night shooting – UNAMID". *The Sudan Tribune*. 10 July 2009.

orders in writing, while others received verbal warnings. This security order represents a change of tactics by the security forces in the use of Article 130 of the 1991 Criminal Procedures Code following a recent Constitutional Court ruling.

- On 14 July the national council of press and press publications suspended the *Fenoon* newspaper called for three days. The *Fenoon* newspaper specialises in publishing social news concerning the Sudanese artists (singers, actress, actresses and sports figures). The suspension was prompted by allegations that the newspaper had published indecent pictures of two female singers, and some words offensive to public feelings, interpreted as a violation of Article 36(1)(g) of the 2004 Press Law. The national council of press and press publication is a governmental institution authorized by the new press law to suspend the newspaper without a judgment from a competent court.

- On 20 July, Amel Habani, a Sudanese journalist working with the *Ajrass Al Horreya* daily newspaper, was interrogated by the press and publications prosecutor, on the grounds of a complaint filed against her by the public order police, following a 12 July article on about her colleague Lubna Al Hussein case. The complaint was made under Article 159 of the Criminal Act regarding defamation. The public order police are requesting compensation of 10,000,000 Sudanese pounds be paid by the journalist. A court date has not yet been set.

- On 28 July the Communist Party's *Al-Midan* newspaper was suspended. The weekly newspaper was ordered by the security services not publish about ten articles and to cut out important sentences from many columns.

- On 29 July, journalists in Khartoum attempting to cover the trial of Lubna Hussein were harassed by police. The journalists had gathered outside the court, after a judge in the Khartoum North court postponed the case against Ms. Hussein until 4 August (Ms. Hussein's case is discussed in detail above), when heavily armed police officers asked the gathered crowd to leave. The police forces confiscated journalists' equipment and detained others. Specifically:

- Sahal Adam, a journalist for *Ajras Alhurya* was arrested;
- Abd Algadir Mohamed, a journalist for *Al Midan* newspaper was arrested and had his notes confiscated and destroyed;
- Mahmud Abd Alrahman Redwan, an *Alhura* TV reporter, was arrested and his camera was confiscated; and
- Osama Seed Ahmed, an *Aljazeera* TV reporter, was detained.

The police harassed other journalists by trying to push them and take their cameras. All three were released with an apology the same day.

Alshriek Dam

Following the government announcement of a proposed dam at Alshriek, near to Albouga town in River Nile State (northern Sudan). The people of Alshriek and Albouga protested citing a number of negative impacts of the plan. They started to organise themselves into an opposition body called the Dam Challenge Committee.

When the government realised that there was such opposition to the proposal, they formed their own campaign to collect signatures of those in favour of the move. This campaign organised its own committee, headed by Mr. Hamzaa Ibrahim Omar (from

Albouga), a community leader (called Umda in the traditional administration system) and member of ruling National Congress Party.

On 13 July, the same day that Mr. Hamzaa had begun collecting signatures he was killed in his home. On 14 July, a joint team from the national security forces, army intelligence and the security police started arrested the following people in response:

- 1-Alhaj Ibrahim, the brother of Mr. Hamzaa
- 2-Mohamed Mjzoub
- 3-Almrdi Abdo Alamin
- 4-Tajalsir Ebrahim, Mr. Hamzaa's brother in law, and
- 5-Esmail Hashim Altom

Mr. Alamin and Ebrahim were separated from the others and detained by themselves in Atbara town before being referred to national security cells in Aldamr, the capital of River Nile State. Information available at the time of writing indicates that they are still in detention. The others remain in detention in Atbara, having been charged under with murder and conspiracy to commit murder under the 1991 Criminal Act.

Later, on 20 July in Port Sudan, Port Sudan State, eastern Sudan, Mr. Gafar Hamzaa Altlib was arrested by intelligence agents and questioned about his relationship with the Dam challenge committee. Mr. Gafar has since been released, but is required to report daily to the intelligence office in Port Sudan.