



## **An Opening for Expression or Shifting Tactics? Freedom of the Press and Freedom of Expression in Sudan**

### **Report on the Situation of the Freedom of Expression and the Freedom of Press in Sudan**

**1 January 2009 – 30 September 2009**

On 27 September 2009, Sudanese President Omar Al-Bashir announced that the government would cease the onerous pre-publication censorship regulations which had been placed on journalists in Sudan. The president's statement, however, was immediately followed by indications that the move was not intended to create an open environment for journalists. The statement was made in the context of a ceremony adopting a journalistic code of honour, which in itself asks journalists to limit the topics they discuss. In addition, the announcement was immediately followed by a warning to journalists that they should "avoid what leads to exceeding the red lines and avoid mixing what is patriotic and what is destructive to the nation, sovereignty, security, values and its morality."<sup>1</sup>

Pre-publication censorship is a particularly direct form of press control. It was used in the early nineties and reappeared in 2008. As early as February 2008, the National Intelligence and Security Services (NISS) officers began appearing nightly at newspaper offices, requesting that editors-in-chief or their deputies reveal to them all of the articles to be printed in their papers prior to publication. The NISS officers read the articles, and in the case of articles, or portions thereof, that they deemed inappropriate, ordered the editors to remove or replace them. In some cases, NISS officers denied suggested replacement articles. In others, the volume of removed material made publication impossible. If the entirety of the newspaper was not reviewed by NISS officers, the NISS will not allow it to be sent to the printing press, where other officers would await permission to allow the newspaper to print. It was not possible for newspapers to be published in Sudan without NISS permission.<sup>2</sup>

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<sup>1</sup> "UN hails lift of censorship on Sudanese press", *Sudan Tribune*, 29 September 2009.

<sup>2</sup> In this report on journalism, the writers have a rare chance to closely watch the effects of security censorship and repressive practices against the press and journalists. We met and spoke in this report to D. Murtadaha Al-Gali the editor in chief of *Ajras Alhurria*, Ustaz Tigani al-Tayeb, the editor in chief Kamal Karrar, a journalist and Faisal al-Bagir the deputy editor in chief of *Al-Midan* and a number of other journalists of Khartoum daily and weekly newspapers confirm these facts.

The announcement was greeted with cautious optimism by newspaper editors and journalists. Although the announcement was recognised as an "important step", the end of this particularly egregious tool of censorship, freedom of expression is far from guaranteed. Indeed, the President's dispensation offers little in the way of long term security for newspaper publishers and other journalists. This is because, first, although the security pre-censorship is not to continue, there are a variety of other measures of control which could be applied in the context of the recently passed press law. Second, the reprieve is a political dispensation granted by the end of state, but there is little effective legal protection for journalists.

It is unclear in this context how this announcement will impact freedom of expression and the availability of information as a whole. Newspaper editors voiced concern that other tactics might be used to ensure that sensitive issues are not addressed in the media. "Perhaps they will go to court or punish the newspaper by closing it. There is always a risk in this profession," said Adil al-Baz, editor-in-chief of political daily *Al-Ahdath*. Fayiz Silaik of the *Ajras Alhurria* newspaper, warned "[t]here is no way they (the security services) are going to tolerate anything about security, about the International Criminal Court".<sup>3</sup> Although the ICC has been the most recent focus of censorship in Sudan, there have also been concentrated efforts to eliminate discussion of corruption, Darfur and elections.

Their concern is well-founded if taken in the context of repressive legislation and the patterns of violations that have occurred during the first nine months of this year. This report seeks to clarify that context and to analyse of the potential future impact of the recent presidential statement in that context.

## Sudanese Press Law

One source of concern about the use of other methods of media control aside from pre-publication censorship is the new Press and Publication Act of 2009. The bill had been heavily criticized by Sudanese journalists and civil society, who protested outside the parliament building. Representatives of the Sudan People's Liberation Movement (SPLM) and National Democratic Alliance (NDA) in the National Assembly walked out of the session in which deliberations of the draft law took place to voice their opposition. The bill was also criticised by international organisations including Article 19, Reporters without Borders and the Committee to Protect Journalists. In particular, the following concerns were highlighted:

- the proposed licensing regime for print publications,
- registration requirements for journalists,
- imposition of restrictions on the eligibility of chief editors,
- political interference in the National Council for the Press and Publications (the Press Council), the regulatory body of the print press,

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<sup>3</sup> "Sudan lifts media censorship but editors cautious," *Reuters*, 27 September 2009.

- authorisation of the Press Council to impose criminal sanctions for violations of the law, although an administrative and not a judicial body.

