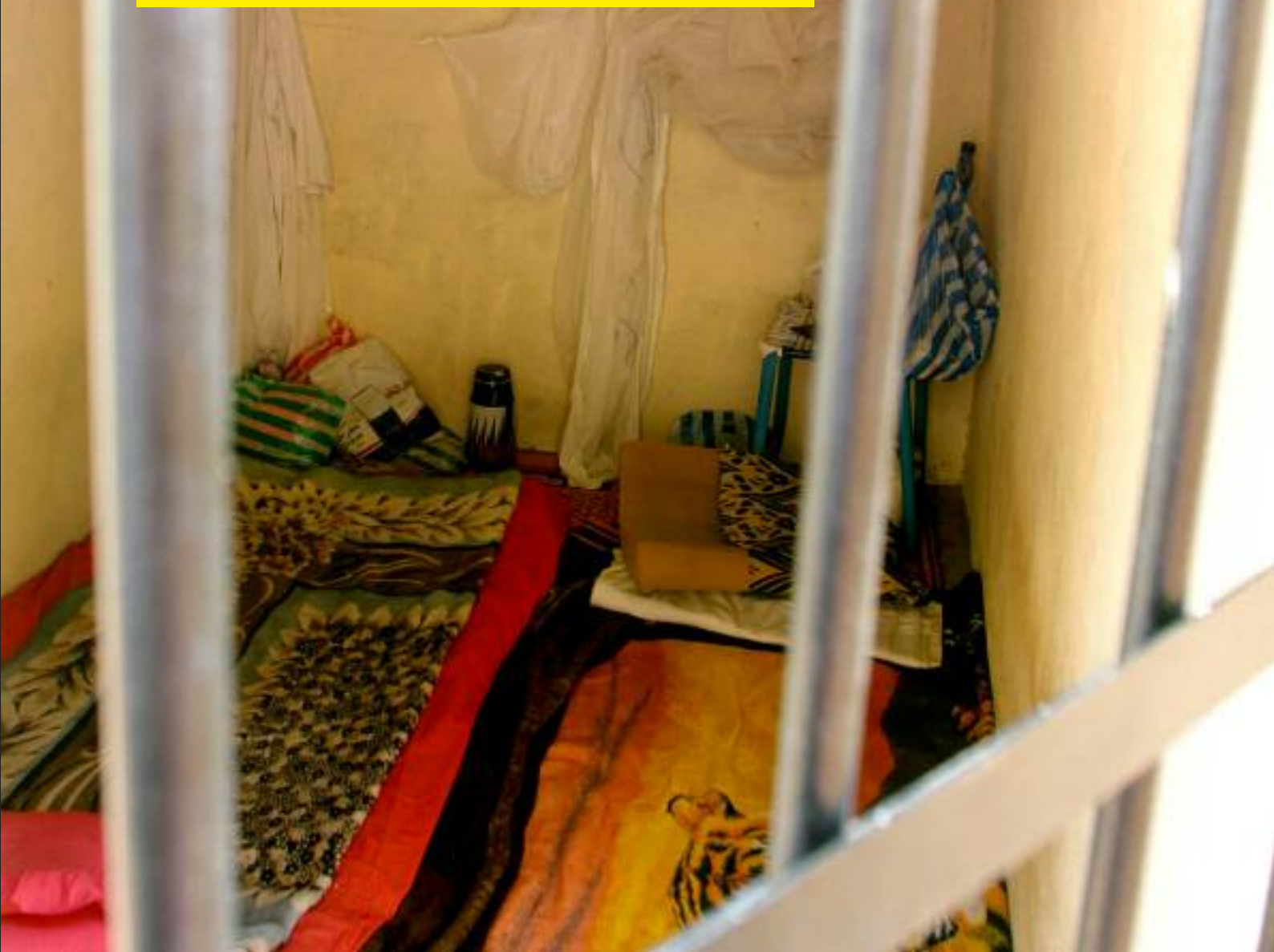


Confidential Annexure B

AGENTS OF FEAR

THE NATIONAL SECURITY
SERVICE IN SUDAN

AMNESTY
INTERNATIONAL



Amnesty International is a global movement of 2.8 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

**AMNESTY
INTERNATIONAL**



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Cover photo: A cell where detainees were held by the National Intelligence and Security Service in Nyala, Sudan. This photograph was taken in 2004 during a visit of an Amnesty International delegation.

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GLOSSARY

African Charter	African Charter on Human and Peoples' Rights
African Commission	African Commission on Human and Peoples' Rights
Body of Principles	Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by UN General Assembly Resolution 43/173 (1988)
CEDAW	UN Convention on the Elimination of All Forms of Discrimination against Women
CAT	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CRC	Convention on the Rights of the Child
Diyya (blood money)	Financial compensation paid to the heirs of a victim by a killer or the killer's family. The <i>diyya</i> has to be accepted by the family of the deceased and is determined in negotiation with them.
Framework Agreement	Framework Agreement to resolve the conflict in Darfur between the Government of Sudan and the Justice and Equality Movement, signed on 23 February 2010 in Doha, Qatar.
"Ghost houses"	Buildings used by security forces as unofficial places of detention
Group of Experts	UN group of experts on Darfur: A seven-member group of independent experts established by the UN Human Rights Council to encourage Sudan to implement human rights recommendations. The Group's mandate ended in 2007.
Humanitarian Aid Commission	A national organ that operates under the Ministry of Humanitarian Affairs; The HAC is in charge of the coordination of humanitarian efforts in Sudan.
Independent Expert	On the situation of human rights in the Sudan Appointed by the UN Human Rights Council in October 2009
ICC	International Criminal Court

ICCPED	The International Convention for the Protection of All Persons from Enforced Disappearance
ICCPR	International Covenant on Civil and Political Rights
JEM	Justice and Equality Movement, an armed opposition group
Jihaz Al Amn	The security apparatus: the National Intelligence and Security Service (NISS)
National Press Council	Body mandated by the 2009 Press and Publications Act to regulate the press in Sudan. The National Press Council operates under the Ministry of Information and Communications
National Security Council	Higher security council established by the National Security acts and which includes the membership of various high ranking officials including the President and the Vice-President
NCP	National Congress Party, the ruling party in Sudan
NSFA	National Security Forces Act, 1999
NGO	Non-Governmental Organization
NISS	National Intelligence and Security Service, the national security force
NSA	National Security Act, 2010
OPCAT	Optional Protocol to the Convention Against Torture
Optional Protocol	To the Convention on the Rights of the Child on the involvement of children in armed conflict
Panel of Experts	Panel of Experts set up to support the UN Security Council Committee established pursuant to resolution 1591 (2005) to oversee sanctions against Sudan
Public order regime	Set of laws and bodies to regulate public conduct, including the Public Order Laws, the Public Order Police and the Public Order Courts
Sharia	Islamic Law

Special/Counter-terrorism Courts	Counter-terrorism courts created in June 2008 following an armed attack by JEM on Khartoum in application of the 2001 Counter-terrorism Act and to try alleged JEM members
Special Rapporteur	First appointed in 2005, the mandate was terminated by the Human Rights Council in 2009 and replaced by the Independent Expert on the situation of human rights in Sudan.
SPLM	Sudan People's Liberation Movement, the ruling party in southern Sudan
SUDO	Sudan Social Development Organization
Thowb	Traditional dress commonly worn by women
Transitional areas	Abyei, Blue Nile and South Kordofan have special administrative status in the 2005 Comprehensive Peace Agreement. Political power is shared between the NCP and the SPLM
UNAMID	United Nations- African Union Hybrid Mission in Darfur
Woudou'	Washing for prayer
Zina	Extra-marital sexual intercourse, usually translated as "adultery"

This report is dedicated to Abdelsalam Hassan Abdel Salam, a tireless advocate for human rights and law reform in Sudan.

1. INTRODUCTION

“The letter is an attempt to inform people in this country about my experience and to make them listen to the sounds of the torture and terror that I suffered at the hands of your thugs, stained with shame and blood. I want them to hear the message that you were trying to send through my body, a message of terror and threat to the real life-blood that maintains the heart of this country, the civil society organizations, the democrats and enlightened forces—although you will not succeed in your intended effect”.

Abdel Monim El Gak, An open letter to Salah Gosh¹: regarding my arrest, torture and the International Criminal Court²

“Several hundred prisoners of conscience were detained without charge or trial following a military coup in June. Some were subsequently released but at least 200 were still detained at the end of the year... the security forces were empowered to arrest people without warrants and to detain them indefinitely without charge or trial”.

The above passage is from Amnesty International's 1990 Annual Report on Sudan, covering the human rights situation in 1989. Lieutenant-General Omar Hassan Al Bashir, President of Sudan had just taken power following a military coup in June 1989. The legacy of the human rights violations and impunity brought about by his government continue today. The country is still ruled by the National Congress Party (NCP), created in 1993, and the National Intelligence and Security Service (NISS) retains the core functions it had in the first few years following the 1989 coup. More than 20 years later, the NISS still dominates many areas of life in Sudan and benefits from extensive powers of arrest and detention under the National Security Acts of 1999 and 2010. Any changes have been purely cosmetic – the NISS still holds the power of life and death over Sudan's citizens.

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Over the years, the ruling party created various tools of repression ranging from the disestablishment of trade unions to the introduction of repressive legislation. Torture and other forms of ill-treatment, enforced disappearances, extrajudicial executions and other grave human rights violations were used to silence dissent and maintain the government in power.

In the last two years Amnesty International has documented large numbers of cases of arbitrary arrest and detention, torture and other forms of ill-treatment, as well as enforced disappearances and deaths in detention at the hands of the NISS. NISS agents have targeted members of the opposition, students, human rights defenders, civil society activists and staff of national and international NGOs and UN agencies, as well as ordinary civilians. Torture and other forms of ill-treatment have been systematic.

The NISS has attempted to silence all voices critical of the NCP and the government. The legitimate exercise of the rights to freedom of expression and association has been repressed by a clampdown on human rights defenders, journalists and any dissident voice. The spoken and written word have been equally controlled, journalists harassed, summoned or arrested by the NISS. The written press has been heavily censored and books have also been banned and their authors summoned if they cover subjects deemed sensitive by the NISS.

The vast majority of cases of arbitrary detention have been at the hands of the NISS, although Amnesty International has received reports of arbitrary arrest and detention for periods of up to three weeks in the custody of other security services, such as Military Intelligence. In some cases, Military Intelligence officers surrendered detainees to the NISS after investigation.

"Ghost houses" – secret detention centres infamous for torture -- spread in Sudan in the early 1990s. During the preparation for this report, Amnesty International asked a number of interviewees what the term "ghost house" meant to them. Some equated it with any secret place of detention. Others said it came from the fact that the torturers used to have their faces covered. Some said it was because the detainees were so ill-treated that they resembled "living ghosts". The government claims that all the "ghost houses" were closed down, but the practice of arbitrary and incommunicado detention has become a culture in Sudan and continues unabated, including in secret places of detention.

The Comprehensive Peace Agreement (CPA), which in 2005 ended more than two decades of war between the north and the south, set out a timetable for general elections, which took place in April 2010, and for a referendum on the secession of southern Sudan in 2011. One of the pillars of this agreement was the reform of a number of laws, including the 1999 National Security Forces Act, which needed to be reformed in order to bring it in line with the CPA's vision of the National Security Force as an agency with a mandate to gather information and provide analysis and advice to appropriate authorities. Amnesty International and a large number of national and international organizations repeatedly called for the reform of the 1999 National Security Forces Act, to bring it in line with Sudan's national and international human rights obligations and with the CPA.

The 2010 National Security Act was passed by the National Assembly in December 2009 and came into force in February 2010. However, the new Act does nothing to ensure that detainees held by the NISS are not deprived of judicial review and other human rights

guarantees. It maintains the extensive powers of arrest and detention that were given to the NISS under the 1999 National Security Forces Act. It also maintains the immunity from prosecution and disciplinary action that was granted to NISS members under the earlier law. The 2010 National Security Act fails to introduce the necessary guarantees to prevent arbitrary detentions, torture and other ill-treatment, and maintains the culture of impunity for these violations. It remains faithful to the government's vision of the national security force as a body whose function is to maintain it in power, including by repressing the legitimate exercise of freedom of expression.

This report illustrates the serious human rights violations that continue to be committed by the NISS in Sudan, and the extensive powers as well as immunities NISS agents enjoy. It calls on the government of Sudan to amend its laws to guarantee the human rights of detainees and to repeal the 2010 National Security Act. This report calls on the government to reduce the powers of the NISS to information gathering, analysis and advice, to put an end to the continuing practice of human rights violations, to make sure that perpetrators are brought to justice, and to provide redress and reparations to victims and their families.

BACKGROUND

The period from May 2008 to early 2010 saw extensive and renewed human rights violations throughout the country. Most were perpetrated by the NISS, whose agents are responsible for most cases of arbitrary and incommunicado detention, torture and other forms of cruel, inhuman or degrading treatment.

In February 2008, Chadian armed opposition groups attacked N'Djamena, the capital of Chad. Following the attack, a number of Sudanese newspapers reported that the Sudanese government had supported the Chadian armed opposition groups' attempt to overthrow the President of Chad. In reaction to these reports, the government of Sudan ordered a clampdown on the press, the most stringent since the Interim National Constitution was adopted in 2005. The government reintroduced pre-print censorship and the NISS resumed daily visits to printing houses and newspapers. Tens of articles were censored, mainly those considered critical of the government or that dealt with politically sensitive subjects such as the conflict in Darfur or the investigations of the International Criminal Court (ICC). The NISS also intensified the harassment and arbitrary arrest of journalists.

On 10 May 2008, the Justice and Equality Movement (JEM), one of the Darfur-based armed opposition groups, attempted for the first time in the history of the Darfur conflict to attack the capital, Khartoum. Trucks loaded with armed men attacked Omdurman, one of the three towns that form greater Khartoum. The attackers were defeated within a matter of hours by Sudanese forces, mainly the police and the NISS. In the days that followed, more than 1,000 individuals, most of them civilians from Darfur, were arrested, mainly by the NISS.

On 18 June 2008, trials of alleged JEM members began before special counter-terrorism courts which were set up in Khartoum following the JEM attack under the 2001 Counter-terrorism Act. More than 100 men were tried before these courts and 106 death sentences were pronounced between August 2008 and January 2010.

In July 2008, the ICC's prosecutor applied for a warrant of arrest against President Al Bashir. On 4 March 2009, the ICC's pre-trial chamber issued an arrest warrant against President Al

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Bashir on seven counts of war crimes and crimes against humanity. The days before and after the issuing of the arrest warrant were marked by a sharp deterioration in the human rights situation throughout the country. The NISS carried out a campaign of arbitrary arrests and detentions. Human rights defenders, supporters of the political opposition, and members of ethnic minorities were targeted. A large number of human rights defenders were compelled to leave the country for fear of persecution. The government also expelled 13 international humanitarian organizations that had been providing vital humanitarian assistance to Darfur, the east of Sudan and the transitional areas (Abyei, Blue Nile and South Kordofan), all regions that heavily rely on humanitarian assistance. The government also closed down three national organizations with humanitarian or human rights functions.

In September 2009, President Al Bashir announced an end to the pre-print censorship and invited editors to adhere instead to an "ethical" code of conduct, by which they would themselves exercise a self-imposed censorship on their newspapers and publications.³

The first general elections in more than two decades were held between 11 April and 14 April in Sudan. The presidential elections were boycotted by the main opposition parties and candidates, leading to an NCP victory and the re-election of President Al Bashir. Following the elections, the government re-introduced censorship of the media in spite of earlier commitments. On 18 May 2010, NISS officers resumed their visits to opposition newspapers and their printing houses.

METHODOLOGY

This report is based on research carried out between May 2008, following the JEM attack on Omdurman, and mid-June 2010. Amnesty International focused on cases of violations by the NISS mostly in Khartoum, and in Darfur. Amnesty International has relied on testimonies from witnesses and survivors of human rights violations as well as on information published or provided to Amnesty International by individuals and non-governmental organizations.

Information, including testimonies, was also obtained during visits to Uganda in 2010 and to eastern Chad in 2009. Amnesty International has not been granted permission to visit northern Sudan for fact finding missions since 2006.

In March 2010, Amnesty International requested a meeting with the Ambassador of Sudan in the United Kingdom. Amnesty International wished to inquire about the possibility of obtaining access to the country, primarily to discuss the findings of this report with the various relevant authorities, and to also inform the Ambassador of the report and its focus. As of 30 June, and although Amnesty International repeatedly contacted the Sudanese Embassy, the organization's request for such a meeting had not been granted.

