



EXCESSIVE AND DEADLY

THE USE OF FORCE, ARBITRARY DETENTION AND TORTURE AGAINST PROTESTERS IN SUDAN

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ACJPS works to monitor and promote respect for human rights and legal reform in Sudan. ACJPS has a vision of a Sudan where all people can live and prosper free from fear and in a state committed to justice, equality and peace. ACJPS has offices in the US, UK, and Uganda.

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Cover photo: Sudanese protestors demonstrate in Khartoum's twin city of Omdurman after the government announced steep price rises for petroleum products after suspending state subsidies as part of crucial economic reforms on September 25, 2013 © STR/AFP/Getty Images

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In memory of the late Osman Hummaida, Founding Director of the African Centre for Justice and Peace Studies and a human rights defender who fought tirelessly to obtain justice for victims of human rights violations in Sudan and hold perpetrators to account.

INTRODUCTION

In January 2014, President Omar Hassan al Bashir announced plans to hold a national dialogue open to all political parties in light of the upcoming 2015 national elections. Despite this announcement, restrictions on freedoms of expression, association and assembly prevail, hindering meaningful attempts at a national dialogue.

The repression of any form of dissent and protest has been characteristic of the 25 years of power of President al Bashir and his ruling National Congress Party (NCP). Laws that restrict freedoms of expression, association and assembly, and that provide security services with broad powers of arrest, detention and use of force have facilitated this repression.

More recently, a deteriorating economy, coupled with rising inflation, cuts in fuel subsidies and other austerity measures have fuelled discontent amongst the Sudanese population. This has led to a surge in demonstrations across the country, including protests that took place in late September and early October 2013, which were amongst the largest witnessed in years. The response to the demonstrations by the security forces, including the National Intelligence and Security Services (NISS) and the police, over the last two years has been a recurring serious concern for Amnesty International and the African Centre for Justice and Peace Studies (ACJPS). The government continued to use a number of tactics to stifle dissent, such as criminalisation of the exercise of freedoms of expression and assembly, excessive use of force (including with live ammunition), arbitrary detention, torture and other forms of ill-treatment.

This report will examine allegations of human rights violations, including the excessive use of force to disperse protests, committed by the security services in Sudan during four protests that occurred between 2012 and 2014. It will demonstrate that the police, the NISS, and other security forces have repeatedly violated their obligations under international law and the Sudanese Interim National Constitution (INC). Scores of protestors have been killed, injured, beaten, arrested and detained. Detainees have been subjected to torture and other forms of ill-treatment. Furthermore, this report highlights the government's repeated failure to ensure the conduct of thorough, impartial and independent investigations to hold perpetrators of human rights violations to account, perpetuating impunity and thus hindering deterrence.

This cycle of impunity needs to be urgently addressed and remedied. Towards this end, Amnesty International and ACJPS are calling on the Government of Sudan to ensure the establishment of independent, impartial, transparent and prompt investigations into reports of killing, injury, arbitrary detention and ill-treatment by the security services. Where sufficient admissible evidence exists, the suspected perpetrators must be brought to justice in fair trials without recourse to the death penalty.

METHODOLOGY

This report is the outcome of research conducted by Amnesty International and ACJPS between June 2012 and August 2014.

Amnesty International has relied on testimonies from eyewitnesses and victims of human rights violations, families of victims as well as on information provided to Amnesty International by university students, activists from youth groups, journalists, and lawyers that are part of the Sudanese civil society. Amnesty International has not been granted access to Sudan since 2006.

ACJPS gathered information from and conducted interviews with a variety of civil society actors and professionals in Sudan including lawyers, journalists, medical doctors, human rights defenders and youth activists. The organisation also documented eye witness accounts and the testimonies of victims and their family members.

Research for the report also draws on correspondence, court cases, medical reports, photographic evidence and prior publications by ACJPS and Amnesty International.

ACJPS and Amnesty International have jointly verified all information gathered and included in this report.