After an intense debate and some concessions, the law was passed. Some of the most egregious elements, such as imprisonment as a sanction for violation of the law, were excluded. A controversial provision of the draft law which would have imposed large fines on newspapers and journalists up to 50,000 Sudanese pounds (about 21,000 dollars) was also dropped. The law, however, has left the door open to new and possibly harsher penalties, depending on the discretion of the judiciary. Other oppressive measures, however, were passed into law.

The new law does not remove the power of intelligence services to censor. It also gives the Press Council the power to ban newspapers for a period of three days without judicial mandate. The Press Council is controlled by the state, and consists of 21 members, six of whom are appointed by the president himself.

The new law also entrusts government authorities with the power to impose restrictions on the press on grounds of national security and public order. The law incorporates vague language and fails to provide clear guidance on interpretation. For example, the law calls on the press to “respect the public morality and the religious values”, a provision which could potentially be broadly interpreted to forbid a wide range of speech.

Many journalists and human rights activists criticised the law as in contradiction with the 2005 Interim Constitution of Sudan which includes important safeguards for freedom of expression. It also contradicts a number of international treaties and conventions ratified by the Sudanese government, such as the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples’ Rights, and Article 19 of the Universal Declaration of Human Rights.

Within this context, Sudanese journalists’ networks have demanded that the law be repealed. Journalists, activists in the field of human rights, political activists across the spectrum, and representatives of Sudanese political parties held a number of meetings as an initial step in opening a dialogue on the imperative of a free and independent press in Sudan. Other meetings were held between the NISS director and the editors-in-chief of some of the frequently targeted newspapers. These meetings led to a publication of an agreement between the above-mentioned parties stating that urgent measures were to be taken to stop newspaper censorship. None of these steps have yet been implemented, according to a statement attributed to the Sudanese Journalists’ Network.

## **Security censorship**

One particular omission in the press law was the failure to address the role of the National Security and Intelligence Services, who can censor papers ahead of publication under Sudan’s National Security Act.

Indeed, this form of censorship was challenged in a recent constitutional court case in Sudan. The challenge was unsuccessful and censorship by the NISS of this type was ruled to be constitutional.

In this context, the presidential statement that censorship would be stopped represents only a temporary political dispensation. The pre-publication censorship which has been so problematic is still legal and there is no guarantee to publishers that it will not be reinstated.

## **Limitation of freedom of expression since January 2009**

On 10 February 2009 *Al-Midan* newspaper was suspended due to pre-publication security censorship measures. In a statement issued on 11 February, *Al-Midan* commented that:

*the security censor took out the editorial of Al-Midan which expresses our weekly views on the most important issues concerning the nation and its citizens. The security censor has repeatedly taken out editorials during the last few months. He also took out four news stories. These stories were political news stories which appeared in many other newspapers the next day. On top of that, he took out the basic line from the first page ... and the whole of the political commentary on the Darfur conflict, its current effects and the best possible options for solving it. All these were taken out from the first page. This attack affected also another six pages ranging from the removal of whole articles (four) or removing some important paragraphs of many of the articles ready to be published, affecting their coherence.*<sup>4</sup>

The total number of articles affected by pre-publication censorship from *Al-Midan* was 16, resulting in *Al-Midan*'s inability to publish that issue of the newspaper. *Al-Midan*'s editors complained by sending an open letter to the head of the NISS, alleging that the measures undertaken by the NISS were illegal, and pointing out bias in the targets of this censorship.

On 15 February 2009, Judge Modather Al-Rasheed of the Khartoum North Criminal Court sentenced lawyer Kamal Omer Abd-alsalam, a leader of the Popular Conference Party and contributing writer to the *Ray-Elshaab* newspaper, to 6 months in prison for defamation under Article 159 of the Sudanese Criminal Code. The case had been brought against him by the NISS. The charges were based on an article written by Omer in *Ray-Elshaab* newspaper in 2007, which alleged that the NISS excluded Darfurians from its ranks and cited many examples. The first defendant in the case was the newspaper's editor-in-chief, who was represented by his deputy and later acquitted. Omer spent two months in Omdurman prison before being released.<sup>5</sup>

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<sup>4</sup> Statement of *Al-Midan* newspaper, 11 February 2009.

<sup>5</sup> Phone call from a friend of Ustaz Kamal Omer.