For reasons of confidentiality and security, the names of some of the people cited or described in this report have been changed.

In relation to the JEM attack on Omdurman, this report examines only the human rights violations that occurred after the armed clashes between the JEM and the government forces had ceased. These violations are examined in light of Sudan's international human rights obligations and commitments.

2. LEGAL FRAMEWORK

“The Special Rapporteur recalls that the 2005 Interim National Constitution (INC) and 2005 Interim Constitution of (ICSS) both provide that all rights and freedoms enshrined in international human rights instruments ratified by the Sudan form an integral part of the constitutional Bill of Rights. She emphasises that Sudan’s international human rights obligations, as enshrined in the INC and ICSS, must prevail in any judicial interpretation over the application of conflicting provisions in ordinary Sudanese statutes, such as the National Security Forces Act of 1999”.

Final Report of the Special Rapporteur on the situation of human rights in Sudan, June 2009⁴

HUMAN RIGHTS OBLIGATIONS

According to article 27(3) of Sudan’s Constitution relating to the Bill of Rights, all rights enshrined in international human rights instruments become an integral part of the Bill of Rights once the instrument in question has been ratified.

Regional and international human rights treaties ratified by Sudan and relevant to the human rights concerns highlight in this report include:

- the International Covenant on Civil and Political Rights (ICCPR), ratified in 1986
- the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), ratified in 1977
- the Convention on the Rights of the Child, ratified in 1990
- the African Charter on Human and Peoples’ Rights (African Charter), ratified in 1986

Sudan signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1986 but not its Optional Protocol (OPCAT). In response to the Group of Experts’ recommendation in 2007 that Sudan should ratify the CAT, Sudan

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replied that "the ratification or non ratification of any treaty is a sovereign matter on which the state alone must decide".⁵ The government went on to state that legal studies on the Convention had been completed and submitted for adoption, which would complete the procedures required for ratification. However, to date, Sudan has not ratified the CAT and OPCAT. Sudan is nevertheless obligated to ensure that its actions and omissions do not undermine the object and purpose of the treaties it signed, such as the CAT.

The international human rights treaties to which Sudan is party are legally binding and require Sudan to respect, protect and fulfil the human rights contained therein. In addition to the obligations that derive from human rights treaties, there are many human rights non-treaty standards which elaborate on the legally binding obligations contained in these treaties. These non-treaty standards have been adopted, often by consensus, by the United Nations (UN) political bodies, such as the UN General Assembly and the UN Economic and Social Council. Of particular relevance for the issues raised in this report are the following standards:

- the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions
- the Code of Conduct for Law Enforcement Officials
- the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
- the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- the Declaration on the Protection of All Persons from Enforced Disappearance
- the Declaration on the Elimination of Violence against Women
- the Standard Minimum Rules for the Treatment of Prisoners.

Sudan is also party to the African Charter. The provisions of the African Charter and the range of measures that state parties need to take to implement these provisions have been authoritatively interpreted by the African Commission on Human and Peoples' Rights, particularly in a series of Principles and Guidelines. Of particular relevance for the present report are:

- the Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa
- the guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa
- the Declaration of Principles on Freedom of Expression in Africa

Sudan's human rights obligations apply to all regardless of their gender, race or age, and is guided by core principles such as freedom from discrimination and equality before the law which is guaranteed by article 31 of the 2005 Interim Constitution.

Although not party to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Sudan still has an obligation, deriving from treaties such as the ICCPR, to combat discrimination in all its forms, including against women, and to protect women's human rights and fundamental freedoms. The Protocol to the African Charter on the Rights of Women in Africa, signed by Sudan in June 2008, expresses Sudan's commitment to reform existing discriminatory laws and practices with the aim of promoting and protecting the rights of women.

RIGHT TO LIFE

Article 4 of the African Charter and article 6 of the ICCPR guarantee the right to life. Under these provisions every human being has the inherent right to life and arbitrary deprivation of life is prohibited; no limitations to or derogations from this right are permitted. The obligation to protect the right to life by law and the prohibition against arbitrary deprivation of life places an obligation on the state to ensure that unlawful killings, such as those carried out by security services such as the NISS, are effectively investigated and that perpetrators are brought to justice. Unlawful killings, which include deaths resulting from the excessive or arbitrary use of force by security services as well as extrajudicial executions, are a violation of the right to life. Extrajudicial executions are unlawful and so are deliberate killings carried out by order of the state, or with its complicity or acquiescence.

The government has an obligation to ensure that unlawful killings by security services are recognized under national criminal laws as offences punishable by appropriate penalties which take into account their gravity. The government is also obliged to ensure that there are thorough, prompt and impartial investigations into all cases where the use of force by security services results in death; and that where these cases are found to amount to unlawful killings, those who have perpetrated them are brought to justice.

Amnesty International considers the death penalty to be the ultimate cruel, inhuman and degrading treatment, and a violation of the right to life.

The CRC and the ICCPR prohibit the execution of children below the age of 18. In December 2009, Sudan's National Assembly passed the 2009 Child Act, which contains a number of welcome reforms in line with the Convention on the Rights of the Child. Among other things, the Act raised the age of criminal responsibility to 12 years, defined a child as anyone under the age of 18⁶ hence creating a legal safeguard against the practice of allowing children under 18 to be tried as adults and sentenced to death. Amnesty International however remains concerned that there are children under 18, including eight children in relation to the Omdurman attack, who remain on death row in Sudan.⁷

THE PROHIBITION OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Article 5 of the Universal Declaration of Human Rights states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". International human rights law prohibits torture and all other forms of cruel, inhuman or degrading treatment or punishment in all circumstances. The ban on torture and other forms of ill-treatment is a rule of international customary law that no state can derogate from, even those that are not party to the CAT, such as Sudan.

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Article 5 of the African Charter and article 7 of the ICCPR both prohibit torture and other ill-treatment, and article 10 of the ICCPR recognizes the right of all persons deprived of their liberty to humane treatment. Both article 5 of the African Charter and article 10 of the ICCPR stress the respect for the inherent dignity of human beings.

The right not to be subjected to torture or other forms of cruel, inhuman or degrading treatment or punishment is enshrined in the 2005 Interim Constitution of Sudan. Article 30 of the Bill of Rights guarantees the right of every person to humane conditions of detention, in accordance with article 10 of the ICCPR. Article 33 of the Bill of Rights also reaffirms the absolute ban on torture and cruel, inhuman and degrading treatment.

The prohibition on torture and other ill-treatment covers a wide range of acts, including corporal punishments such as flogging.

Due to the severe physical and mental pain it inflicts, rape or the threat of rape by a member of security forces is considered to be a form of torture.

According to the UN Human Rights Committee's General Comment 20, prolonged solitary confinement may amount to torture or to cruel, inhuman or degrading treatment or punishment as defined by article 7 of the ICCPR.

Protection from torture and other cruel, inhuman or degrading treatment or punishment extends beyond the legal prohibition of torture to the obligation of states to effectively investigate any allegation of torture (and other ill treatment) and to prosecute those who are responsible, leaving no room for immunities. Protection from torture also encompasses the obligation of states to provide reparation to victims of torture and other ill-treatment.⁸

Furthermore, General Comment 20 specifies that the obligation of states to protect all individuals against torture or other forms of cruel, inhuman or degrading treatment or punishment applies whether the act is inflicted by someone "acting in their official capacity, outside their official capacity or in a private capacity".⁹

Article 37 of the Convention on the Right of the Child prohibits torture and other cruel ill-treatment of children. Article 37 reaffirms the right of children to humane treatment and dignity and protects children from arbitrary and prolonged detention while guaranteeing their right to family correspondence and visits.

ENFORCED DISAPPEARANCES

Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED) defines enforced disappearance as follows:

"For the purposes of this Convention, 'enforced disappearance' is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law".

The ICCPED requires that “no one shall be subjected to enforced disappearance”. The ICCPED further imposes an absolute ban on secret detentions. Secret detention is one of the practices that erode the right to freedom from torture. Sudan has not signed the ICCPED despite being urged to do so by various UN special procedures.¹⁰

While Sudan is not a party to the ICCPED, enforced disappearances violate a range of human rights, such as the right to liberty and security of person as well as the right not to be subjected to torture or cruel, inhuman or degrading treatment provided in treaties, such as the ICCPR, to which Sudan is a party. They also violate or constitute a grave threat to the right to life. These rights are all also enshrined in Sudan's 2005 Interim Constitution.

Enforced disappearances must be prohibited in all circumstances, reports of its occurrence must be effectively investigated and perpetrators must be brought to justice. Furthermore, a series of measures must be put in place to prevent the occurrence of enforced disappearances; key among them is an absolute ban on secret detentions.

THE PROHIBITION OF UNLAWFUL OR ARBITRARY DETENTION

Article 9 of the Universal Declaration of Human Rights, article 9 of the ICCPR and article 6 of the African Charter guarantee the right to “liberty and security” of the person. While article 9 of the ICCPR prohibits arbitrary detentions, it does not contain a definition of arbitrary or unlawful detention. Jurisprudence of human rights bodies, including the Human Rights Committee and the African Commission, have established that the term arbitrary needs to be interpreted broadly to include elements of inappropriateness, injustice and lack of predictability.¹¹

The UN Working Group on Arbitrary Detentions¹² has identified three broad categories of arbitrary deprivation of liberty:

- when there is no legal basis for the deprivation of liberty
- when the deprivation of liberty is a result of the exercise of human rights guaranteed by the UDHR and the ICCPR, including the right to freedom of movement, freedom of thought, conscience and religion, freedom of expression, peaceful assembly, freedom of association, and equality before the law
- when the non-observance of international standards of fair trial is so grave that the deprivation of liberty takes an arbitrary character.¹³

The prohibition of arbitrary detention is reaffirmed by the 2005 Interim National Constitution of Sudan under article 29 of the Bill of Rights which stipulates that “every person has the right to liberty and security of the person; no person shall be subjected to arrest, detention, deprivation or restriction of his/her liberty except for reasons and in accordance with the procedures prescribed by law”.

FAIR TRIALS

Articles 10 and 11(1) of the Universal Declaration of Human Rights (UDHR) guarantee everyone's right to a public and fair trial, “with all the guarantees necessary for his defence”.

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Sudan's international obligation to provide any accused with a fair trial before Sudanese courts derives from article 14 of the ICCPR and from article 7 of the African Charter. Article 14 stipulates that "everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law". International standards require states to respect a number of guarantees in any criminal trial, including the right to be presumed innocent, the right to be informed promptly of the charges, the right to be represented and to communicate in confidence with legal counsel of their choice. Furthermore, defendants have the right not to be compelled to confess guilty and any evidence elicited as a result of torture or other ill-treatment must be excluded. The African Commission's Principles and Guidelines on the Rights to Fair Trial and Legal Assistance in Africa provides more instructions regarding the access to legal aid, the conditions of detention and other elements such as judicial proceedings, that contribute to guaranteeing the right to a fair trial.

Sudan's Bill of Rights guarantees the right to a fair trial under article 34(3) of the 2005 Sudanese Interim Constitution which states that "in all civil and criminal proceedings, every person shall be entitled to a fair and public hearing by an ordinary competent court of law in accordance with procedures prescribed by law". Article 34 also guarantees detainees' right to be immediately informed of the reasons of their arrest and of having charges promptly brought against them. Article 34 also reiterates the right of accused of being tried in their presence on any criminal charges without delay, as well as their right to defend themselves through a lawyer of their choice when possible.

The obligation to give any accused a fair trial is linked to the right to life in countries such as Sudan which retain the death penalty. The Special Rapporteur on extrajudicial, summary or arbitrary executions has stated: "the execution of a death sentence passed after a trial in which basic fair trial standards, as provided for in article 14 of the International Covenant on Civil and Political Rights, were not respected constitutes a violation of the right to life".¹⁴

SECURITY LAWS IN SUDAN

"The Special Rapporteur is gravely concerned about situations in which intelligence agencies wield arrest and detention powers, but where there is no effective judicial oversight over the actions of the intelligence services, resulting in impunity".¹⁵

Article 4 of the 2005 Interim National Constitution states that the Constitution is "predicated upon and guided by" the supremacy of the rule of law, accountability, equality, respect and justice. However, these fundamental principles at the heart of the Constitution are jeopardized by some of Sudan's national laws, such as the National Security Act.

The 1999 National Security Forces Act (NFSA) was in force when most of the human rights violations documented in this report were perpetrated. It was replaced by the 2010 National Security Act (NSA), which was passed in December 2009 and entered into force in February 2010.¹⁶

Article 151 of the 2005 Interim National Constitution specifies that: "the National Security Service shall focus on information gathering, analysis and advice to appropriate authorities". This vision of the NISS, which was created by the CPA and is aimed at narrowing the mandate of the NISS in Sudan, is still not met by the 2010 NSA which maintains the

extensive powers of NISS agents.

Although the duration of the allowed period of detention by NISS agents without judicial oversight was reduced in the 2010 NSA, the new act however maintains the extensive powers of NISS agents to search and seize, and arrest and detain without judicial oversight. These provisions are a major impediment to respect for and protection of human rights in Sudan. The 2010 Act maintained the powers of the NISS, just as the 1999 Act maintained the powers of the NISS granted by the 1995 Security Act, hence failing to bring the national security laws in line with international human rights standards.

These consecutive National Security Acts have contributed to creating a culture of impunity where NISS agents can commit human rights violations without any judicial oversight of their actions, and without accountability.

One example is the power of search. The power of search is provided by article 30(b) of the 1999 NSFA, and by article 50(b) of the 2010 National Security Act. Both Acts provide that NISS members have the power to search provided they obtain a written order from the NISS director. The power of search has been used extensively by the NISS, often arbitrarily violating the right to privacy of individuals. It has been used to intimidate and harass human rights organizations, human rights defenders and civil society activists.

Another example of the NISS's powers under the National Security Acts is the power to seize assets and money. Again, this has led to a number of violations and the targeting of human rights defenders and human rights organizations in particular. The most pervasive NISS power however remains the extensive power of arrest and detention, which is the source of most human rights violations described in this report.

ARREST AND DETENTION

"...broad powers of arrest and detention should be reformed (art. 31 and art. 33 of the national security act) and judicial oversight mechanism established".¹⁷

Article 30 of the 1999 NSFA allowed NISS members to arrest and detain any person for interrogation and investigation for three days without any independent oversight. Serious human rights violations, including torture, have been reported within this three-day period.

Following the initial three days' detention, the Director of the NISS could extend the detention for one month. When the person was detained on suspicion of having committed an "offence against the state", the detention could be extended by the Director of the NISS for another month. In such cases, after two months, the Director could submit a request to the National Security Council to extend the period of detention for another two months.

Article 31 of the NSFA gave the NISS Director the power to extend the detention period to a maximum of six months in cases where there was a risk of "terrorizing society and endangering the security and safety of citizens" through armed robbery or religious or "racial sedition". After six months, the Director could ask the National Security Council to renew the detention for another three months, in which case the detainee would be allowed to submit a complaint to a competent magistrate. Despite this small window for judicial review, a detainee could be held without charge for nine months in NISS detention.

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The 2010 National Security Act which maintains the powers of arrest and detention of NISS agents, however contains variations to the 1999 NSFA, including the permissible period of detention without charge or judicial review. Article 50 of the 2010 NSA stipulates that the NISS can arrest and detain any person for a period of up to 30 days, without judicial review. The detention could then be extended by no more than 15 days, should the Director consider it a necessity for the completion of the investigation. The 2010 Act does not specify the grounds that could justify such detentions.

Under the 2010 National Security Act, the Director can refer a case to the National Security Council, which can in turn extend the detention period by up to three months. This extension is only valid in cases where the Director believes the investigation has to be completed in order to avoid, among other things, threats to the safety and security of people, political violence, plotting against the country or the disruption of peace. Article 51(10) of the 2010 National Security Act stipulates that detainees are allowed access to a court if kept in NISS custody for longer than the period specified in article 50.

The period of NISS detention without any form of judicial review could last for four and a half months under the 2010 National Security Act.

Precedents show that detainees are often denied access to their families, lawyers and doctors while held by the NISS. Under the 1999 NSFA, detainees were only allowed to communicate with their families and not to receive family visits. However, the 2010 Act guarantees the right to family visits and the right to medical care under article 51.