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

This report is by no means a comprehensive review of the human rights violations allegedly committed by Sudanese security forces. Rather, this report highlights some of the key human rights concerns in the context of specific protests that occurred in 2012, 2013 and 2014 and discusses the lack of accountability and justice for the violations reportedly committed by Sudanese security forces.

The report demonstrates how the police, the NISS, and in some cases armed forces, have repeatedly used excessive force, arbitrary detention, and torture and other ill-treatment to disperse and prevent protests. The repeated use of these tactics raises concerns about how repression of dissent and protests has been an integral part of the exercise of power in Sudan. This is facilitated by Sudanese legislation which gives security services immunities and broad powers of arrests, detention, and use of force. The report also demonstrates the lack of adequate responses and accountability for human rights violations, which in turn continues to fuel a cycle of impunity.

I - LEGAL FRAMEWORK

According to article 27(3) of Sudan's Interim National Constitution (INC), all rights enshrined in international human rights instruments to which Sudan is a state party are an integral part of the Bill of Rights within the INC. It stipulates that: "[l]egislation shall regulate the rights and freedoms enshrined in this Bill and shall not detract from or derogate any of these rights."¹

The international human rights and regional treaties to which Sudan is party are legally binding and require the Government of Sudan (GoS) to respect, protect, and fulfil the human rights contained therein. In addition to obligations that derive from human rights treaties, there are many non-treaty standards which elaborate on the legally binding obligations contained in these treaties.

RIGHTS TO FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The rights to freedom of peaceful assembly and association are an important vehicle for the realisation of many other rights such as the right to freedom of expression. These rights empower women and men to "express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable."²

The rights to freedom of expression, assembly and association are guaranteed by Sudan's INC and international and regional commitments made by Sudan under the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR).³

The African Commission on Human and Peoples' Rights (the African Commission) adopted resolution 281 on the Right to Peaceful Demonstrations in 2014. The resolution emphasizes concerns in African countries "with the mass and arbitrary arrests, and the continued detention of several people following peaceful demonstrations..." and the "excessive use of force, live ammunition and tear gas to disperse peaceful demonstrators," and calls on states to refrain from disproportionate use of force and to conduct investigations.⁴

The United Nations (UN) Special Rapporteur on the rights to freedom of peaceful assembly and of association has emphasized that officials have a positive obligation to facilitate peaceful assemblies and actively protect those participating in them, including from "agents provocateurs and counter-demonstrators, who aim at disrupting or dispersing such assemblies... [including] those belonging to the State apparatus or working on its behalf. Officials also have an obligation not to unduly interfere with the right to peaceful assembly and the exercise of this right "should not be subject to previous authorization by the authorities... but at the most to a prior notification procedure, whose rationale is to allow State authorities to facilitate the exercise of the right to freedom of peaceful assembly."⁵ The Special Representative of the UN Secretary General on the situation on the situation of human rights defenders has also highlighted how human rights defenders – including members of civil society, journalists, bloggers and representatives of national human rights

institutions – must be allowed to operate freely during public assemblies and demonstrations.⁶

There have been recurring concerns over the respect of the right to freedom of assembly in Sudan throughout the last two years.⁷ There have been many instances where demonstrations across the country have been met with excessive use of force, arbitrary arrests and detention and, in some cases, torture or other forms of ill-treatment. In addition, despite the supremacy of the INC over subsidiary legislation, various laws restricting the right to peaceful assembly and facilitating the use of force by security services continue to be implemented.

Sudanese legislation, in particular the 1991 Penal Code and the 1991 Criminal Procedure Act contain various provisions used to curb the right to demonstrate peacefully.