Pre-publication censorship by the NISS against newspapers increased and became more aggressive in nature following the attacks of the Justice and Equality Movement (JEM) on Omdurman City on 10 May 2008, as well as during the period leading up to the issuance by the International Criminal Court's (ICC) of a warrant of arrest for Sudanese president Omar al-Bashir. Various state officials and agencies began to threaten the media to disregard the issue of the ICC arrest warrant. Some writers and journalists received threatening phone calls from members of the security apparatus and were ordered to stop writing about the ICC. In one week, more than 20 articles related to the ICC were taken out of *Al-Midan* and *Ajras Alhurria* newspapers.<sup>6</sup>

On 12 February, the bank accounts of the Khartoum Centre for Human Rights and Environmental Development (KCHRED) were frozen. In the midst of this climate of tension and threats, the General Director of the NISS, Salah "Gosh" Abdalla, gave a strong warning on 26 February that "we will cut the hands, heads and body parts of whoever gets involved in the implementing ICC plans because this is an issue beyond any compromise".<sup>7</sup>

On 28 February, the NISS arrested a British journalist of Tunisian origin, Zuheir Lateef, who was employed by the Arabic Service of France-24 and *Al-Hayat* newspaper, on the pretext that he had violated immigration laws by participating in activities that were not part of the job that he had been authorised to do to enter the country. On the same day, Sudanese authorities expelled Hiba Ali, a Canadian journalist of Egyptian nationality, for reporting on the Darfur crisis and the arms industry in Sudan.<sup>8</sup>

On 4 March, the ICC issued a warrant of arrest against President Omar al-Bashir on charges of war crimes and crimes against humanity. Since then, security agencies have tightened their grip on pre-publication censorship of Khartoum newspapers, particularly on the issue of the ICC. Security and police forces were ordered to fire or denationalise anyone who spoke about the ICC or supported it in Sudan. The initial reaction to the ICC decision was the expulsion of 13 international humanitarian organisations working within Sudan, and three national organisations. Their properties were all confiscated. This included the closure of the KCHRED, the Sudan Organisation for Development (SUDO) and the Amal Centre for the Treatment and Rehabilitation of Survivors of Torture on 4 March, only 15 minutes after the ICC's decision was issued. Newspapers were forbidden to report or publish any views contradicting the official position of Sudan regarding the expulsion of the international and national NGOs.

The closure of the three national human rights NGOs has undermined the progress of freedom of expression and the press, and human rights more generally in Sudan. KCHRED had been active in training journalists and equipping them with the

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<sup>6</sup> Personal interviews with writers and journalists.

<sup>7</sup> *AlSahafa* newspaper

<sup>8</sup> Sudanese on line and Sudan Tribune websites.

necessary skills to monitor human rights, freedom of expression, and the freedom of the press. KCHRED was also host to the Journalists Network for Human Rights (JAHR), which endeavoured to monitor and document violations of the freedom of expression and human rights. In addition, KCHRED provided legal aid to journalists targeted by the authorities.

The closure of national human rights NGOs by the Sudanese government constituted an attack on the front lines of human rights defenders and an attempt to paralyse the human rights movement within Sudan. At the peak of the NISS campaign, the actions undertaken constituted physical and mental harassment, interrogation and arrest. Systematic targeting of human rights activists has forced many to leave Sudan.

On 12 March 2009, the State Security Prosecution in Khartoum charged Musa Rahama, age 29, with threatening the public security and belittling the authority of the state.<sup>9</sup> Rahama was arrested the NISS filed a complaint against him stating that his book, *Darfur on the National Political Powers Agenda*, contained false information.

On 17 March 2009, the *Al-Midan* newspaper was not published due to pre-publishing censorship measures taken by NISS.

On 19 March, Alhaj Warrag of *Ajras Alhurria* and Adil Albaz of *Al-Ahdath* were arrested pursuant to a case that had fined Warrag 20 million Sudanese pounds. The Khartoum North Court had ruled that Warrag should pay the fine in its entirety by the following morning 20 March, or else be arrested again and taken to prison.<sup>10</sup>

That same day, the NISS prevented *Ajras Alhurria* from being published, as it ran coverage of Warrag's trial and a report on a press conference held by the President's Advisor Mustafa Osman Ismael, in which he described the Sudanese people as "beggars". Five officers were sent to stop the publication of *Ajras Alhurria*, although they had no judicial order.

On 20 March 2009, the NISS banned *Ajras Alhurria* from publishing for the second day in a row. This was due to a story concerning the owner of a company who had been cheated by a ruling party member. The story was as follows: "Abdul-Rahman Mahjoub Company ... said it was subjected to an act of cheating and deception from an individual affiliated with the National Congress Party".<sup>11</sup>

This was the third time that *Al-Midan* had been prevented from being published due to pre-publication censorship and abusive acts of the NISS. According to the

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<sup>9</sup> *Ray Alshaab* newspaper

<sup>10</sup> Phone call and personal interview.