While the 1999 NSFA denied detainees the right to receive family visits and to have access to a lawyer, the government of Sudan responded to the UN Group of Experts' recommendation that family visits should be allowed by stating that: "in practice prisoners receive several weekly visits from family members and are allowed to talk to their counsel as long as this does not affect the course of security investigations".¹⁸

The reality is very different. Families often spend months without receiving basic information regarding their relative, including a confirmation that he is being held by the NISS, news of his whereabouts and his physical condition. This not only breaches Sudan's international obligations, but is also in breach of article 32 of the 1999 NSFA which guarantees the right of detainees to communicate with their families. Article 51 of the NSA also guarantees the right of the arrested individual to inform his family of his arrest and to contact his family or lawyer as long as that does not endanger "the progress of interrogation, enquiry and investigation". The vague formulation, which was also found in the 1999 NSFA in relation to family visits, allows the NISS to deprive detainees of contact with the outside world at their own discretion.

The right of the arrested to challenge the grounds of their arrest before a competent court is not guaranteed by either Acts. This right, which is found in the ICCPR and the African Charter, acts as a fundamental safeguard against arbitrary and unlawful detentions. The Human Rights Committee has stated that such safeguard cannot be derogated from at any time, including in times of emergency.¹⁹

IMMUNITY FOR MEMBERS OF THE NISS

"The Special Rapporteur reiterates her concern that the National Security Forces Act

provides... procedural immunity for acts committed by national security officials that should be subject to criminal liability".²⁰

Article 33(3) of the 1999 NSFA provides NISS members and their associates²¹ with immunity from criminal and civil procedures for acts connected with the official work of the member. Immunities can only be waived by the Director of the NISS, when it appears that their actions are not connected to their work. Article 33 in practice provides NISS members with immunity from prosecution for all crimes committed in the course of their work.

In response to the Group of Experts' recommendation to remove immunities for NISS members, the government reportedly stated that the immunities were "procedural rather than substantive" and that "the practice was to waive a person's immunity whenever there is prima facie evidence to justify the laying of charges against the person".²²

The 2010 National Security Act maintained the same immunity for NISS members and their associates. Article 52(3) again repeated the wording of article 33 of the NSFA, providing immunity to members of the NISS for all acts committed in the course of their work as long as the immunity was not waived by the NISS Director. Article 52(1) states that any act committed by the NISS while pursuing their duties and with "good intentions" should not be considered a crime.

The lack of legal remedies for victims of human rights violations committed by the NISS demonstrates that these immunities, even if procedural by law, are substantive in practice. In the period covered by this report, Amnesty International has not been able to document a single case where these immunities were lifted and a member of the NISS was investigated and prosecuted for human rights violations.

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3. ARBITRARY DETENTIONS AND ENFORCED DISAPPEARANCES

“What we used to denounce in ghost houses was the lack of access to detainees. What difference does it make if we now know where they are held but still have no access to them, or any information about their state?”

Staff member of human rights organization

Despite the government of Sudan's assertions that it has closed down all “ghost houses”, Amnesty International has credible information that secret places of detention are still operated by the NISS.

The June 2007 report of the Group of Experts on Darfur included a recommendation to the government of Sudan to “close all unofficial places of detention” (recommendation 1.4.2). The report included the government's response that: “There are no unofficial places of detention”.²³

Despite the government's assertions, the use of secret and unofficial places of detention, a long-standing NISS practice, remains widespread in Sudan. A large number of former detainees have testified that they were kept for a period of time in a secret location where they were not allowed access to a lawyer, medical assistance, or any communication with their family. A human rights defender told Amnesty International that one survivor of torture who had been kept in a “ghost house” in 1991 was rearrested in 2008. He found writing on the wall of his cell, left by his former cell mate in 1991.

In its concluding observations in 2007, the UN Human Rights Committee voiced its concerns over the many reports it received of “ghost houses” and “clandestine detention centres”.²⁴ The Special Rapporteur on the situation of human rights in Sudan expressed similar concerns regarding unofficial places of detention in her final report to the Human Rights Council in June 2009.²⁵

The history of the two past years clearly reveals that the government has arbitrarily arrested and detained human rights defenders, political dissidents, journalists, civil society activists and members of ethnic minorities. Arrests have peaked at times of political tensions, such as following the Omdurman attack in May 2008, before and after the ICC arrest warrant against President Al Bashir in July 2008, and following the elections in April 2010.

Concerned about reports of enforced disappearances in Sudan, the UN Working Group on Enforced or Involuntary Disappearances has repeatedly requested permission to visit Sudan. Requests in December 2005, April 2008 and July 2009 were disregarded by the government. The Working Group nevertheless transmitted to the government various cases, including cases of harassment and ill-treatment of human rights defenders and families of the disappeared. In its December 2009 report, the Working Group estimated there were still 172 outstanding cases of disappearance in Sudan, on which the government had not provided any information. The Working Group expressed its concerns over the increased number of disappearances in Sudan, as well as "the possibility of underreporting of cases that may be happening in other parts of the country, including Darfur".²⁶

CLAMPDOWN IN RESPONSE TO ICC WARRANT

"Detention of political dissidents, of persons suspected of involvement in the activities of rebel groups and of human rights defenders by Sudan's National Intelligence and Security Services (NISS) has for a long time given rise to well-documented human rights concerns".²⁷

Following the International Criminal Court's decision to issue a warrant of arrest against President Al Bashir in March 2009, 13 international humanitarian organizations were expelled from Sudan. Three national humanitarian and human rights organizations were also closed down.

The three national organizations closed down by the Sudanese Humanitarian Aid Commission (HAC) were the AMAL centre for the treatment and rehabilitation of victims of torture, the Khartoum Centre for Human Rights and Environmental Development, and the Sudan Social Development Organization (SUDO).

Staff members of both national and international organizations were harassed and sometimes threatened by the NISS. The NISS raided the offices of various organizations and systematically seized property, including documents and office equipment such as computers, in addition to personal items.²⁸ A number of local staff members of various organizations fled the country, mostly for fear of persecution by the NISS.

The Khartoum Centre for Human Rights and Environmental Development and SUDO appealed against their closure. On 22 April 2010, SUDO won its appeal. The Ministry of Humanitarian Affairs decided that the decision to dissolve SUDO had no legal basis and was outside the HAC Commissioner's legal authority. SUDO was to be allowed to resume its activities and to receive compensation from the HAC.

The director of the AMAL centre for the treatment and rehabilitation of victims of torture in El Fasher, north Darfur, was arrested by NISS officers on 11 April 2009. Mohamed Al Mahjoub was taken from his home to a NISS detention centre in El Fasher where he was held incommunicado. He was released without charge on 17 April. Before his arrest the NISS had ordered Mohamed Al Mahjoub not to leave El Fasher, in accordance with the 1999 National Security Forces Act. His freedom of movement was again restricted and he remained under NISS surveillance for a period following his release.

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Mohamed Al Mahjoub is one of many civil society activists and human rights defenders who were arrested after the ICC issued a warrant of arrest against President Al Bashir. He appears to have been detained solely for the peaceful exercise of his human rights.²⁹

The Special Rapporteur on the situation of human rights in Sudan stated in her June 2009 report to the Human Rights Council that during the period that followed the announcement of the arrest warrant against President Al Bashir, 16 cases of arrests and detention were reported by the United Nations- African Union joint Mission in Darfur (UNAMID), all "on grounds of alleged support to the ICC or of providing information to the international community".³⁰ UNAMID reportedly documented four cases of cruel, inhuman and degrading treatment and seven cases of human rights defenders, NGO staff and civil society activists being threatened and harassed by the NISS. According to the Special Rapporteur, the government's surveillance extended to private lawyers representing victims of human rights violations.

Abdelmageed Salih, a human rights defender of Darfurian origin, was arrested by the NISS in Khartoum on 28 August 2009. Despite his family's enquiries and despite public efforts to find out where he was and why he was being held, the NISS made no information available for one month. His family was not allowed to see him during the first month of his detention under the NISS when he was held incommunicado. He was held until January 2010 and was moved between various places of detention, some recognized and others unofficial. During this entire period, he was not brought before a court to review the legality of his detention. He was finally released without charge on 16 January 2010. On 28 March 2010, Abdelmageed Salih was arrested again by the NISS in Khartoum. He was working at the time with one of the bodies monitoring the elections. He was reportedly interrogated about his work before being released on the same day.

Around 20 students were arrested between March and May 2009 by the NISS in Khartoum's universities. They were arrested during pro-ICC rallies organized by students perceived of supporting the Sudan Liberation Army , Abdel Wahid faction, a Darfur-based armed opposition group.

Most were detained for a few days by the NISS then released without charge.

Those released were reportedly subjected to torture or other ill- treatment, including "beatings with fists, ropes, electric cables, sticks and rifle butts". One student was allegedly tortured with electric shocks.

Seven students remained in incommunicado detention for months, without access to a lawyer or their families. The families were not informed where they were held. They were finally released in February 2010.

THE OMDURMAN ARRESTS

Yousif (not his real name) was arrested on 10 May 2008 when he arrived to Khartoum from Gezira in the East of Sudan. He was in a bus station with three friends, trying to buy a ticket to travel to Darfur the next morning. Six men in uniform approached them, asked Yousif and his friends to put down their bags and searched them. They then tied the men's hands behind their backs and took them to a police station in Omdurman.

In the police station there were around 150 individuals, all Darfurian according to Yousif. The police could not

accommodate the new arrivals and the four detainees were tied to a fence outside the police station by NISS agents. The NISS agents then proceeded to beat them with plastic pipes. One of the men, who suffered from a kidney problem and had warned the NISS agents, collapsed. Only then did they stop beating him.

Yousif saw another Darfurian detainee who was being beaten with the end of a gun and collapsed; he was taken away by the NISS and not brought back. Yousif said he was transferred with the other 150 or so men in different vehicles to the NISS Political Bureau of Security Services in Bahri, Khartoum North, where he was interrogated.

On 13 May 2008 Yousif and his friends were driven to Omdurman, freed and told to go home. The NISS officers told Yousif they would get in touch with him. He was given back his clothes and other items, but not his money or mobile phone.

During the days that followed the JEM attack in May 2008, the NISS combed the streets of Khartoum and Omdurman looking for alleged JEM members and arresting civilians. Check points and patrols were set up throughout the city and although no official figures were revealed, various reports suggest that around 1,000 people were detained by the NISS. The NISS also raided the homes of Darfurians living in Omdurman and sometimes arrested entire families.

People were intercepted and arrested in the streets, on buses and in their homes. According to reports collected by Amnesty International during the Omdurman events, people were intercepted on the basis of their colour, their accent and their presumed ethnic identity. Human rights defenders told Amnesty International of cases where individuals were asked to pronounce certain words, in order to identify their accent.

The raids were mainly in the greater Khartoum area but also in other parts of the country, such as Darfur. In some Sudanese cities, including in southern Sudan, individuals were summoned to report to the NISS in Khartoum. At the same time, the government issued a list of "wanted" persons which was distributed to the International Criminal Police Organization (Interpol) as well as to countries with which Sudan has friendly relations, such as Egypt and the United Arab Emirates. Some people were arrested in countries such as Yemen and the United Arab Emirates as a result of these lists. While the decision to extradite them failed due to the intervention of the United Nations High Commissioner for Refugees and international organizations including Amnesty International, at least four persons were detained, and one of them spent a few months in detention in the United Arab Emirates, awaiting his transfer to a third country. Some had left Sudan more than 10 years earlier. At least one had recognized refugee status at the time of his arrest in Yemen.

The arrests mainly targeted Darfurians, particularly those from the Zaghawa ethnic group, although a number of non-Darfurian Sudanese were arrested on suspicion of some form of involvement such as harbouring alleged members of the JEM. Some of those arrested were Sudanese living in eastern Chad while others were allegedly Chadian nationals.

Immediately following the attack, a number of political opposition leaders and members, mainly non-Darfurian, were also arbitrarily arrested and detained. Hassan Abdallah Al Turabi and other members of the Popular Congress Party were arrested on 12 May. Hassan Al Turabi was interrogated and released after around 12 hours spent in NISS custody.

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During the months that followed the attack, people from many different walks of life were arrested, including farmers, members of various political opposition groups, traders, students, journalists, lawyers, human rights defenders, truck drivers and government employees.

Al Ghali Yahya Shegifat, journalist and president of the Association of Darfur Journalists, was arrested by the NISS on 14 May 2008. He was taken by the NISS to an unknown place of detention. His family was denied access to him and was not even informed of his whereabouts.

For the first few days of his detention, Al Ghali Yahya Shegifat was held together with about 150 other detainees, some of whom he recognized. He described to Amnesty International the conditions and treatment they were subjected to, including sleep deprivation and food rationing. He said he was tortured during his detention. He told Amnesty International how detainees were allowed access to the bathroom only twice a day and were not allowed to perform *woudou*' (washing for prayer). The lights were kept on during the night and they were often made to stay in the sun during the day and sit on very hot surfaces. During the first few days, detainees were called for interrogation every other hour and were not allowed to speak to each other.

Al Ghali Yahya Shegifat told Amnesty International that wounded suspected members of the JEM were kept in the same detention centre, which was filled with the odour of blood and dirt. The wounded were not given proper medical attention. "Everyone was insulted and harassed" he said.

Al Ghali Yahya Shegifat was released on 22 July 2008. He now lives in exile.

Abdel Hafiz (not his real name), who was in Darfur when the Omdurman attack took place, went to Khartoum for his wedding a few days later. He was arrested on the night he flew into Khartoum and detained for several days. He was released without charge, and without any information as to why he had been arrested and detained.

Some individuals who were arbitrarily detained by the NISS were held for days, others for months. Some detainees were held for up to 18 months without having charges pressed against them at any point.

A state of public emergency was never officially proclaimed by the government, an essential step in any derogation that would restrict the application of certain of the rights guaranteed by the ICCPR because of a threat to "the life of the nation". Even if a state of emergency had been declared, article 4(2) of the ICCPR allows no derogation from certain provisions, including articles 6 and 7, which guarantee the right to life and to freedom from torture and other cruel, inhuman or degrading treatment. Any other possible derogation must be necessary and proportionate to the exigencies of the situation and must not be discriminatory.³¹ The targeting of people of Darfurian origin during the Omdurman events was blatantly discriminatory.

The joint study on global practices in relation to secret detention in the context of countering terrorism, submitted in January 2010 to the UN Human Rights Council, referred to the fact that "anti-terrorist rhetoric has been invoked" by the government of Sudan, among other states, in relation to the secret detention of political opponents.³²

During the weeks that followed the attack, the government refused to acknowledge the whereabouts of those arrested or to reveal their place of detention and condition. Three

months later, in August 2008, hundreds of individuals were reportedly still held in "undisclosed places of detention and denied all contact with the outside world".³³

According to information collected by Amnesty International from various sources, there are around 200 individuals arbitrarily detained following the Omdurman attack whose fate and whereabouts remain uncertain until the present day. Very little information is available about their conditions and the government of Sudan has not made any official statement acknowledging the detention and whereabouts of these individuals. Amnesty International considers them to be possible victims of enforced disappearance in Sudan.

In April 2010, the government revealed it had buried 108 individuals, all alleged JEM fighters, who were allegedly all killed during the attack on Khartoum. The government reported that DNA tests had been carried out before the deceased were buried but has not yet made public any of the information relating to these individuals.

Hashem Abdelshakour Hashem is the youngest NISS detainee known to Amnesty International. He was only nine months old when he was detained with his mother Zubeida Sandal Hajjar and his aunt Zahra Sandal Hajjar on 8 June 2008. Zubeida Sandal Hajjar's husband, Abdelshakour Hashim Derar, was a lawyer and member of the Darfur Bar Association who was arrested by the NISS in Khartoum on 14 May 2008 and was being held incommunicado at an unknown location at the time.

NISS agents came to the family home in Khartoum, claiming that they wanted to take Zubeida and Hashem to visit Hashem's father in detention. Zahra was also asked to accompany them on their visit. However, the NISS agents took the women and child to an unknown detention centre. They were all kept together in incommunicado detention until their release.

The two women are the sisters of a JEM commander, Suleiman Sandal Hajjar. They were held in various NISS detention centres and unofficial places of detention. The women were reportedly interrogated about the whereabouts of their brother every few days.