Under article 124 of the 1991 Criminal Procedure Act, a police officer or prosecutor has the power to order the dispersal of any unlawful assembly likely to result in a riot or disturbance of public peace. According to articles 125 and 126 of the Criminal Procedure Act of 1991, the police, the NISS and the armed forces are authorised to disperse assemblies and demonstrators for offences such as rioting and breach of public peace.⁸

However, the offences of “rioting” or “disturbance of public peace” under the 1991 Penal Code are vaguely defined and could include a wide range of acts, opening the potential for abuse. In practice, the NISS and the police often use their powers to prevent any assembly on those grounds, by presuming that any form of assembly will consist of a breach of public order and public peace. Consequently, many protestors are charged under rioting, disturbance of public peace and public nuisance. These offences are routinely used to restrict freedoms of expression, association and assembly.⁹ ACJPS and Amnesty International have documented numerous cases where such charges have been levied against peaceful protestors and others distributing materials on behalf of political opposition parties, student movements or other independent groups.¹⁰

In addition, those charged are often routinely subjected to summary trials pursuant to articles 176 (procedure in summary trial) and 177 (particulars recorded in summary trial) of the 1991 Criminal Procedure Act.¹¹ Often, defendants in such trials are summarily tried before public order courts without legal representation and not being informed of their appeal rights. For example, in the case of Samar Marghani (See Box p.27), she was sentenced to a fine of 5000 Sudanese pounds (USD 1000). The defence lawyer was not able to call witnesses for the defence within the procedure of summary trials.

POLICING PROTESTS AND THE RIGHT TO LIFE

Article 4 of the ACHPR¹² 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 derogations from this right are permitted. Killings that result from unnecessary or excessive use of force by state agents constitute arbitrary deprivation of the right to life. For example, using lethal force against a protester when not strictly unavoidable in order to protect life would result in an arbitrary deprivation of life.¹³ Unlawful and deliberate killings carried out by order of government officials or with their complicity or acquiescence amount to extrajudicial executions; they are prohibited at all times and constitute crimes under international law.¹⁴

Accordingly, the GoS is duty bound to ensure that unlawful killings by security services are recognized under national criminal laws as offences punishable by appropriate penalties. The GoS must also ensure there are thorough, prompt and impartial investigations into reports of use of force by state agents.¹⁵

EXCESSIVE USE OF FORCE DURING PROTESTS

There are several international principles governing the use of force contained in the UN Code of Conduct for Law Enforcement Officials (1978) and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). These standards reflect states' legal obligations under international human rights treaties, for instance, article 6 of the ICCPR. International standards dictate force of any kind should only be used exceptionally, when it is strictly necessary and proportionate. Law enforcement officials may use force only to the extent required for the performance of their duty, including to prevent crime or assist in the lawful arrest of suspected offenders, after all non-violent methods available have been used but have remained, or are likely to be, ineffective.

The policing of assemblies (including those that are violent, not peaceful, or considered by a government as being illegal) must respect human rights, including the rights to life, liberty and security of the person and the right to be free from torture or other forms of ill-treatment.

The UN Special Rapporteur on extrajudicial, summary, or arbitrary executions has set out that "shooting indiscriminately into a crowd is not allowed and may only be targeted at the person or persons constituting the threat of death or serious injury. The use of firearms cannot be justified merely because a particular gathering is illegal and has to be dispersed, or to protect property."¹⁶

Even when a restriction on the right to protest is justifiable under international law, the policing of any demonstration must be carried out in accordance with international standards, which prohibit the use of force by law enforcement officials unless strictly necessary and proportionate and prohibit the lethal use of firearms except when their use is strictly unavoidable to protect life.

Arbitrary or abusive use of force by security services must be punished as a criminal offence.¹⁷ As such, the GoS has a duty to ensure the conduct of prompt, thorough, independent and impartial investigations into unlawful killings by security services leading the perpetrators being brought to justice in fair trials without recourse to the death penalty. In addition, it must uphold the right to peaceful assembly and to protect protesters from any violent attack on them.

As noted by the UN Office of the High Commissioner for Human Rights (OHCHR), promoting and protecting human rights requires not only an adequate legal framework but also continuous efforts to ensure their effective implementation.¹⁸ Dialogue between protest organisers, administrative authorities and the police, along with adequate human rights training for police, including on the use of force during protests, can contribute to protecting the human rights related to peaceful protest.