<sup>11</sup> Press conference held by *Ajras Alhurria* administration.

newspaper's statement, the security censor took out 17 articles from the issue, which made it impossible for the newspaper to be published.<sup>12</sup>

In April 2009, the Khartoum North Court barred reporters from hearing the testimony of defence witnesses in the case trying suspected assassins of the USAID officer John Granville and his Sudanese driver. The witness in question, an army captain, was summoned by the defence and had previously requested that the judge bar reporters from the hearings because he had "secret and sensitive" information.

On 9-10 April, *Ajras Alhurria* was suspended by the security service for coverage of a press conference held by Pagan Amum, the secretary-general of the Sudan Peoples' Liberation Movement, and some editorials written by the editor in chief and other journalists on the draft of press law.

On 25 April, NISS prevented *Ajras Alhurria* newspaper from being published. According to the editor-in-chief of the newspaper, Dr. Murtadha al-Ghali, and other journalists *Ajras Alhurria* had become a regular target for the NISS.<sup>13</sup>

On 26 April, the General Director of NISS, Salah Gosh, issued a directive to halt the publication of *Alwifag* newspaper for a week, as well as ordering its editor-in-chief to stop writing for a week. Though *Alwifag* newspaper is recognised by many as a publication close to the government and to the ruling National Conference Party, it was banned because the editor-in-chief published a critical editorial on Yassir Arman, a leading figure of the SPLM on 25 April 2009.

On 5 May, JAHR released a statement condemning the abusive pre-publication censorship measures undertaken by the NISS, which it argued amounted to violations of the freedom of the press and the freedom of expression in Sudan, as well as systematic targeting of opposition newspapers such as *Ajras Alhurria*, *Al-Midan*, and *Ray Alshaab*. JAHR condemned the deliberate suppression and suspension of newspapers. It called upon Sudan to respect the constitution and the Comprehensive Peace Agreement, both of which guarantee freedom of expression and of the press. Both instruments also restrict the role of the security apparatus to collecting and analysing information, and giving advice to the authorities concerned. The powers vested in NISS have disrupted the process of democratic change and could contribute to the failure of the upcoming general election. The lack of freedom of expression in Sudan indicates the lack of serious commitment from the government to the implementation of the peace agreement and democratisation more broadly. It also undermines the credibility of the coming election.<sup>14</sup>

On 6 May, *Ajras Alhurria* newspaper was not published. NISS officials had removed more than 15 articles from the edition the previous evening. Murtadha el-Ghali, the

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<sup>12</sup> Press release.

<sup>13</sup> Interview with M. Al-Gali and Amel Habani.

editor-in-chief, stated that this was the ninth time the newspaper has been suspended since January 2009.

On 16 May, military police of the Sudan People's Liberation Army (SPLA) detained journalists Abdulgadir Mohammed and Adil Badr in a city market in Juba. The two journalists were taken by security forces to the SPLA's administrative headquarters. They were searched, and their mobile phones were seized. They were interrogated for an hour and a half and then released. They were told to come back the next day.

A media official in Juba, who asked to remain anonymous, indicated that the incident was "unintentional". The two journalists, however, have not received any official apology from the government of South Sudan.

On 12 May 2009, Southern Sudan's Office Secretary of the Infrastructure Ministry blocked access of journalist Amal Habani to public documentation for a piece she was writing.<sup>15</sup>

On 19 May, 70 journalists staged a sit-in protest inside of Parliament's headquarters in Omdurman against the then-pending Press and Publications Bill of 2009, which was to be passed that day. 168 members of the National Assembly walked out of the session in solidarity with the journalists, and held a press conference to demonstrate their position against the bill. The bill was nonetheless passed on 8 June 2009.

On 26 May, *Al-Alakhbar* newspaper was not published. According to its editor-in-chief, Mohammed Lateef, the pre-publication censorship cut out a great number of the articles to be published. This resulted in the subsequent suspension of the newspaper.

*Ajras Alhurria* was suspended by the security service on 26 May for their coverage of a suspected bomb attack at SPLM headquarters in Khartoum.

On 4 June, military security arrested journalist Adil Badr again, this time detaining him for five days without interrogation or charges against him. He was released after Southern Sudanese government officials intervened.<sup>16</sup>

On 10 June, *Ajras Alhurria* was suspended for the 10<sup>th</sup> time.