Their diet was poor and consisted of Sudanese beans. Zubeida said the food was too salty and often inedible. At one point, they were transferred to a detention centre that was reportedly full, and had to spend entire days in the sun. The women were kept at times in a very small and dark cell and had to create a makeshift bed for Hashem with their *throwbs*. Zubeida described how hard it was for him to sleep on the floor of the cell and that he used to sleep mainly during the day, in her arms.

Hashem suffered an eye infection in detention and was not seen by a doctor. Zubeida was threatened more than once with having Hashem taken from her if she did not "confess" where her brother was.

The three were released on 20 August 2008.

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4. TORTURE AND OTHER ILL-TREATMENT

“You lose your humanity. Whether you survive or die becomes irrelevant”

An activist from Darfur who survived torture by the NISS in Khartoum

Ahmed Ali Mohamed Osman, a doctor known as Ahmed Sardop, was arrested by the NISS on 20 March 2009. He was politically active, involved in a number of civil society initiatives and had worked in Darfur during the conflict, helping rape survivors.

He wrote an article on a Sudanese internet forum criticizing the government's March 2009 decision to expel humanitarian organizations from Sudan and asking for accountability for the crimes committed in Darfur. After the article was posted, he received threats and was reportedly followed by NISS agents. On 20 March, at around 11pm, when he was on the street outside his apartment, a number of men jumped out of a Toyota truck and forced him into it at gunpoint. He was taken to an unidentified location, where, he said he could hear a woman crying and screaming for the torture to stop.

In the hours that followed, Ahmed Sardop was tortured: “they leaned me over a chair and held me by my arms and feet while others hit me on the back, legs and arms with something similar to an electrical cable. They kicked me in the testicles repeatedly while they talked about the report on rape in Darfur, accusing me of having written it. They also referred to the reports which I had posted on the website Sudanese Online under my alias Ahmed Sardop. They threatened to bring my mother there and rape her. One of the men dislocated my ankle by stamping on it.

“When the men thought I had lost resistance they turned me onto my back on the floor and injected a green fluid into my genitals using a syringe. I do not know what the fluid was but it was very painful and it stung and burnt when it entered me. I told them to hit me if only they would stop injecting the fluid. After they had finished with this procedure they returned me to the first position where I was made to lean over the chair. Someone kicked me in the head and I lost consciousness”.

Ahmed Sardop said he did not know how long he remained unconscious but remembers waking up in the back of a truck and hearing one of the men saying “Why did you kill the blasphemer? We needed to punish him more and then kill him”. The other men allegedly answered that it was an order and asked their colleague if he wanted to disobey an order. He was dumped in front of his house in the morning. For hours he was unable to move, and he described passers-by being too frightened to approach him.

Ahmed Sardop filed a complaint with the police and was examined by a doctor who confirmed his allegations of torture. A few days later, he started receiving telephone death threats: "we will soon find you and we will kill you".

Ahmed Sardop presently lives in exile.

The practice of torture has been used systematically against supporters of the political opposition, human rights defenders, civil society activists and any individual seen to pose a threat to the government or the ruling party. Torture has become a means to silence political opposition in Sudan, despite the government's promises of reform and in breach of the various safeguards against torture in the Interim National Constitution and Bill of Rights.

Abdel Monim El Gak, a human rights defender who was arrested in November 2008, interrogated about any involvement with the ICC investigations in Sudan and tortured, wrote an open letter to Salah Gosh, director of the NISS. He pointed out the parallels between his case and that of another human rights defender who had been tortured by the NISS 18 years earlier: "Do you not find it strange Mr Gosh that two persons find themselves drafting almost the same letter in substance, with a span of almost 18 years between the incidents? There is complete stagnation in the river of your regime Mr Gosh despite the many agreements promising movement..."

The use of torture by the NISS is systematic. In a report to the UN Security Council, the UN Panel of Experts on Sudan stated that "Interlocutors interviewed by the Panel informed it that while ill-treatment or torture are not introduced as part of the curriculum prepared for officers undergoing NISS training, everyone in NISS is left with the impression that some physical violence is acceptable in the process of extracting information from suspects. According to a middle-level NISS officer the dilemma is obvious: "how else can I extract information from a criminal when I know that he's got it inside of him?"³⁴

In most of the cases documented by Amnesty International, NISS agents maintained control over detainees even after their release. In some cases, they unlawfully limited the survivor's right to freedom of movement within Sudan, including by making former detainees report to their headquarters at least once a week. Some former detainees were subjected to phone and text messages from NISS agents and to regular visits to their home or their family's home. The technique of threatening and harassing an individual's family to put pressure on them is commonly used by the NISS.

WHAT IS TORTURE?

The 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as:

"any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public

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official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions".

This definition explicitly includes mental suffering, as underlined by the Human Rights Committee in its General Comment no. 20, which states that "the prohibition [of torture] in article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim".

Despite the equal weight given to mental suffering in the definition of torture, it can be more difficult to substantiate mental harm than physical harm. As the understanding of torture has evolved, it has become more widely understood that one of the purposes and effects of torture is the infliction of psychological wounds beyond the physical injuries. The psychological consequences of torture are often borne by survivors long after the physical wounds have healed and need more complex and long-term treatment. This kind of pain, with its long-term effects and the fear it creates, recurs in all the testimonies Amnesty International has collected, even among detainees who were not physically assaulted. It was repeatedly stressed by the survivors of torture, their families and friends during research for this report.

TORTURE METHODS USED BY THE NISS

"Of course, their favourite form of torture is beating. They beat you over and over again. On your face, on your back, on your legs. With water pipes, with wires, with their bare hands..."³⁵

"They were threatened with being raped. I do not know if they were. They would not speak about it anyway. But detainees are often asked to take off their clothes during the investigation. To humiliate and intimidate them."³⁶

Abdelshakour Hashim Dirar is a lawyer, a member of the Darfur Bar Association, and brother-in-law of Suleiman Sandal Hajjar, a JEM commander.

On 14 May 2008, he was arrested from his office in Omdurman by NISS agents in uniform. Around 30 armed men arrived in three vehicles. Ten of them dragged him from his office, blindfolded him and threw him into one of the vehicles. Abdelshakour was held for four months and described being tortured on a regular basis. He said he was held in solitary confinement for long periods, and the door of his cell would open at night and security agents would enter and whip him repeatedly.

On the first day of his arrest, Abdelshakour spent almost five hours blindfolded up against a wall and was then taken for interrogation. The NISS agents asked him some questions, then forced him to take off his clothes. That is when the beating started. He was beaten with plastic water pipes and electrical wires. The torture lasted until around 5am the next morning. Abdelshakour fainted three times and was dragged to the bathroom, had water thrown on him to wake him up, and the torture resumed.

Abdelshakour was interviewed by a number of different people during his detention. All questioned him about the JEM's plans and about traitors within the Sudanese Armed Forces. Every time he repeated that he knew nothing about the JEM he was tortured again.

Abdelshakour described various methods of torture he suffered in the space of one day:

On 17 May 2008, the day after an interrogation in which he denied having any links with the JEM, NISS agents arrived and started beating him. The beating continued for two hours; seven NISS agents were involved, five in uniform and two in plain clothes. They used their bare hands, kicked him and hit him with plastic water pipes.

At noon the same day, he was taken to the top of the building and exposed to the sun for an hour with his hands tied behind his back. He was then thrown into a room with a hot air conditioning system and no windows. He said that the heat was intolerable and no human being could survive long in it. He was kept there for a few hours, enough to cause damage to his skin. He was then taken out and moved into another room where NISS agents administered electric shocks through his hands and feet. He received eight shocks initially.

Abdelshakour was moved back and forth between the electric shock room and the hot room until 5 that evening. At 5pm he was taken to another place and made to sit against a wall until 10 pm. At 10 pm, he was taken for another interrogation.

Abdelshakour Hashim Dirar was released from NISS detention on 3 September 2008. He now lives in exile.

NISS agents develop new techniques of torture all the time. Over the past two years Amnesty International has recorded numerous new methods of physical and psychological torture.

'THE INFLICTION OF PAIN'

Methods of torture and other ill-treatment used against detainees in NISS detention include, but are not limited to, the following:

- Kicking and stamping on detainees, beating with water pipes, beating with heavy and sharp objects, and with bare hands over different parts of the body, including the face
- Intravenous injections into male genital organs
- Sleep deprivation, by keeping the lights on in detention cells or conducting interrogations at night
- Crowding a large number of detainees in small rooms where they cannot lie down, in unhygienic conditions and among the wounded and the sick
- Placing detainees in the sun for entire days
- Beating detainees while held upside down against a wall
- Throwing detainees into deep holes with their hands and legs tied and leaving them there for considerable periods
- Electric shocks
- Forcing detainees to sit on hot surfaces
- Depriving detainees of access to toilets and washing facilities

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- Depriving detainees of food for days, or providing food that is inedible
- Burning detainees with cigarette ends
- Whipping
- Putting detainees in closets or very small spaces for long periods of time
- Making detainees stand in bathrooms filled with water, to stop them from sitting down or resting, for hours or throughout the night
- *Falaqa*, beating the soles of the feet with a stick, whip or other implement
- Making women drink water until they lose consciousness
- The “sand bath”: making detainees crawl on burning sand
- Putting detainees in rooms with hot air conditioning systems and no windows.

‘WHETHER PHYSICAL OR MENTAL’

“I was planning to kill myself that night.... Every hour I was at risk. I knew it was a matter of time until they [the NISS] reached me”.³⁷

“When they tortured us, they used to play loud music, which we thought was strange since the house was in the middle of nowhere. When I asked about it after my release, someone told me the reason they did it was to make us relive our torture every time we heard music playing”.³⁸

NISS agents use psychological torture as much as physical torture. This is demonstrated by the environment they create during interrogations, the vocabulary they use, as well as some of the methods they rely on to weaken the mental state of their victims and make them more vulnerable and hence more willing to “confess”. The scene of an interrogation was described by many survivors of torture as a stage on which NISS agents perform different roles and where the victim is made to go through various stages of psychological suffering, leading sometimes to a “confession”.

Survivors of torture often link a certain feeling, smell or sound to their memory of torture. One Chadian survivor of torture at the hands of the NISS told Amnesty International that during his detention in Darfur, NISS agents used to play music every time they tortured them. They, the detainees, found it strange because the house in which they were kept was remote and it was unlikely that anyone could hear their screams. “When I asked some people about it after my release, someone told me the reason they did it was to make us relive our torture every time we heard music playing...”

Many survivors described emotional and psychological alienation arising from being treated kindly one moment then beaten another. Abdel Monim El Gak described it as “a dangerous form of schizophrenia” when his torturer suddenly brought him a glass of water and apologized for any harm he might have done, and another promised to come and visit him and his family.

Amnesty International has documented the use of the following techniques:

- Blindfolding victims during interrogation and torture
- Performing mock executions
- Insulting victims
- Racist or sexual verbal abuse
- Taking detainees' clothes off during interrogation
- Making torture victims think that they have revealed information under the influence of drugs
- Creating the impression that the detainee might have been raped under the influence of drugs
- Telling victims that they will be forced to drink a poisonous substance if they do not confess
- Threatening family and friends of detainees
- Threatening women, as well as men, with rape
- Making detainees sign papers committing them financially and accusing them of fraud and other financial crimes
- Taking pictures of detainees while naked and threatening to publish them on internet sites
- Threatening detainees with the same fate as other known victims of torture or extra-judicial execution.

A number of torture victims suffered from mental disabilities before their detention, but this did not prevent them being tortured.

THE "RACIALIZATION" AND "GENDERIZATION" OF TORTURE IN SUDAN

"I remember during the attack on Omdurman in late May 10th, when I was working as one of the founders of the civil society National Committee for the Protection and the Defence of the Affected People of 10th May that your incensed security personnel were hunting down all who appeared to be of Darfurian appearance. I was horrified by the torture scars of many of those who were subsequently detained (including of women and children) and, as I recall them now, know that they are much greater than mine, the protected Arab northerner".³⁹

Sudanese society comprises a variety of languages, ethnicities and religious beliefs. The diversity of Sudanese culture and society appears to have been exploited by the authorities to

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exacerbate divisions. Many detainees described NISS agents using terms that accentuate the differences between various Sudanese groups to insult detainees and humiliate them. For example, during interrogations NISS agents have referred to people from Darfur as "slaves" and "blacks". In the days following the Omdurman attack in May 2008, people with braids, a common hairstyle in Darfur, were allegedly arrested in the streets and had their braids shaved off. Degrading and insulting adjectives are often used to address women.

Evidence collected by Amnesty International suggests that torture and ill-treatment is more systematically used by the NISS against people from Darfur than "northern Sudanese" who are nevertheless also subjected to arbitrary arrest and torture. A man from north Sudan told Amnesty International that NISS agents said to him during his interrogation and while ill-treating him: "you are one of us".

One human rights defender who conducted interviews with a large number of victims of torture said that his work suggested that NISS officers are often personally prejudiced. He told Amnesty International: "In their minds, often an 'African' Sudanese is a second class citizen. He has no rights. And when he has no rights, his torture becomes lawful".

Although they may carry racial and gender stereotypes into their work, no one deemed to pose a potential threat to the government is safe from the NISS, even if they are not from the marginalized ethnic groups in Sudan.

Following the Omdurman attack in May 2008, although the vast majority of the detainees were from Darfur and in particular from the Zaghawa ethnic group, some detainees were from the north of Sudan. Most were arrested on suspicion of cooperating with the JEM, for example by providing shelter to JEM fighters.

The ICC prosecutor's application for a warrant of arrest against President Al Bashir on 14 July 2008 led to a further clampdown on human rights defenders and the staff of national and international NGOs. Prominent human rights defenders who had previously been allowed to carry out their work were arrested. Some were tortured, including Abdel Monim El Gak and Osman Humeida.

Abdel Monim El Gak's letter refers to the "racialization of the politics of torture in Sudan". He expressed how the structure of the NISS itself reflects racial divides and says: "There were seven individuals who participated in arresting, interrogating and torturing me, two of whom clearly gave the orders and provided the supervision of the others. There were the 'white-collar' officers and both were of Arab northern appearance. The rest of the group, to whom was delegated the sweaty work of beating, torture and terrorizing, carried the characteristics of those from what you would term the "African" or non northern parts of Sudan".

USE OF TORTURE IN LABOUR DISPUTES

"They [the doctors] went into negotiation to improve their working conditions; they unfortunately ended up negotiating the release of their colleagues".⁴⁰

Between 1 and 8 June 2010, six doctors who are members of the Doctors Strike Committee, a committee that was elected to negotiate better pay and working conditions for practitioners

in Sudan, were arrested by the NISS. Two others at least went into hiding. Two of the detained doctors were reportedly tortured by the NISS.

On 2 June, doctors in Khartoum organised themselves and went on strike in protest against the arrest of their colleagues. They were attacked by the NISS and were beaten up, causing injuries to many of them. Despite various negotiation efforts, the six doctors remained in detention. On 23 June, following long negotiations with the Ministry of Health and other authorities, the NISS reportedly announced that it was unwilling to negotiate, and that they would consider releasing the detained doctors only if all doctors across Khartoum resumed their work, unconditionally.

On 24 June, doctors reached a decision and resumed their work. The NISS reportedly roamed the hospitals of Khartoum on the same day to check that the doctors had returned to their positions. The doctors were released in the night of 24 June after almost a month of incommunicado detention. They were all released without charges and no investigations were opened into the allegations of torture.

VIOLENCE AND DISCRIMINATION AGAINST WOMEN

Nahla Bashir was arrested by the NISS in South Darfur at the end of October 2008. Nahla Bashir is reportedly related to one of the members of a Darfur armed opposition group who was suspected by the government of having orchestrated the attack on Chinese workers in South Kordofan in October 2008. She was arrested together with a number of other individuals who were taken for investigations as members of the group or suspected of having taken part in the operation. Nahla worked in a civil society association focusing on children at the time of her arrest from her relatives' house in South Darfur. She was transferred from there to the town of Al Muglad for one day and then flown again to Khartoum where she was kept in NISS detention for reportedly 10 days. She was reportedly kept underground in an unofficial NISS place of detention.

Nahla was then taken to the Criminal Investigations Bureau, where she reportedly spent over a month. She was charged there together with 14 other individuals of various criminal offences, including killing, violence, kidnapping. Nahla was transferred to Omdurman's prison for women where she spent another 10 months before she was released on bail.