In Sudan, it is the police that are commonly in charge of policing demonstrations, however, in some cases, the NISS and armed forces have concurrent powers during demonstrations as

provided by article 6(2) of the People's Armed Forces Act of 2007 and article 50(1) of the National Security Act (NSA) of 2010.¹⁹ Additionally, the criminal procedure act provides the superior prosecution attorney or superior officer the powers to “call on the armed forces to use military force if deemed necessary for the dispersal of an assembly.”²⁰

The use of force is also authorised under article 129A of the 1991 Criminal Procedure Act and article 15 of the Police Act of 2008.

ARBITRARY ARREST AND INCOMMUNICADO DETENTION

Under article 9 of the ICCPR and article 6 of the ACHPR, binding on Sudan, no one shall be subjected to arbitrary arrest or detention. Arrests and detention must only be conducted on such grounds and in accordance with such procedure as are established by law. To be considered lawful a deprivation of liberty must be compatible with international law. In particular, the grounds and procedure established by law must conform to international law and the deprivation of liberty must be neither arbitrary, nor violate the safeguards contained in article 9(2) to 9(4) ICCPR or other rights under the Covenant. Arrested persons have the right to be informed promptly of the charges against them. They have the right to be brought promptly before a judge or other judicial officer and are entitled to be tried within a reasonable time in fair proceedings or to be released. Deprivation of liberty must always remain the exception and therefore both the reasons required for detention on remand and the effective use of alternatives to detention on remand constitute fundamental aspects of the right to liberty of person. The reasons justifying detention on remand must be clearly established by law, necessary, reasonable and proportionate in all circumstances. Since release pending trial shall be the rule, all possible non-custodial measures, such as bail or undertaking to appear, must be effectively explored by the judicial authority. Furthermore, in order to ensure that deprivation of liberty and treatment in detention remain lawful, detention on remand must be regularly reviewed. All detained persons have the right to challenge the lawfulness of their detention.

With regard to the meaning of “arbitrary” detention, the Human Rights Committee has regularly pointed out that “‘arbitrariness’ is not to be equated with ‘against the law’, but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law.”²¹

Article 29 of the INC guarantees every person “the right to liberty and security of person; no person shall be subjected to arrest, detention, or deprivation of their liberty except for reasons and in accordance with procedures prescribed by law.” Article 34 also guarantees the rights of detainees to be immediately informed of the reasons of their arrest and charges promptly brought against them.

Article 151 of the 2005 INC specifies that: “the National Security Service shall focus on information gathering, analysis and advice to appropriate authorities.” However, the 2010 National Security Act (NSA) provides broad powers of arrest and detention to the NISS and the NISS have routinely carried out arrests to prevent or in response to protests. Article 50 of the 2010 NSA stipulates that the NISS can arrest and detain any person for up to 30 days (45 upon renewal) without judicial oversight. The detention can then be extended for up to a total of four and a half months should the Director of the NISS consider it a necessity for completion of investigations. The NSA does not specify the grounds on which such

detentions may be justified. Without judicial safeguards, detainees are routinely held incommunicado, leaving them particularly vulnerable to torture and other ill-treatment. Detainees do not have access to a judge or the right to file a *habeas corpus* petition within the period of 45 days or four and a half months respectively, depriving them of any judicial protection in breach of articles 6 and 7 of the ACHPR.

Article 51 of the NSA provides for rights of the detainee, such as being informed of the reasons for arrest, the right to inform their family of their detention if it does not prejudice the investigation, visitation rights, and medical care. The Act also provides for the monitoring of detention facilities by the Prosecutor, but does not set forth guidelines or further elaboration to ensure that these rights are protected. Finally, the NSA grants immunities to NISS members, thereby blocking access to effective remedies for victims of human rights violations perpetrated by NISS members.