On 25 June, security authorities arrested journalist Aizak Wannu in Juba, South Sudan, where he was covering legislative assembly activities. Wannu told the Sudan Tribune that the authorities detained him for five days for articles he had authored regarding the situation in South Sudan, and the collapse of the South's Nile Commercial Bank.<sup>17</sup>

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<sup>15</sup> Phone call and interviews with Abdulgadir Mohammed, Adil Badr and Amel Habani

<sup>16</sup> Phone call and interview with Adil Badr.

<sup>17</sup> Ray Alam newspaper

On 27 June, *Ajras Alhurria* was not published for the 11<sup>th</sup> time. Pre-publication censorship removed so many articles that publication of the newspaper impossible.

On 29 June, the Public Finance Prosecutor summoned Rashid Oshi, a correspondent with *Al-Sudani* newspaper, to court. The summons was based on his possession of a document concerning an investigation by state health ministers. After being summoned by the authorities, Oshi declined to publish any information.<sup>18</sup>

### Censorship of websites

Prior to the recent tightening of media controls, websites had been considered a safe haven for those articles subjected to pre-publication censorship. Under the pre-publication censorship regime, however, editors or their deputies were forced to sign an undertaking nightly to not publish any article removed by the NISS in any other publication.<sup>19</sup>

The government's National Corporation for Telecommunication (NCT) has blocked access to many websites from inside Sudan. For example, it blocked access to the YouTube website after videos were posted showing soldiers and officers of the NISS torturing Darfurian children arrested after the JEM attack on Omdurman in May of 2008. After the decision of the ICC to issue a warrant of arrest against President Omar al-Bashir, the NCT blocked access to the ICC's website. It has also blocked the secular website of the Arab League. Another site that has been blocked is *Al-Mustafa.com*, an electronic library containing Islamic history books and the works banned by Arab governments.

Recently, the NCT has begun to block public access to legal websites, particularly those dedicated to exposing violations of human rights in Darfur. At times, it is difficult to access the UN website where the report UN Special Rapporteur on Sudan, Dr. Sima Samar, is posted. This has occurred at various times, although it is unclear whether the NCT is responsible. Previously, the NCT had posted a message indicating that web traffic had been diverted due to the content of the site, but more recently such messages have disappeared.

### Communication companies and the violation of privacy

Communication companies are exploited in order to conduct surveillance on certain individual and issues sensitive to the NISS. NISS officers have directly intercepted telephone calls. Companies often record mobile phone calls, unbeknownst to those speaking and in violation of their right to privacy. Journalists are often targets of this practice, in that their sources and details of their work may be revealed.

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<sup>18</sup> *Al Sudani* newspaper.

<sup>19</sup> Observations of the authors and discussions with journalists and administrators of various newspapers.

## The confiscation of literary works

At the end of December 2008, the Sudanese government's administration of literacy and artistic works banned the novel Amadira, by Umaima Abdalla. The incident cast a dark shadow on freedom of expression in literature and the arts. It has highlighted the need to direct attention to the review of the law and structure of the Federal Council for Literacy and Artistic Works.

## The radio and television

When it comes to the radio and television in Sudan, it is difficult to speak about freedom of expression. The state owns the national radio and television corporations, and directs the staff to comply with the state policies. The national radio and television corporation is financed by taxpayers and as such should advance the public interest. But the reality is that radio and the television are promoting only the ruling party's programme. Even private radio stations are not able to be inclusive. For example, the government refused to give permission to Maraya F.M. Radio of the UN to transmit its programmes in the North, which left it limited only to the South.

## Conclusion

Although it is unclear what the impact of the President's most recent statement will be, it is likely that discussion, particularly of sensitive topics will continue to be controlled. Some of the subjects which have been particular targets of censorship, and which are likely to remain sensitive include Darfur, dams, violence and corruption against students, forced migration, the Algazira privatisation scheme, corruption, deterioration of services, the freedom of the press, police violence, education and school curriculums (and access to education), displacement, refugees, the ICC, conditions in prison, and misuses of NISS' of power. Open discussion of these topics is suppressed, yet they are arguably the most pressing issues facing Sudanese society.

Writings that criticise the decisions and policies of the government, or demand improvement in the area of basic freedoms are also firmly controlled. The mutation of the censorship regime is likely to lead journalists to apply a kind of self-censorship, threatening freedom of expression and the press and threatens the future of journalism in Sudan.

Another critical element of freedom of expression is its linkage with the election process. Free and fair elections are not possible in an environment where the public is not able to freely access information and political parties are not able to freely express their opinions.