On 1 July 2010, Nahla was reportedly rearrested by the NISS, after two of the individuals who had been released on bail under the same charges disappeared. During the time she spent in NISS detention and in the Criminal Investigations Bureau, Nahla was reportedly tortured and otherwise ill-treated. Following this, she was transferred to Omdurman prison where such practices allegedly ceased and where she was allowed weekly visits by her family. No investigations have been carried out into the allegations of torture and other forms of ill-treatment Nahla suffered. As of 6 July, she remained in Omdurman women's prison.

WOMEN HUMAN RIGHTS DEFENDERS

Women and other human rights defenders protecting and promoting women's rights in Sudan face difficulties on a daily basis because of the NISS' close monitoring of their activities and movement. Members of various NGOs and groups working on women's rights, including sexual violence, suffer from distinct forms of harassment and intimidation at the hands of the NISS.

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In Darfur international organizations working on women's rights, particularly in the area of protection and sexual violence, were particularly targeted by the HAC, which has close links with the NISS in Darfur. Many were expelled in March 2009.

Several human rights defenders said that the harassment of women human rights defenders often goes unnoticed and unreported by international human rights organizations. Women human rights defenders in Khartoum for instance are seldom detained and tortured. They suffer instead from forms of harassment and intimidation, including being closely monitored and followed by NISS agents, having NISS agents visit their offices, and receiving text messages and phone calls by NISS. Such harassment restricts their ability to move freely and to perform their work.

Women human rights defenders told Amnesty International that methods of intimidation employed by security agents in Sudan often had a sexual connotation. One described receiving some 10 calls and text messages a day from security officers on her private phone until she had to change her number. She described the sexual nature of text messages sent by security agents and told Amnesty International: "they allow themselves to use *ghazal*, (courtship), with women human rights defenders, to intimidate them and make them feel how vulnerable they are..." It is common practice in Sudan for women human rights defenders to change or even cancel their mobile phone numbers because of constant harassment by the NISS.

The offices of civil society organizations are regularly visited by plain clothed NISS agents with various excuses, such as the need to inspect the offices or to inquire about one of their employees. "While human rights defenders who have been involved in human rights work in Sudan for a long time immediately recognize NISS agents", one human rights defender said to Amnesty International, "these visits can be confusing to new and young employees. They are often unable to identify an interrogation if it happens that way".

Organizations are forced to take precautions to increase the safety of their women employees. For example, they ensure that there is always more than one employee in an office and that women are accompanied home after dark. Some organizations, especially those operating in Khartoum and in Darfur, avoid having just one male and one female employee in their office at any given time, for fear of accusations of "prostitution" or "*zina*".⁴¹

DISCRIMINATION AGAINST WOMEN: THE PUBLIC ORDER REGIME

"The public order regime is a form of torture and has not been recognized as such by human rights organizations for the last twenty years...It's a very silent pattern of torture that has been going on".⁴²

On 3 July 2009, Lubna Hussein, a prominent Sudanese journalist, was arrested with a number of women in a restaurant in Khartoum. The women were all arrested for wearing trousers; an act the police officers deemed "immoral". They were taken to a police station where around 30 other women were held. Thirteen women in total, including Lubna Hussein, were charged with dressing indecently. The journalist used the story of her arbitrary arrest to highlight the plight of women living in Sudan and to shame the Public Order Police and courts.

Lubna Hussein, who at the time of her arrest was a staff member of the UN Mission in Sudan, challenged her arrest, and took her case to an ordinary court. Her trial was adjourned twice before she was finally convicted on 7 September 2009 and sentenced to a fine, or one month in prison. She refused to pay the fine and was taken to Omdurman women's prison.

Despite her own refusal to pay the fine, the Journalists' Association paid her fine and she was released from prison. Still vocal, she announced to the press that she would not give up her cause, and that she would challenge the decision all the way to the Constitutional Court. As of end of June 2010, Lubna Hussein was still awaiting the decision of the Constitutional Court after the Court of Appeal and the Supreme Court maintained the lower court's decision. Lubna Hussein left Sudan towards the end of October 2009. She is now living, like hundreds of Sudanese who dared to raise their voices against the government or its practices, in exile.⁴³

In the days that followed Lubna Hussein's arbitrary arrest, opinions were mixed as to whether she had been targeted by the Public Order Police because of her writings, or whether she just happened to be among the group that was arrested that day. Lubna Hussein herself told Amnesty International: "The truth is that I do not know if I was targeted because of my journalistic work. On one hand, there were tens of girls and women who were also arrested that day with me; on the other, they arrested me for wearing trousers; it was not the first time I wore trousers in public... The law is bad but the biggest problem is that they apply the law as they wish, whenever they wish. The worst is that they apply the law in discriminatory ways".⁴⁴

After Lubna Hussein's case came to the attention of international media, the flogging of women in Sudan was denounced by the international media but the practice was often mainly blamed on *Sharia* law, which misrepresents the reality of the practice in Sudan. This ignores the role of the public order regime, of which the Public Order Police is part.⁴⁵

The public order regime comprises the Public Order Police (now known as Police of Society Security), the Public Order Courts, the Public Order Acts, and the 1991 Criminal Act, particularly section XV on "offences of honour, reputation and public morality".

The public order regime relies on loosely defined concepts such as "indecent or immoral acts" which are prohibited by the 1991 Criminal Act but left open to interpretation. When a form of dress is "indecent" or "immoral", or when there is an "intention to commit *zina*" is left to the judgement of the Public Order Police and Courts. Wearing trousers is one example: it is common practice among women in Khartoum and yet can trigger arrests. The Public Order Courts were set up in 1995 and run beside the regular judicial system. Judges in the Public Order Courts pronounce summary rulings and individuals can be lashed within hours of their arrest. They seldom have access to a defence lawyer.

The Public Order laws are inherently discriminatory against women, and the behaviour of the Public Order Police and Courts is discriminatory in practice, undermining the legal obligations to guarantee equality arising from Sudan's national and international human rights obligations. These practices affect women and girls in particular. Non-Muslim women living in the North of Sudan are also affected by these practices.

Lubna Hussein's stand brought international attention to the fact that women and girls in Sudan (and also men) have been arrested and subjected to punishments such as flogging for

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the way they dressed or behaved in public. Such arrests have been carried out for years. Some reports indicate that thousands of women and girls are arrested in Khartoum every year because of their "indecent clothing". None of these women challenged their treatment. Several victims of these laws and human rights defenders spoke to Amnesty International of the shame and stigma attached to being arrested under these laws. To be accused of "*aamal fadiha*", "indecent or immoral acts" is in itself seen as disgraceful. When Lubna Hussein was arrested, pictures showing what she was wearing were not published in any of the articles carried in the government controlled newspapers: "They left everything to the imagination. A citizen reading those articles that described how I was dressed in an indecent and immoral manner would never have imagined that I was in reality simply wearing trousers".⁴⁶

The shame that is generated by the public order regime can be and is used as a weapon of control, abuse and political manipulation. The Public Order Police reportedly use the threat of punishment and public shaming to blackmail some women and obtain financial or sexual favours. Several women told Amnesty International that women in police stations commonly give whatever they have, including rings, money and mobile phones, to escape punishment by Public Order Courts.

One activist told Amnesty International that the poorest, such as street vendors and tea sellers in Khartoum who are mostly internally displaced, are more likely to be targeted: "women who sell tea are the most targeted by the Public Order Police, and they are the most vulnerable to their blackmail".⁴⁷ They are allegedly more likely to be targeted for sexual harassment and abuse following their arrest, because as one defender put it "their body is often seen as the only currency they have".

Several human rights defenders told Amnesty International that a number of women in Omdurman's women's prison, most of whom are tea sellers, became pregnant after they were arrested by the Public Order Police. Amnesty International has no further information on how they became pregnant, but sources allege that they might have been raped by law enforcement agents. These sources also allege that Public Order Police often insult and physically abuse women, including girls as young as 12, by touching them when they arrest them in the streets. Public Order Police are reported to spend time outside women's universities and dormitories, where they are more likely to find female victims.

THE PUBLIC ORDER REGIME AND THE NISS

"A person who is caught by the Public Order Police will be released for instance if he or she is a known government supporter. The opposite is true in the case of human rights defenders and dissident voices; they receive an order to cooperate or else suffer the consequences of their 'immoral' behaviour... What brings the NISS and the Public Order Police together is that their strings are moved by the same hand, the NCP".⁴⁸

The public order regime is reportedly often used either in coordination with the NISS, or by the NISS itself. The Public Order Acts and the provisions of the 1991 Criminal Act are often used to suppress freedom of expression and association and to harass political dissidents, civil society activists and human rights defenders.

In several cases parties organized by international personnel were raided and Sudanese activists were arrested, either for dancing or for being in a gathering where alcohol was being

served. Article 154(2) of the 1991 Criminal Act defines a place of prostitution as "any place designated for the meeting of men, or women, or men and women between whom there are no marital relationship, or kinship, in circumstances in which the exercise of sexual acts is probable to occur".

Organizations such as The Strategic Initiative for Women in the Horn of Africa (SIHA) have reported⁴⁹ that the legal provision prohibiting prostitution: "...is understood by most women from experience to be amenable to application even to a situation where men and women are found sharing a professional office outside normal office hours". It is the vagueness of such laws, where the "probability" of sexual acts occurring is left to the estimation of the Public Order Police, which makes them discriminatory and susceptible to be used to target individuals for their real or perceived political opinion or their legitimate activities.

The NISS has reportedly used the threat of being convicted of public order offences to coerce women, especially the socially and economically marginalized, into being informers. According to reports, once such women, often tea sellers or women from the poorest class in Khartoum, are arrested for public order offences, NISS agents blackmail them into working for the NISS and becoming their ears and eyes in the streets of Khartoum. More than one organization mentioned to Amnesty International the fact that they suspected a tea seller to be watching their office. There are also reports that women arrested by the Public Order Police have been handed over to the NISS and forced to agree to vote for the ruling NCP.

The collaboration between the regular police, the Public Order Police and the NISS is illustrated by the case of Lubna Hussein. When Lubna Hussein's court case opened, she invited fellow journalists and activists, as well as family and friends, to attend her "trial and flogging". Many responded by attending the court on the day of her trial. At the second court session, on 7 September 2009, a large crowd of mainly women organized a peaceful protest outside the court. They carried placards protesting against the flogging of women in Sudan and calling for the abolition of article 152 of the 1991 Criminal Act.

The women were attacked by the police with teargas. Their ranks dispersed and the police then started arresting them and transporting them by vehicles to the police station. Many were severely injured during arrest and many others were hurt on the way to the station because of the way they were crowded into the vehicles and because of the way the police drove.

Some NISS agents were reportedly present during the protest, and they allegedly insulted and threatened the women. NISS agents in plain clothes allegedly threatened to throw acid at the faces of women if they did not disperse. These threats were issued in front of watching police officers who did not intervene. One of the women said to Amnesty International: "who else but the NISS would dare to do such a thing in front of the police. The police did not budge".

Some women have been targeted by the Public Order Police since they were first arrested outside Lubna Hussein's trial.

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Amal Habbani, a journalist dedicated to human rights, wrote about Lubna Hussein's case and the practices of the Public Order Police on 12 July 2009, in her column *Ashyaa Saghira* (Small Things) in the newspaper *Ajras Al Hurriya* (Freedom Bells). She commented: "And of course, the public order did not devise its behaviour towards women by itself, but only derived it from a ready regime that gave it the green signal, through the controlled Public Order regime and article 152 of the Criminal Act..."

As a result of her article, the Public Order Police filed a claim against Amal Habbani for tarnishing the Public Order Police's reputation, under the defamation clause of article 159 of the 1991 Criminal Act. Amal also had to appear before the Press Council for investigation.

The Special Rapporteur on human rights defenders expressed concern that "the judicial prosecution of Mrs. Habbani may be related to her peaceful and legitimate activities in defence of women's rights".⁵⁰

Many newspapers owned by the government or affiliated with the ruling party used aggressive and insulting language to describe the demonstration and the women involved in the movement to abolish flogging. Lubna Hussein told Amnesty International that she was surprised to see such insults being published in Sudanese newspapers: "To hear them in protests is one thing, but the minute they are out in the press, they become institutionalized". One government-controlled newspaper reportedly described the demonstration as "the demonstration of whores". These articles were published in 2009, at a time when the NISS was in control of newspaper pre-print censorship, for example refusing to allow love poems to be printed. As Lubna Hussein commented: "it was quite significant that during those times articles containing such insults were however allowed".

THE WOMEN AND CHILDREN OF DARFUR

*"His mind is not right anymore. He lives in his own world since he returned. He is taken by sudden surges of violence. I have known him since he was a small child. He is a different person now..."*⁵¹

Amnesty International has documented the cases of several women from Darfur who were tortured in NISS detention. Many were detained in unofficial places of detention for months following the Omdurman attack in May 2008. At least two were reportedly pregnant when they were tortured by the NISS. The available evidence suggests that women from marginalized ethnic and socio-economic groups, such as Darfurians or IDPs living in Khartoumin general, are often the targets of discriminatory practices and human rights violations by the authorities in Sudan.

As well as the women who were arrested in the streets of Khartoum and in their houses, several women said they came under NISS surveillance in the days that followed the JEM attack on Omdurman. Some said that their houses and their movements were watched by NISS agents, particularly if they had relatives who were suspected to be JEM members, while others had their houses raided by NISS agents, several times a week in some cases.

Aisha (not her real name)⁵² is in her twenties and comes from Darfur. She was detained in June 2008 in Khartoum because the NISS suspected she had hidden some relatives who were members of the JEM in her house following the attack on Omdurman. Aisha was kept in incommunicado detention for almost two months. She was reportedly beaten severely on the face, on the head and on her legs. She was also reportedly flogged during her initial interrogation and hung from her *thowb* until she lost consciousness. Aisha reportedly had a miscarriage while in detention. She was three months pregnant at the time of her arrest.

Amna (not her real name)⁵³ is an internally displaced person who stated she was tortured by the NISS reportedly because of her involvement in social work and with NGO operations in Darfur. Following her detention and torture, Amna was not able to leave Darfur because of the limitations that the NISS imposed on her freedom of movement. Amna declared: "We are still suffering because still receiving threatening calls from Sudan's National security. They harass me from time to time and other females as well, as we are women leaders inside the internally displaced camp. The security situation is very bad...I was arrested for 6 days in (mid) 2009 by the National Security. I was tortured, physically assaulted, even by electricity cables. They did to me the worst crimes against humanity. Since I was released until now the national security's threats are continuous. All the time I feel physically and psychologically insecure because they keep threatening me from time to time. Last time I received a call from them they said that when they arrest me next it will be the last day of my life..."

CHILDREN

According to official sources, 109 children, all alleged JEM members, were arrested during and after the Omdurman attack in May 2008. However, reports suggest that more than 109 children were in fact detained. Ninety-nine were released in August 2008 following a decree issued by President Al Bashir.⁵⁴ Amnesty International believes the children were captured by the security forces during and after the fighting and held in incommunicado detention with adults before most were transferred, about three weeks later, to a separate detention centre while about 12 children continued to be held with adults.

Based on information from journalists, human rights defenders and some families, Amnesty International believes that most children arrested by the NISS following the Omdurman attack were tortured or otherwise ill-treated during the initial period of their detention, although the government has reportedly denied this.

Some of the children detained following the Omdurman attack were reportedly street children or other children living in Khartoum who had not been involved in the fighting, although the JEM did use child soldiers during the attack.

Despite the government's public announcement that it had released all the children detained following the Omdurman events, more were in fact being held. According to information collected by Amnesty International, about 23 children appeared between 2008 and 2010 before the counter-terrorism courts. Eight of them were sentenced to death in contravention of international human rights law which prohibits the imposition of the death penalty for crimes committed by children who were below the age of 18 when the crime was committed.

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The courts reportedly refused to order an independent medical examination to determine the age of children who stated in court that they were under the age of 18. Some courts asked a police medical committee to access the age of the children during the trials. The committee reportedly evaluated their age based on their physical appearance and without performing any medical examination.