The NSA has contributed to creating a culture of impunity where NISS agents can commit human rights violations in the absence of any judicial oversight of their actions and without accountability. Amnesty International and ACJPS have documented multiples cases of arrests by the NISS and, in some cases, the police before, during and after protests, in what is believed to be an attempt to control the organization and coordination of protests.²² Many are arrested because of their perceived anti-government views and perceived role in coordinating and leading protests. Amnesty International has spoken to many human rights and political activists who were arrested at night from their homes and taken to an NISS office where they are interrogated, after which they are transferred to an NISS detention facility without charge and often without access to a lawyer or to their families. Many families who have attempted to obtain information about the whereabouts of the detainees are told they are not within NISS custody or that they can apply for a visit request after 15 days without confirming whether the persons are detained.

TORTURE

Article 7 of the ICCPR, binding on Sudan, provides that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Article 5 of the ACHPR states that “All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.” This absolute prohibition applies at all times and in all circumstances. Amnesty International and ACJPS have documented cases of torture and other forms of ill-treatment of detainees arrested during protests, demonstrating that torture has been use by the security services to punish, threaten and suppress opposition or dissent against the ruling political party.

Corporal punishment, such as lashes, flogging and whipping, violate the prohibition of torture and other forms of cruel, inhuman or degrading punishment.²³

II - HUMAN RIGHTS VIOLATIONS AROUND PROTESTS

As the number and frequency of demonstrations increased throughout Sudan since 2011, the security services have routinely used unnecessary or excessive force against protesters, both peaceful and non-peaceful. In one case documented by ACJPS on 19 September, police shot live ammunition into the crowd, killing two children and one adult at a protest outside the South Darfur Government offices after a group of protestors set fire to the Governor's car.²⁴ Amnesty International and ACJPS have reported on police and NISS using batons, tear gas, rubber bullets and live ammunition at close range against demonstrators.²⁵ Amnesty international and ACJPS have interviewed witnesses who observed incidents in which the police and the NISS used excessive force to disperse demonstrations that were primarily peaceful. The organizations have also spoken to families of victims killed during protests, as well as people injured by live ammunition.²⁶ This section will examine four specific protests where the excessive use of force resulted in casualties between 2012 and 2014. It is important to note that there have been other incidents where the same pattern of force was used by the security services.

The security services and law enforcement officials must ensure the right to peaceful assembly is respected for everyone within Sudan. Where a small minority tries to turn a peaceful assembly into a violent one, law enforcement officials should use only necessary and proportionate force, protect the peaceful protesters and not use the violent acts of the few as a pretext to restrict or impede the exercise of the fundamental rights of the others.

JUNE 2012 PROTESTS

A wave of demonstrations began on 16 June 2012 in response to increases in food prices. The wave broke out when a demonstration in the female dorms of Khartoum University triggered a wider movement of protest against economic austerity measures and calling for regime change. Demonstrations occurred in the capital, Khartoum, and spread to other major cities including Port Sudan, Kassala, Nyala and Gedaref.²⁷

Protests continued from June to early August 2012, with the security services repressing the protests using force. They used batons, tear gas, rubber bullets and live ammunition against largely peaceful demonstrators, causing deaths and injuries.²⁸ In addition, they arbitrarily arrested and detained people suspected of leading or coordinating the protests. From 16 June to 27 July 2012, ACJPS documented the arbitrary arrest and detention of over 300 individuals in connection with protests throughout the country, including at least 43 known human rights defenders, as well youth activists, political activists and journalists.²⁹ Other Sudanese groups monitoring the arrests estimate that, from June to August 2012, the security services detained over 1,000 people in Khartoum and other major cities across Sudan.³⁰ Amnesty International and ACJPS were not able to verify this number.