The government announced in November 2009 that it would not execute the children sentenced to death. The government however did not release them or ensure the commutation of their sentences, despite the guarantees it provided to the Special Representative for Children and Armed Conflict that "no child will be executed in the Sudan".⁵⁵

Mohamed (not his real name), aged 13, left the refugee camp where he had lived with his family in eastern Chad since the beginning of the conflict in Darfur in 2003. His family did not know where he was or what had happened to him. Four months later, Mohamed was reunited with his family. He had been arrested by the government forces in Khartoum where he reportedly took part in the JEM attack on Omdurman. Amnesty International's delegates were not able to interview him because of the poor state of his mental health, allegedly as a result of being tortured in NISS detention, immediately following his arrest.⁵⁶

DEATHS IN DETENTION

It is impossible to verify the number of deaths that have occurred in NISS detention since the present government took power. During the Omdurman events in May 2008, several people were reported to have been unlawfully killed by NISS agents in the streets of Khartoum or after arrest.

Suleiman, a man from the north of Sudan, was arrested a few days after the Omdurman attack in May 2008 on suspicion of sheltering members of the JEM. He was released by the NISS after a few days. According to his family, he was then rearrested two days later when he passed by his house which was still under NISS surveillance. In response to repeated inquiries by his family, the NISS denied holding him or knowing where he was.

A few days after his second arrest, his family was contacted to collect his body from the NISS hospital morgue. His relatives were advised to take the body without asking for an autopsy, but they refused and asked for a post-mortem examination by an independent doctor.

The examination revealed multiple bruises and cuts as a result of severe and repetitive beating. The cause of death was identified as an internal haemorrhage as a result of beating. The deceased carried traces of cigarette burns on his stomach, neck and chest. The family did not attempt to pursue any legal remedies and no official investigation was carried out.

More than one person suspected of hiding members of the JEM was allegedly unlawfully killed by the NISS. When the families of the victims went to inquire about their whereabouts, the response of the NISS was reportedly to claim that they had died in a car crash. According to the families, however, the deceased had been shot.

One detainee who was arrested following the Omdurman attack and held for months in NISS detention told Amnesty International that several other detainees with whom he was being

held died in detention. He explained that the detainees were all held in cells with the wounded and sick, and that those who needed medical attention were not given adequate treatment.

According to witness accounts, Mohamed Moussa Abdallah Bahr El Din, a student at the University of Khartoum's Department of Education, was seized by NISS agents in front of the university on 10 February 2010. On 11 February, a day later, his body was found dumped in the streets of Khartoum bearing marks of torture, including cuts and burns on the palms of the hands and soles of the feet. Although the NISS tried to deliver his body for burial without an autopsy, the family insisted on a post mortem. Mohamed's body showed large bruises and cuts on different parts of his body.

One human rights defender told Amnesty International: "There is a limited repertoire of violence in Sudan... Jihaz al Amn [the NISS] operates differently. They have their own culture of violence. His body had burns that indicated probable electric shocks. Who else would have done that?"

Another said: "The NISS probably miscalculated what his body could tolerate".

According to the information available to Amnesty International, no effective investigation has been initiated to investigate the death of Mohamed Moussa and to prosecute those responsible.

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5. THE DEATH TRAP: UNFAIR TRIALS

“I spoke to him every night. I told him you won’t die. Organizations like Amnesty will stop them from killing you. But they did. My brother died for nothing”.

Brother of a person sentenced to death following an unfair trial and executed in January 2010

The use in evidence of “confessions” extracted under torture violates both the ban on torture, and a defendant’s right to a fair trial. Despite the provisions of the 2005 Interim National Constitution and Sudan’s international human rights obligations, “confessions” extracted under torture are still admitted as evidence in trials in Sudan. The use of “confessions” extracted under torture is not prohibited by Sudanese law. Article 10(i) of the Law of Evidence of 1993 states that: “evidence is not dismissed solely because it has been obtained through an improper procedure, if the court is satisfied that it is independent and admissible”.

In its revision of state parties’ submission on their implementation of the ICCPR⁵⁷ in 2007, the Human Rights Committee expressed its concern that confessions have been obtained in violation of the prohibition of torture and that they have “have been used in some inquiries and have culminated in death sentences”.⁵⁸

Between May 2008 and June 2010, Amnesty International recorded more than 120 death sentences that were handed out following unfair trials that relied partly or mainly on “confessions” reportedly extracted under duress.⁵⁹

Amnesty International documented 16 cases in which men were executed after unfair trials in which convictions were based on “confessions” extracted under torture. Courts at every level of the Sudanese judicial system, including the Constitutional Court, had upheld the death sentences at all stages. The accused were from Darfur and . In most of these cases, the accused were arrested by the NISS and kept in NISS detention until their trial was about to begin, when they were transferred to a prison. Testimonies suggest that it was in pre-trial stage when under NISS detention that their confessions were extracted under torture.

Six men were executed on 14 January 2010: Paul John Kaw; Abdelrahim Ali Al Rahama Mohamed; Idriss Adam Elias; Naser El Din Mohamed Ali Kadaka; Suleiman Jumaa Awad Kambal and Badawi Hassan Ibrahim. They were convicted of murder after the deaths of 13 policemen in Soba Aradi camp, 30km south of Khartoum, on 18 May 2005. The deaths occurred when violence erupted as security forces attempted to forcibly evict camp residents. Around 30 residents of Soba Aradi camp, including women and children, were killed during the confrontations.

Six days later, on 24 May 2005, NISS agents surrounded the camp and banned anyone from entering or leaving the area. They then raided the shacks and arrested around 640 individuals who were transported to various police stations. The detainees were reportedly tortured and otherwise ill-treated over the weeks that followed. At least one person allegedly died in custody as a result of torture.

Most of the detainees were released or convicted of rioting. Seven men, however, were convicted of murder and sentenced to death on 23 November 2006. All seven were tortured to "confess". The accused were not allowed access to legal counsel until October 2005, when they had already spent about five months in custody.

The Court of Appeal reduced the charge for one defendant who was convicted of involuntary homicide. However, it confirmed the death sentences on the six men. The Supreme Court and the review panel of the Supreme Court also confirmed the death sentences. The Supreme Court did not deal with the lawyers' complaints that the accused had confessed under torture.

On 13 October 2009, the Constitutional Court upheld the decision of the lower courts. Regarding the allegations of torture, the Court simply stated that they had not been "convincing to the lower courts".

No independent and impartial investigation was ever pursued into the incidents of May 2005.

Nine men were arrested and convicted for the murder of Mohamed Taha, a journalist who was found beheaded on 6 September 2006. The nine were: Al-Tayeb Abdel Aziz; Ishaq Mohammed Sanousi; Abdel Hay Omar; Mustafa Adam; Mohammed Birgid; Hassan Adam Fadel; Adam Ibrahim; Jamaledin Isa; Abdel Magid Ali Abdel Magid; and Sabir Hassan.

Mohamed Taha had written several controversial articles, including one about the Prophet Mohamed, and another that was seen as an attack on Darfurians.

During the investigation into Mohamed Taha's murder, 72 people, including women and children, were reported to have been arbitrarily arrested by the NISS. Nearly all of them alleged that they had been tortured to give information or confess. All but one were of Darfurian origin.

Most of those arrested were released and 19 were brought to trial. Nine of the accused were acquitted and released, but 10 men were sentenced to death in November 2007. The Supreme Court commuted the sentence on one of the accused.

All nine men under sentence of death retracted their confessions in court and said they had been extracted under torture. The Constitutional Court nevertheless upheld the lower courts' decision on 2 April 2009.

In response to the defence allegations that the defendants had been tortured, the Constitutional Court stated: "as for the allegation of torture, it was presented to the courts which, based on the provided evidence, decided that the appellants had failed to prove it. The judge who recorded the confessions of the accused verified that these confessions have not been extracted under threats, and the Constitutional Court does not interfere in his evaluation of the proof on this point".

The nine men were executed on 13 April 2009.

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THE JEM TRIALS

"True, this is not a political court, but it is not an island isolated from whatever is going on the country, either...this court cannot but live with some departure from ordinary criteria".⁶⁰

"No circumstances whatsoever, whether a threat of war, a state of international or internal armed conflict, internal political instability or any other public emergency, may be invoked to justify derogations from the right to a fair trial".⁶¹

"In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin...No derogation from articles 6 [right to life], 7 [freedom from torture and other ill-treatment] ...may be made under this provision".⁶²

Following the attack on Omdurman in May 2008, the government declared the JEM a terrorist group. The Chief Justice, in consultation with the Minister of Justice, created special counter-terrorism courts to try alleged JEM members on 29 May 2008, under the 2001 Counter-terrorism Act. These special courts operate under their own rules of procedure, different to the Criminal Rules of Procedure applicable to ordinary criminal courts in Sudan.

Counter-terrorism courts were created in three parts of Khartoum and more than 150 people arrested during the Omdurman events appeared before them between June 2008 and January 2010. Between June and July 2008, 50 people were convicted by these courts and sentenced to death. By January 2010, the number of death penalties pronounced had risen to 106.

Lawyers and civil society activists organized the provision of defence lawyers for all those tried in relation to the Omdurman events.

Despite the speedy establishment of the counter-terrorism courts, court of appeal judges have not yet been appointed, and no court of appeal has so far been formed. As a result, defence appeals against death sentences have not yet been heard.

The reference to terrorism can be heavily found in the JEM trials. The government and the Constitutional Court have justified a number of actions, such as the creation of the special Counter-terrorism courts and their procedures, by the fact that the attack created a state of emergency and an "exceptional situation" where "exceptional crimes" were perpetrated, even when a state of emergency was never officially declared.⁶³

Ahmed Suleiman Sulman was arrested during the Omdurman events and tried by a counter-terrorism court as an alleged member of the JEM. He was sentenced to death in August 2008 and held subsequently in Kober prison. Like most detainees held by the NISS immediately following the Omdurman attack, he was reportedly tortured while in NISS detention.

Ahmed Suleiman Sulman died in a police hospital in Khartoum on 21 October 2009, two days after he was taken there from Kober prison. He was still in shackles. He had tuberculosis and a mental illness that was reportedly exacerbated by his detention and torture. He was denied adequate health care, despite warnings by his lawyer that he needed urgent medical attention.

Most of the accused before the counter-terrorism courts stated in court that their "confessions" had been extracted under torture. However, the courts did not investigate these allegations or take into consideration the retractions.

In August and September 2008, five UN human right experts stated: "Following their apprehension, [the defendants] were held without access to the outside world for over one month and were not given access to lawyers until after the trial proceedings opened. ... Observers [at the trials] noticed that the defendants looked tired and appeared to be in pain. The defendants complained that they were subjected to torture or ill-treatment, but the court did not investigate these allegations and refused to grant requests by the defendants' lawyers for independent medical examinations..."⁶⁴

At least three of the accused suffered from mental illness. This was reportedly not taken into consideration during the trial and they were also reportedly victims of torture during their initial detention by the NISS. Among the accused there were also around 23 children. Among the 106 who were sentenced to death, there were reportedly eight children.

In an appeal submitted to the Constitutional Court, defence lawyers challenged the constitutionality of the counter-terrorism courts and their rules of procedure. The lawyers asked the Constitutional Court to declare the rules and measures enacted by the Chief Justice in consultation with the Minister of Justice unconstitutional, to declare the three counter-terrorism courts illicit and unconstitutional and to amend the 2001 Counter-terrorism Act.

The appeal stated that the rules of procedure of the special courts breached the 2005 Interim National Constitution and the 1991 Criminal Procedures Act as well as the Law of Evidence. Some of the rules of procedures amount to violations of international standards of fair trial, as stated by the appeal, in particular:⁶⁵

- Depriving the defendants of adequate time and facilities to prepare their defence, including time to appoint defence lawyers;
- Reducing the appeal period from two weeks to one, and reducing the number of appeal stages from two stages to one, even in cases where the death sentence is imposed;
- Violating the right not to be compelled to testify against oneself, by allowing the courts to convict on the basis of the defendants' plea of guilt, without making room for the measures established in Sudanese law to explain to the defendants the consequences of their

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confessions and allow them the opportunity to retract them. The Constitutional Court rejected the defence appeal.

In February 2009, the government of Sudan and the JEM signed an agreement in the framework of peace negotiations in Doha under the auspices of the government of Qatar and the UN-African Union joint mediation. Both parties committed to an exchange of prisoners including the defendants before the counter-terrorism courts. The agreement was never fully implemented: the government failed to release the detainees and less than a month later, a warrant of arrest was issued by the ICC against President Al Bashir, which was welcomed by the JEM, leading to a total breakdown of the agreement.

In February 2010, in the context of continuing Doha negotiations, the JEM and the government of Sudan signed a renewed framework agreement.⁶⁶ Again, an exchange of prisoners was part of the deal. The government of Sudan announced the release of 57 prisoners. Out of the 57, 50 were alleged JEM members who had been sentenced to death by the counter-terrorism courts.

A number of defendants acquitted by the counter-terrorism courts were not released and remain in arbitrary detention. Others were reportedly released but immediately rearrested by the NISS. At least 16 people acquitted between April 2009 and January 2010 were reportedly rearrested by the NISS.

THE CRIMINALIZATION OF FREEDOM OF EXPRESSION

"[His case] made me wonder ...Is he destined to pay the price for his courage, his drive, and his faith in his own principles? And have courage and the strength to express one's opinion become unforgivable crimes?"⁶⁷

"We have to keep on exposing their violations; Violations feed on silence!"⁶⁸

Following the presidential and parliamentary elections that took place in April 2010, the government renewed its clamp down on freedom of expression.⁶⁹

On 18 May, the NISS resumed its direct pre-print censorship in the north, ending the grace period that was given by President Al Bashir since he announced an end to censorship in September 2009.

The NISS pre-print censorship takes many forms, depending on the newspaper in question. NISS agents operate direct daily visits to some newspaper offices, where they go through the issue and stop certain articles from going to print. With other newspapers, NISS agents visit the printing house where the newspaper would have deposited its edition, and stop the newspaper from going to print. With some newspapers, the NISS operates what journalists in Sudan refer to as a "remote censorship", a form of pre-print censorship where NISS agents informs newspapers of the banned subjects and expects them to exercise a self-imposed censorship. As a result of the strict pre-print censorship and the NISS visits to the newspaper, some newspapers, including *Ajras Al Hurriya* (Bells of Freedom), suspended their publications for a week in June. On 6 June 2010, *Al Midan* newspaper, an opposition newspaper that is affiliated with the Communist Party and publishes three times a week, was stopped from going to print at the printing house. As of end of June, the newspaper has not

been allowed to publish. Some journalists have also been warned by the NISS against publishing their articles on the internet.

Journalists in Khartoum were arbitrarily arrested for writing articles containing an analysis on the recent elections and the victory of President Al Bashir in the presidential elections. Six journalists were subjected to interrogations or taken to court on various accounts.

Two journalists, Al Hajj Ali Warrag and Fayez Al Slik were interrogated on 15 March 2010 by the Press Council in relation to an article that was written by Al Hajj Ali Warrag on 6 April 2010 and published by *Ajrass Al Hurriya*. The article supported the boycotting of the elections and claimed that the general elections were being rigged. The NISS had filed the original complaint to the Prosecution of Press and Publications, claiming the article was promoting false news and was offensive to the state.

Al Hajj Ali Warrag, former editor-in-chief of *Ajrass Al Hurriya* was charged by the National Press Council with "waging war against the State" under article 51 of the 1991 Criminal Act. Fayez Al Slik, editor in chief of *Ajrass Al Hurriya*, was taken to court on the same account, as under the 2009 Press and Publications Act editors in chief bear primary legal responsibility for any material published by their newspaper. Proceedings began on 9 May in preparation for the trial. By end of June, sessions were still being adjourned.

On 15 May 2010, Hassan Al Turabi, leader of the Popular Congress Party, was arrested by the NISS from his house. Al Turabi was held in solitary confinement without charges for more than one and a half months in Kober prison in Khartoum. Al Turabi was released on 30 June without charges. The reasons behind his arrest remain unknown.

On the same day of his arrest, *Rai Al Shaab*, a newspaper affiliated with the Popular Congress Party, was occupied and closed down by the NISS. The NISS general director announced that the closure decision was based on article 26 of the 2009 Press and Publications Act, which states that editors in chief carry primary responsibility for all material that appear in Sudanese media. Responsibility also falls on other journalists and members of staff. The NISS general director also based the decision on article 25(d) of the 2010 NSA which grants NISS agents the power to "seize money and assets" in accordance with Sudanese law.