On 29 June 2012, when protestors gathered in the Omdurman suburb of Khartoum after Friday prayers, police and the NISS fired rubber bullets and tear gas into the crowd. Amnesty

International and ACJPS spoke to eyewitnesses, including journalists and human rights defenders, who said the police and the NISS were also beating protesters with sticks.³¹ Amnesty International and ACJPS received reports that at least eight people were injured by the rubber bullets and tear gas, most of them shot in the legs and arms. Witness reports received by ACJPS indicate the tear gas used to disperse protesters was strong enough to cause bleeding from the nose and mouth.³²

The largest protest as part of the wave of demonstrations in 2012 took place in Nyala, South Darfur. On 31 July 2012, ACJPS and Amnesty International documented the deaths of 12 people, ten of whom were under eighteen years old, and injuries sustained by 80 others when the police and the NISS fired live ammunition into a crowd of demonstrators.³³

The demonstrations in Nyala began early in the morning when students from primary and secondary schools joined with the general population on the streets. The protest initially started peacefully, but turned violent when some protesters started throwing rocks at the police and blocking roads using burning tires.

Amnesty International interviewed medical staff, who confirmed eight of the people died after receiving bullets from automatic rifles in their chests. Medical staff at Nyala Public Hospital told Amnesty International wounds inflicted on the eight bodies admitted to their morgue were consistent with those caused by 5.56mm and 7.62mm automatic rifles.³⁴ The security forces also fired Dushka-type heavy machine-guns in the air. Stray bullets injured residents in their homes as bullets fell down from the sky.³⁵

At the time, Amnesty International documented multiple cases of injured protesters being denied medical treatment in hospitals in cities where protests were occurring. Many eyewitnesses indicated plain-clothed security officers, deployed in or near hospitals, arrested suspected demonstrators seeking treatment. In some cases, individuals injured during demonstrations or as a result of torture and other ill-treatment by the security services told Amnesty International they preferred not to seek treatment in hospitals because they feared arrest and intimidation.³⁶ ACJPS learnt from reliable sources that some injured individuals did not seek medical treatment due to fears they would be arrested at Nyala Hospital and the police and the NISS obstructed access to Nyala hospital on 1 August 2012.³⁷

ARBITRARY ARRESTS AND DETENTIONS

In response to the protest movement, the NISS carried out a wave of arrests across civil society, arbitrarily detaining hundreds of individuals, including protesters, but also human rights defenders, lawyers, civil society staff, doctors and members of youth organizations and political parties – regardless of their involvement in the protests.³⁸ Many were detained without charge or were tried summarily for rioting or disrupting public order and sentenced to fines or lashes.

The NISS tortured or otherwise ill-treated many of those detained in connection with the June 2012 demonstrations. Amnesty International documented cases where NISS agents reportedly slapped, punched and kicked detainees.³⁹ Testimonies taken by ACJPS from individuals released from NISS custody included several reports of beating with water pipes, sticks and fists.⁴⁰ Detainees were made to stand outside for hours in the heat and to adopt

stress positions. Some were subjected to rape threats and other verbal abuse of sexual nature. Others were blindfolded and received death threats, including against their family members, and witnessed the beatings of fellow detainees. Many were denied food, water, sufficient ventilation and access to basic hygiene facilities. Many members of prominent youth groups like Girifna, Youth for Change and Sharara were subjected to arrests, as well as journalists, and opposition political party members. Some detainees reported being forced to provide their email, Facebook and Skype passwords.

RUDWAN DAWOD

Rudwan Dawod is a co-founder of the prominent youth group Girifna ('We're fed up'), which was involved in the wave of demonstrations criticizing the GoS in June 2012. On 3 July 2012, he was arrested by the NISS in Khartoum while taking part in a peaceful protest. He was initially detained for six weeks and charged with terrorism under article 65 of the Criminal Code, which can carry the death penalty. During his detention, Rudwan Dawod was reportedly subjected to beatings and sleep deprivation and was threatened with rape. On 13 August 2012, Rudwan Dawod was again arrested by NISS officials immediately after he was acquitted of terrorism charges and sentenced instead to a fine for 'disturbance of public peace,' an offence with which many protestors were charged in the months during the protests.⁴¹ He was taken outside the court and brought to an undisclosed location where he was held incommunicado for over 72 hours without charge or access to a lawyer. He was released on 16 August 2012.