Between 15 May and 27 May, Abuzar Al Amin, Ashraf Abdelaziz, Nagi Dahab, Al Tahir Abu Jawhara, and Ramadan Mahjoub, five staff members of *Rai Al Shaab* were arrested by the NISS. Abu Baker Al Sammani, printer for *Rai Al Shaab*, was reportedly arrested on 15 May and released a few days later.⁷⁰

The defendants were transferred from NISS detention to the "Crimes against the State" prosecution offices. Their families were allowed to visit them on the fourth day of their detention. They were transferred a few days later to Kober prison, after having been charged. All men, including Abuzar for a second time, were reportedly asked by the NISS to sign documents they were not allowed to read just before they were transferred from the NISS to the "Crimes against the State" prosecution offices.

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Nagi Dahab, the newspaper's administrator was released without charges on 2 June, before the trial began. The four remaining journalists were taken to a normal court on the basis of 14 criminal offences including publication of false news, inciting sedition, undermining the constitutional system, terrorism, espionage against the state and disturbance of public peace. Some of the charges are punishable by death penalty in Sudan. All crimes were related to an article that was published by *Rai Al Shaab*.

A committee of 46 lawyers was formed and took charge of defending the four journalists. The trials began before a normal court on 9 June. Journalists and family members were stopped from entering the court. Some lawyers were reportedly stopped at times from attending the sessions because they had not been carrying their identity cards.

The defence team put forward a list of witnesses to attend the trial. Four of the witnesses were refused by the judges. On 16 June, the defence lawyers withdrew from the proceedings after having obtained their clients' consent. The lawyers linked their decision to the court's refusal of the witnesses, saying that "their hands were tied". The court suspended the trial until a new defence team was formed. Another 46 lawyers came forward and the proceedings resumed on 20 and 21 June in preparation for the witnesses and evidence. Despite the prosecution's refusal of all witnesses brought forward by the defence, the judges accepted three witnesses. As of end of June 2010, the trial was ongoing. Since its beginning, it has been characterised by its speedy progression, with two sessions per week on average.

The defence lawyers submitted a request to the general prosecutor to stop the proceedings. They allegedly based their request partly on the fact that the charges and sentences are disproportionate to the acts, and that the sensitive nature of the case might affect public security.

Two of the journalists, Abuzar Al Amin and Al Tahir Abu Jawhara, were allegedly tortured during their interrogation by the NISS. The interrogations and charges suggest that journalists were arrested and taken to court only because of their peaceful exercise of their right to freedom of expression, and because of their work. Amnesty International considers them prisoners of conscience.

Abuzar Al Amin is one of the journalists who were arrested by the NISS.

On 15 May, three plain clothed NISS officers visited Abuzar's house in Khartoum and told a family member that they were fellow journalists who wanted to see Abuzar.

According to a number of eye witnesses, the same three men had been hanging out in the street where Abuzar lives with his family for three days at least. Abuzar had been informed by his neighbourhood of their presence. He and his family had been expecting an NISS visit. Abuzar however refused to leave his house for fear that his family might be arrested instead.

The NISS agents entered and searched the house, without showing any identification or a search order. They found Abuzar and arrested him.

Abuzar was taken into unknown NISS detention where he was interrogated about his writings and journalistic work, and tortured. He was beaten and kicked during his interrogation. He had electric shocks administered to

his body. During his torture, Abuzar attempted to defend himself and bit one of the NISS agents in the nose.

Abuzar was forced to sign a paper while he was lying down in the torture room in a state of semi-consciousness. He is not aware of the content of the paper he signed.

As of end of June 2010, Abuzar still suffered from back pain and pain in his kidneys. He suspected he might have suffered some neurological damage, because of a growing sensation of numbness in his legs which affected his ability to walk.

In the first court session, Abuzar stated that he had been tortured. He asked the court for access to a specialized doctor to examine his injuries. His family had unsuccessfully requested the same during his initial detention with the "Crimes against the State" prosecution. The court granted him access to a general practitioner at the police hospital. The doctor examined Abuzar and reported back to the court that the defendant suffered from torn muscles and that he does not require any specialized medical attention. As a result, the Court refused his subsequent requests for access to specialized medical attention.

Abuzar Al Amin filed a torture claim before Omdurman North's prosecution against the NISS. Although his claim was rejected at first, he appealed and the prosecutor registered his claim. An investigation has been reportedly opened but was kept on hold because the claimant should be present. The defence lawyers in *Rai Al Shaab's* case reportedly asked the judges to allow Abuzar to present himself before the prosecution. As of end of June, his request had not been granted yet.

The NISS agent who was bitten by Abuzar filed a claim against Abuzar for grievous bodily harm. Although the prosecution mentioned the claim when the trials began, there was reportedly no further mention of the charge during the subsequent proceedings.

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6. THE BLIND ALLEY: LACK OF REDRESS

“The risk for families that speak out is always there, even for those that were so far sheltered... But the truth has to come out. This is the only way”.

Sudanese lawyer

Under international human rights law, states must investigate reports of torture and other serious human rights violations, prosecute suspected perpetrators and provide survivors with the right to redress and full reparation. A vital element in such reparations is seeing the perpetrator of the violation brought to justice. However, in Sudan this is virtually impossible. The 2010 National Security Act gives the NISS powers of arrest and detention and immunity from prosecution. It was adopted in spite of calls by national and international human rights organizations for Sudan to reform the 1999 NSFA and adopt effective measures to prevent the practice of torture and other serious human rights violations, and to address impunity for past violations, including by lifting the immunities enjoyed by the NISS. These immunities are a major impediment to justice for survivors of violations by the NISS.

Few survivors of torture and other ill-treatment seek redress through the justice system. Many fear that if they pursue legal remedies, the authorities will carry out reprisals. They are also aware of the legal obstacles such as the immunities provided by the 1999 NSFA and the 2010 National Security Act, and the precedents where attempts to seek justice have been rejected by courts, including the Constitutional Court.

In the Omdurman trials, the Constitutional Court stated that although the trials were not political, the Court could not but take into consideration the “exceptional circumstances” the country went through with the Omdurman attack. Despite the fact that a state of emergency was never declared, the Constitutional Court considered these circumstances sufficient to justify the exceptional rules of procedure of the counter-terrorism courts.

Nevertheless, and despite the Constitutional Court’s statement, some rights remain non-derogable in all circumstances, such as the right to life, and the right to freedom from torture. The International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political in stability or any other public emergency, may be invoked as a justification of torture”.

Families and lawyers of victims who died in NISS custody interviewed by Amnesty International spoke of the fear that such families face. The NISS often presses them to take delivery of the body for burial without an autopsy. In one case, when the family insisted on an autopsy, which showed that the death had been caused by torture, the family of the deceased was asked not to pursue any legal remedy and a small sum of money was given to the heirs of the victim, reportedly by a member of the NISS.

Despite the numerous medically documented cases of torture and other ill-treatment by the NISS, sometimes leading to deaths in custody, the government has failed to investigate these cases effectively or prosecute the suspected perpetrators.

The government's response when questioned about its failure to remove the immunity from prosecution of the NISS is to assert that the immunities are "procedural rather than substantive". However, the government's claim that "the practice [is] to waive a person's immunity whenever there is prima facie evidence to justify the laying of charges against the person" does not appear to have any basis in practice.

The UN Panel of Experts set up by the UN Security Council stated in October 2009 that the government of Sudan had not yet provided the Panel with "any evidence of any action taken against an NISS employee who has perpetrated human rights violations against Darfurian detainees".⁷¹

Courts hearing cases in which the accused alleged that they had been tortured by NISS personnel have consistently refused to allow the accused to retract "confessions" and have failed to order investigations of the torture allegations. In their judgments, they have often disregarded allegations of torture and other ill-treatment.

When the Constitutional Court confirmed the death sentence of the men who were accused of the murder of journalist Mohamed Taha, it stated: "the appellants find that the procedures according to which they were arrested, searched and placed in illegal custody violated their right as guaranteed by article 38 of the Constitution. The appellants also find that they were tortured and treated in a cruel and inhuman manner which breached the right they are guaranteed under article 33 of the Constitution. I agree with the lawyer that these violations, if proved, constitute a deprivation of the appellants' indicated constitutional rights. However, except for the violation concerning the torture of the accused, these violations do not affect the [court's] decision to convict them".

The Constitutional Court decided it was not necessary for it to look into the torture allegations, since the lower courts had already examined the "confessions" to verify that they had not been extracted under duress. There is however compelling evidence to support the allegations of torture in this case, allegations that should have been further investigated.

The Constitutional Court has repeatedly affirmed that the immunities provided for NISS personnel are not in conflict with the Constitution. It has stated that the immunities are only "procedural" and that the Director of the NISS would remove them if he deemed necessary.⁷²

In 1999, Amnesty International and a number of other complainants submitted communications to the African Commission on Human and Peoples' Rights about the

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arbitrary arrest and detention without charge or trial of hundreds of prisoners by the NISS. The complainants asserted that prisoners were held in "ghost houses" where the use of torture and other ill-treatment was widespread.

The African Commission stated that the case would be admissible because internal remedies were unavailable and were "simply non-existent". Furthermore, the African Commission stated: "the Government of Sudan has not been unaware of the serious human rights situation existing in that country. Most of the alleged violations are connected to the new national laws in force... Even where no domestic legal action has been brought by the alleged victims, the Government has been sufficiently aware to the extent that it can be presumed to know the situation prevailing within its own territory as well as the content of its international obligations".⁷³

The African Commission concluded that Sudan had violated a number of rights under the African Charter, including the right to life, the right to liberty and security of the person, the right to dignity and freedom from torture and other forms of cruel, inhuman and degrading treatment and punishment, the right to have one's case heard in court, and the rights to freedom of conscience, association and assembly. The Commission asked Sudan to end these violations and to respect its obligations under the African Charter.

Ten years later, in November 2009, Abdel Monim El Gak, Amir Suleiman and Osman Humeida, all leading Sudanese human rights defenders, filed a case at the African Commission for Human and Peoples' Rights against the Sudanese authorities. They called for redress for their arbitrary detention, torture and other ill-treatment in November 2008 by the NISS, which they said had been inflicted solely because of their human rights activities. The applicants also called for a reform of the National Security laws in Sudan, to bring them in line with the 2005 Interim National Constitution and with Sudan's international and regional human rights obligations. The three men still await the decision of the African Commission.

7. CONCLUSION AND RECOMMENDATIONS

“If every one of us asked for his right, we would have to get somewhere. There is a saying in Sudan: that no right is lost as long as there is a claimant behind it...”

Political activist who was arrested and tortured four times by the NISS, and fled Sudan

Without substantive changes in Sudan's national security laws and practices, the situation of human rights in Sudan will not improve. As long as the powers and immunities of the NISS are maintained, there is no hope of seeing an end to arbitrary arrests, prolonged incommunicado detentions, torture and other ill-treatment, and deaths in custody.

The escalating human rights violations by the NISS since the April elections and the clamp down on freedom of expression raise grave concerns, particularly in light of the coming 2011 referendum and the risks of increased human rights violations around the referendum.

The government of Sudan has a responsibility to respect, protect and fulfil human rights, including the rights to life and freedom of torture and other ill-treatment, the right to liberty, to freedom of expression, peaceful assembly, association. It should therefore stop its repression of human rights defenders, political opponents, students, journalists, women and dissident voices. It should also amend all laws that allow or impose cruel, inhuman or degrading treatment or punishment and bring them in line with human rights standards.

There is by all accounts a culture within the NISS that allows the use of torture and other serious human rights violations. This culture is encouraged by a government that allows these violations to be committed with impunity. Changing this culture must start with the removal of the NISS' excessive powers and immunities. Independent oversight bodies must be established and transparent and independent investigations must be carried out into all human rights violations perpetrated by the NISS and other law enforcement agencies in Sudan. The perpetrators of these violations must be prosecuted for the crimes they commit, before an impartial and independent judiciary, and victims must be given redress and reparations.

Without these vital changes, Sudan will continue to be ruled by fear, and members of the NISS will remain Sudan's agents of fear.

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RECOMMENDATIONS

To the government of Sudan

Amnesty International calls on the government of Sudan to eradicate the culture that allows human rights violations such as arbitrary arrest, prolonged incommunicado detention, torture and other forms of cruel, inhuman or degrading treatment and punishment, and enforced disappearances to thrive in Sudan. Amnesty International urges the government of Sudan to:

- Repeal the 2010 National Security Act and ensure institutional and legislative reform of the National Intelligence and Security Service (NISS) in accordance with the Comprehensive Peace Agreement and the Interim National Constitution. In particular, broad powers of arrest and detention should be reformed to bring them in line with international human rights standards and a judicial oversight mechanism established;
- Ensure that there are no laws that provide legal immunities for state agents who have committed human rights violations. In particular remove all immunities provided to members of the NISS and their collaborators under article 52 of the 2010 National Security Act and article 33 of the 1999 National Security Forces Act;
- Officially and publicly condemn unlawful killings, enforced disappearances, torture and other ill-treatment and other serious human rights violations; ensure that these practices cease; and make clear that they are prohibited absolutely and will not be tolerated under any circumstances. Declare that any official, including NISS agents, committing, ordering, instigating, consenting or acquiescing to such acts will be prosecuted;
- Ensure that all allegations of unlawful killings, enforced disappearances, torture and other ill-treatment and other serious human rights violations are promptly and effectively investigated by an independent and impartial authority;
- Ensure that suspected perpetrators of serious human rights violations are prosecuted without delay before ordinary and independent courts in accordance with international standards of fairness and without resort to the death penalty;
- Issue and enforce clear instructions that detainees must be given all guarantees provided for under international law to ensure that they are lawfully detained;
- Enact legislation to ensure that all officers carrying out arrests identify themselves to those arrested and that they notify them of the reasons for the arrest;
- Introduce safeguards to allow detainees to be examined by an independent doctor as soon as they are arrested and after each period of questioning; and monitor the quality of medical reporting;
- Ensure that all detainees are given access to legal counsel within 24 hours of detention and that they have access to legal counsel at all stages of the judicial process, including during detention, interrogation and preliminary investigations;
- Ensure that the authorities responsible for detention are separate from those in charge of interrogation;

- Ensure that all detainees are brought promptly before a judge or competent judicial authority to review the legality and conditions of their detention;
- Ensure that all detainees, their lawyers and families have the right to challenge the lawfulness of their detention before a court;
- Ensure that all persons charged with a criminal offence have the right to a prompt and fair trial in full accordance with the international standards of fair trial and without recourse to the death penalty;
- Ensure the immediate and unconditional release of all prisoners of conscience in Sudan;
- Immediately close down all unofficial places of detention and prohibit them in law, prohibit in law incommunicado detention and refrain from holding any detainees in incommunicado detention;
- Establish an independent national monitoring mechanism that carries out regular, unannounced visits to all places of detention, in order to monitor the treatment of detainees and their conditions of detention;
- Ensure that all places where detainees are held are officially recognized are open to inspection by prosecutors and appropriate independent bodies, including by providing human rights monitors access to all detention centres in Sudan;
- Publish up-to-date lists of all places of detention in a form that is readily accessible to lawyers and members of the public;
- Establish and maintain a central register to ensure all detainees can be traced;
- Reform the criminal procedure laws in a manner that is consistent with international human rights law. Ensure that statements and other evidence obtained through torture or other ill-treatment may not be invoked in any proceedings, except against a person accused of torture or other ill-treatment;
- Establish and implement effective system-wide measures incorporating all the elements of Amnesty International's 12-Point Programme for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by Agents of the State⁷⁴;
- Ratify without limiting reservations the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol;
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and accept the competence of the Committee under articles 31 and 32;
- Disestablish the counter-terrorism courts;
- Ensure that those individuals who have been convicted as a result of unfair trials, including defendants who have been sentenced to death by counter-terrorism courts for their

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alleged involvement in the May 2008 Omdurman attack, are given a fair retrial in accordance with international standards of fair trial and without recourse to the death penalty;

- Give defendants with mental health problems access to specialized medical care and an independent evaluation of their capacity to appear in court;
- Ensure that detention of children is only used as a measure of last resort and ensure that children lawfully deprived of their liberty are separated from adults. Those children convicted in counter-terrorism courts should be retried in proceedings that meet international standards of juvenile justice;
- Immediately establish a moratorium on executions with a view to abolishing the death penalty as provided by UN General Assembly resolutions (UN General Assembly resolutions 62/149 and 63/168);
- Commute without delay all death sentences to terms of imprisonment;
- Repeal the public order regime and bring all public order regulations in line with Sudan's international human rights obligations;
- Provide reparation, including compensation, for women and men who have been subjected to torture and other ill-treatment under the public order regime;
- Ratify without limiting reservations the Convention on the Elimination of All Forms of Discrimination against Women, its Optional Protocol and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and repeal all discriminatory laws;
- Stop the harassment of human rights defenders, political dissidents, journalists and civil society activists and guarantee their rights to freedom of expression, movement, association and peaceful assembly;
- Implement and promote the UN Declaration on Human Rights Defenders (Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms);
- Ensure reforms of national criminal law to include crimes under international law, including crimes against humanity, war crimes, genocide, torture, extra-judicial executions and enforced disappearances, as crimes under Sudanese law in a manner consistent with the Rome Statute and international human rights and humanitarian law;
- Ensure that the judiciary is well trained in human rights standards and upholds Sudan's international human rights obligations;
- Ensure that all victims of human rights violations in Sudan and their families have the right to effective remedy, including full reparations for the harm suffered.

To the UN Human Rights Council

Amnesty International calls on the Human Rights Council to call on Sudan to end human rights violations, in particular at the hands of the NISS.

Amnesty International urges the Human Rights Council to closely monitor and follow-up on the recommendations of the Group of Experts, in particular pressing Sudan to:

- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol;
- Stop the practice of incommunicado detention, close all unofficial places of detention, and allow detainees access to their families and to lawyers;
- Issue instructions to law enforcement agencies, including the NISS, clearly prohibiting summary executions, arbitrary detentions, enforced disappearances and torture;
- Prohibit the use of confessions obtained in violation of article 7 of the International Covenant on Civil and Political Rights in any Sudanese court;
- Report to the Human Rights Council on steps taken to address impunity of NISS agents for human rights violations they commit in the course of their work, by providing detailed information on complaints filed in connection with such acts, the number of NISS agents prosecuted and convicted, and reparations disbursed to victims;
- Allow all individuals access to judicial review following their arrest;
- Reform the NISS and remove the extensive powers and immunities granted under articles 50 to 52 of the 2010 National Security Act;
- Stop the harassment of human rights defenders and allow them their right to freely voice their opinions and exercise their activities, in all parts of Sudan;
- Fulfil Sudan's reporting obligations to UN treaty monitoring bodies and act on their concluding observations;
- Accept outstanding mission requests by Special Procedures, in particular the Working Group on Enforced or Involuntary Disappearances;
- Provide substantive and timely responses to all urgent appeals and communications by UN human rights bodies;
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and accept the competence of the Committee under articles 31 and 32;
- Ratify the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol and repeal all discriminatory laws in Sudan;

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The National Security Service in Sudan

- Closely monitor and regularly review the implementation by the Government of Sudan of the recommendations of the Experts Group to the Government for the implementation of Human Rights Council Resolution 4/8⁷⁵;
- Renew the mandate of the Independent Expert on the situation of human rights in Sudan until a subsequent explicit decision by the Human Rights Council to disestablish the mandate or for a period of at least three years;
- Encourage the Independent Expert to carry out a country visit and update his report in order to bring to the Human Rights Council's attention for consideration at its next session.

To the International Community

Amnesty International urges the international community including the UN, the African Union, the League of Arab States and the European Union to call on Sudan to:

- Abide by its international human rights obligations under regional and international treaties and put an end to human rights violations by the NISS;
- Stop the harassment of human rights defenders, political dissidents, journalists and civil society activists and guarantee their rights to freedom of expression, movement, association, and peaceful assembly;
- Ensure the immediate and unconditional release of all prisoners of conscience in Sudan;
- Accept outstanding mission requests by Special Procedures, in particular the Working Group on Enforced or Involuntary Disappearances;
- Reform its laws so that they are consistent with its international human rights obligations and repeal the 2010 National Security Act;
- Ratify the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol;
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and accept the competence of the Committee under articles 31 and 32;
- Increase protection of human rights defenders and journalists in Sudan.

Amnesty International specifically calls on European Union missions in Sudan to implement the European Union Guidelines on Human Rights Defenders to provide greater protection for the work of human rights defenders in Sudan.

ENDNOTES

¹ Salah Abdallah (Gosh) was the director of the National Intelligence and Security Service in Sudan until August 2009

² An open letter from Monim Elgak to Salah Gosh: regarding my arrest, torture and the International Criminal Court, available at

<http://www.darfurconsortium.org/NonMember/Statements/OpenLetter.121908.pdf>

³ See UN welcomes Sudanese order to lift censorship on newspapers, UN News Centre, available at <http://www.un.org/apps/news/story.asp?NewsID=32351>

⁴ Report of the Special Rapporteur on the Situation of Human Rights in Sudan, Sima Samar, A/HRC/11/14, June 2009, para.19

⁵ Implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled "Human rights Council", A/HRC/5/6, 8 June 2007, Annex II, para. 1. 4.5

⁶ Previously, a child had been defined as someone below the age of 18, or who had not yet shown signs of puberty. The latter definition resulted in children under the age of 18 being tried as adults on the basis of their built and physical appearance.

⁷ Amnesty International, Death sentences and executions 2009, ACT 50/001/2010, March 2010

⁸ See General Comment No 20 of the Human Rights Committee, which states: "8. The Committee notes that it is not sufficient for the implementation of article 7 to prohibit such treatment or punishment or to make it a crime. States parties should inform the Committee of the legislative, administrative, judicial and other measures they take to prevent and punish acts of torture and cruel, inhuman and degrading treatment in any territory under their jurisdiction". For international standards on investigation of torture, see the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, available at: <http://www2.ohchr.org/english/law/investigation.htm>

⁹ General comment 20, on Article 7 of the ICCPR

¹⁰ Joint study on global practices in relation to secret detention in the context of countering terrorism of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, A/HRC/13/42, 26 January 2010, para 292(i)

¹¹ See for example *Albert Womah Mukong vs. Cameroon* (458/1991), 21 July 1994, UN Doc. CCPR/C/51/D/458/1991

¹² The UN Working Group on Arbitrary Detentions was established by resolution 1991/42 of the Commission on Human Rights and entrusted with the investigation of instances of alleged arbitrary deprivation of liberty, according to the standards set forth in the Universal Declaration of Human Rights

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and the relevant international instruments.

¹³ See <http://www2.ohchr.org/english/issues/detention/complaints.htm>

¹⁴ Statement by the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Mrs. Asma Jahangir, Commission on Human Rights, 4 April 2001.

¹⁵ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, 4 February 2009, para.39.

¹⁶ For more information about the 1999 National Security Forces Act and the need for legal reform, see *Security For All: reforming Sudan's National Security Services*, September 2009, Redress, available at <http://www.redress.org/downloads/country-reports/Security%20for%20all%20Final.pdf>

¹⁷ Recommendation 1.4.4., Report of the Group of Experts on Darfur, 8 June 2007, A/HRC/9/13/Add.1.

¹⁸ Report on the situation of human rights in Darfur prepared by the group of experts, Human Rights Council, A/HRC/5/6 , 8 June 2007, Annex 2, para. 1.4.3(3)

¹⁹ See Human Rights Committee General Comment no.29: States of Emergency (article 4), paragraph 16, CCPR/C/21/Rev.1/Add.11, 31 August 2001

²⁰ Final report of the Special Rapporteur on the situation of human rights in the Sudan, A/HRC/11/14, June 2009, para.22.

²¹ The 2010 National Security Act defines associates of the NISS as persons employed by the NISS but not in a regular or full time job.

²² Report on the situation of human rights in Darfur prepared by the group of experts, Human Rights Council, A/HRC/5/6 , 8 June 2007, Annex 2, para.1.4.1.

²³ Report on the situation of human rights in Darfur prepared by the group of experts mandated by Human Rights Council resolution 4/8. A/HRC/5/6, 8 June 2007, Annex II, para.1.4.2(3)

²⁴ Concluding observations of the Human Rights Committee, CCPR/C/SDN/CO/3/CRP.1, 26 July 2007, para 22.

²⁵ Final report of the Special Rapporteur on the situation of human rights in the Sudan, A/HRC/11/14, June 2009, para 8.

²⁶ Report of the Working Group on Involuntary or Enforced Disappearances, A/HRC/7/2, 10 January 2008, para 356

²⁷ Joint study on global practices in relation to secret detention in the context of countering terrorism of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, A/HRC/13/42, 26 January 2010, para. 265

²⁸ See for example, Report of the Special Rapporteur on the Situation of Human Rights Defenders, A/HRC/13/22/Add.1, 24 February 2010.

²⁹ Amnesty international, UA 101/09, AFR 54/010/2009, 14 April 2009, and Further information on (UA 101/09, AFR 54/010/2009), AFR 54/011/2009, 28 April 2009, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya to the Human Rights Council, Addendum: Summary of cases transmitted to Governments and replies received, A/HRC/13/22/Add.1, 24 February 2010, para. 2120, 2121, 2122,

³⁰ Final report of the Special Rapporteur on the situation of human rights in the Sudan, A/HRC/11/14 , June 2009, para.50.

³¹ See Human Rights Committee General Comment no.29: States of Emergency (article 4), CCPR/C/21/Rev.1/Add.11, 31 August 2001

³² Joint study on global practices in relation to secret detention in the context of countering terrorism of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, A/HRC/13/42, 26 January 2010, para.251.

³³ Joint study on global practices in relation to secret detention in the context of countering terrorism of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, A/HRC/13/42, 26 January 2010, para. 267.

³⁴ Report of the Panel of Experts on Sudan established pursuant to Resolution 1591(2005) concerning the Sudan to the UN Security Council, S/2009/562, 29 October 2009, p69.

³⁵ A survivor of torture by the NISS

³⁶ Human Rights Defender

³⁷ A human rights defender who survived torture, describing the days before he fled the country

³⁸ Chadian survivor of torture

³⁹ Abdel Monim El Gak, An open letter to Salah Gosh: regarding my arrest, torture and the International Criminal Court

⁴⁰ Sudanese doctor

⁴¹ For further information, please see the following section on the public order regime, particularly regarding the accusation of "prostitution".

⁴² A Sudanese Human Rights Defender

⁴³ Amnesty International and Women Living Under Muslim Laws made a joint submission regarding Lubna Hussein's case to the Commission on the Status of Women, Sudan: WLUML and AI submit report on case of Lubna Hussein to CSW, 2 September 2009, available at:

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<http://www.wluml.org/node/5517>

⁴⁴ Phone Interview conducted by Amnesty International with Lubna Hussein, April 2009

⁴⁵ For more information on the public order regime, including the case of Lubna Hussein, see:

The African Centre for Justice and Peace Studies, *Sudan Human Rights Monitor*, June-July 2009, available at http://www.acjps.org/Publications/Human_Rights_Monitor-Issue2-FINAL.pdf; The Strategic Initiative for Women in the Horn of Africa, *Beyond Trousers: The public order regime and the human rights of women and girls in Sudan, summary and recommendations*, available at <http://www.redress.org/documents/Public%20Order%20Submission%20Sum%20and%20Re%20cs.pdf>; Amnesty International, *Abolish the Flogging of Women*, available at <http://www.amnesty.org/en/library/asset/AFR54/005/2010/en/6652ea12-7bbb-498f-b09e-ab27ef8d7e9b/afr540052010en.pdf>.

⁴⁶ Interview with Lubna Hussein, April 2010.

⁴⁷ Interview conducted by Amnesty International with Sudanese woman human rights defender, March 2010

⁴⁸ Sudanese Human Rights Defender

⁴⁹ The Strategic Initiative for Women in the Horn of Africa, *Beyond Trousers: The public order regime and the human rights of women and girls in Sudan*, November 2009.

⁵⁰ Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya to the Human Rights Council, Addendum: Summary of cases transmitted to Governments and replies received, A/HRC/13/22/Add.1, 24 February 2010, para. 2125, 2126, 2127

⁵¹ **Sudanese refugee and teacher at a refugee camp in eastern Chad speaking of a former student who had been held by the NISS**

⁵² Interview with a victim of arbitrary detention and ill-treatment following the Omdurman attack, February 2010

⁵³ Communications with victim of torture by the NISS in Darfur, June 2009- April 2010

⁵⁴ Decree number 215, which exempted 99 children from prosecution. The children were then released and reunited with their families.

⁵⁵ Report of the Secretary-General on the Sudan, S/2010/31, 19 January 2010, para. 65

⁵⁶ Interview with relative of Mohamed in Eastern Chad, May 2009

⁵⁷ Article 40, International Covenant on Civil and Political Rights, available at <http://www2.ohchr.org/english/law/ccpr.htm>

⁵⁸ Consideration of reports submitted by State parties under article 40 of the Covenant, Human Rights Committee, CCPR/C/SDN/CO/3/CRP.1, 26 July 2006, para.25

⁵⁹ Amnesty International, Sudan: *Six Sudanese men executed amid fears of unfair trials*, 14 January 2010; Amnesty International, *Execution of nine potentially innocent men shows flaws of death penalty*, 14 April 2009.

⁶⁰ The Constitutional Court, on the challenge to the rules of procedure of the counter-

terrorism courts

⁶¹ The Principles and Guidelines on the Rights to Fair Trial and Legal Assistance in Africa, The African Commission on Human And Peoples' Rights

⁶² **Article 4 of the International Covenant on Civil and Political Rights**

⁶³ Constitutional Court ruling on Omdurman Defence Council appeal against the Counter-terrorism Courts, *Constitutional 60/2008 Kamal Mohamed Saboun and Others versus The Government of Sudan*, 18 August 2008.

⁶⁴ Addendum to Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Summary of cases transmitted to government and replies received, Urgent appeals of 11 August and 24 September 2008 to the Government of Sudan, sent by the Special Rapporteur on extrajudicial, arbitrary or summary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of human rights while countering terrorism, the Special Rapporteur on the situation on human rights in Sudan, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/11/2/Add.1, p. 385

⁶⁵ Kamal Mohamed Saboun and others versus The Government of the Republic of Sudan, 29 June 2008. For more information see: *A legal view of the Constitutional Court's ruling on the Terrorism case*, Amin Makki Madani, August 2008.

⁶⁶ For more information, see Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur, S/2010/213, 28 April 2010, para. 2.

⁶⁷ Mona Bakri Abu Agla, Wife of Abuzar Al Amin

⁶⁸ Sudanese Journalist and Human Rights Defender

⁶⁹ Amnesty International, Sudan: *Protect Freedom of Expression in Sudan*, 1 July 2010, available at <http://www.amnesty.org/en/appeals-for-action/protect-freedom-expression-sudan>

⁷⁰ Amnesty International, Sudanese politicians and supporters held, AFR 54/017/2010, 18 May 2010

Amnesty International, Journalists on trial, risk of death penalty, AFR 54/023/2010, 2 July 2010

⁷¹ Report of the Panel of Experts established pursuant to resolution 1591 (2005) concerning Sudan, 29 October 2009, S/2009/562, para. 280 .

⁷² The Constitutional Court, Farouq Mohamed Ibrahim El Nour versus 1.The government of Sudan 2.The legislative Assembly, M 2008 /18 / م د / ٦٦ November 2008.

⁷³ Amnesty International and Others v. Sudan, African Commission on Human and Peoples' Rights, Comm. 48/90, 50/91, 52/91, 89/93, (1999)

⁷⁴ Amnesty International, ACT 40/001/2005, 21 April 2005

⁷⁵ Annex I, Report on the situation of human rights in Darfur prepared by the group of experts, Human Rights Council, A/HRC/5/6 , 8 June 2007



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AGENTS OF FEAR

THE NATIONAL SECURITY SERVICE IN SUDAN

Human rights violations, including secret detention and torture, have created a climate of fear in Sudan. Human rights defenders, political dissidents, students and members of ethnic minorities continue to be arbitrarily arrested and detained. Arrests have peaked at times of political tension, such as in the wake of an armed attack on the capital in May 2008, after the International Criminal Court issued an arrest warrant against President Al Bashir in March 2009 and around general elections in April 2010.

Torture has been used systematically against any individual believed to pose a threat to the government or the ruling party. Defenders of women's human rights face harassment and intimidation on a daily basis.

Chief among the agents of government repression is the National Intelligence and Security Service (NISS), whose members have immunity from prosecution for all crimes committed in the course of their work.

This report illustrates the human rights violations committed by the NISS in Sudan, and the extensive powers and immunities the NISS continues to enjoy under the new 2010 National Security Act. It calls on the government of Sudan to reduce the powers and immunities of the NISS, to put an end to human rights violations, to bring perpetrators to justice and to ensure that victims have redress.

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