N.W.

N.W.⁴², a Sudanese journalist was arrested on June 2012 in Omdurman.⁴³ He was taken away from the street after noticing that he was being followed. A pick-up full of armed men in civilian clothes, whom he identified as belonging to the NISS, took him by force and threw him in the back of the pickup. He was beaten with a rubber hose while in the vehicle. His journalist's identification and his cell phone were confiscated. Security agents took him to a building where he was asked to kneel after rolling his trousers up and forced to hold this stress position with his elbows against the wall. He was subjected to verbal abuse. Later, when the security officials found out N.W. was a journalist who published articles on an independent online news website, he received harsher treatment. He was repeatedly slapped on his face, including his ears, which left him unable to hear for ten minutes and resulted in a ruptured eardrum and an injury to the neck.⁴⁴ He was released 24 hours later.

The excessive use of force and crackdown on protestors in June 2012 was condemned by the UN, the European Union (EU) and the United States (US) as well as other governments.⁴⁵

The GoS, however, made no attempt to investigate repression of the freedoms of expression, association and assembly by the security services, let alone hold anybody accountable for any of the human rights violations committed.

DECEMBER 2012 PROTESTS AT WAD MADANI, AL JAZEERA

In December 2012, protests and sit-ins took place at Al Jazeera University in Wad Madani, Al Jazeera State. On 5 December 2012, a group of students protested at the Al Jazeera University campus against the university's decision not to apply for a fee waiver for students from Darfur as established by a Presidential Decree in 2006. A group of pro-government

students armed with metal bars reportedly attacked them. After fighting erupted between the two groups, the Central Reserve Police and the NISS intervened, firing teargas and beating students with sticks.⁴⁶

On 6 December 2012, the bodies of Adil Mohamed Ahmed and Mohamed Younis Nil were found in the canal near the Al Jazeera University buildings in the state capital Mad Manani. The bodies of two other students, Alsadig Yagoub Abdallah and Nouman Ahmed Koreishi, were found the following day in the same canal.⁴⁷ The four bodies reportedly bore signs of beatings. Witnesses told Amnesty International the bodies showed signs of bleeding on their heads and one body showed signs of bleeding on the shoulder.

Following this, protests spread to Khartoum and other towns in Sudan.⁴⁸ The security services arrested protestors in several towns in an attempt to control the protests and to silence the public outcry.⁴⁹

On 9 December 2012, the Minister of Justice pledged to establish a commission of inquiry to investigate the deaths of the four students. The committee was mandated to work according to the 1991 Criminal Procedure Code.

On 11 December 2012, students gathered at Omdurman Islamic University (OIU) in Khartoum for another protest where they were met with pro-government students and the police. Students were beaten and dispersed with teargas.⁵⁰

ARBITRARY ARRESTS AND DETENTIONS

On 5 December 2012, 56 students were reportedly arrested and charged under articles 69 and 77 of the 1991 Penal Code (on disturbance of public peace and creation of a public nuisance) and released on bail the following day.⁵¹

On 8 December 2012, NISS officials detained without charge four members of political opposition parties in Wad Madani town, Al Jazeera state. Given the outcry around the deaths of the four students, human rights activists believe that they were arrested and detained in an attempt to obstruct the organization of any further protests in response to the events of the previous week. Magdi Saleem, member of the Democratic Unionist Party, was arrested from his home. Mohamed Zain, member of the Popular Congress Party, was arrested from the morgue at Wad Madani hospital. Abdulfatah Bidab, member of the Sudanese Communist Party, and Hashim Meghani, Secretary of the Sudanese Community Party in Wad Madani town were arrested from the streets.⁵² Also on 8 December 2012, police in Khartoum arrested nine persons engaged in a peaceful protest concerning the deaths at Al Jazeera University. The nine were charged under articles 69 and 77 of the 1991 Penal Code (on disturbance of public peace and creation of a public nuisance) and released on bail the following day.⁵³

SEPTEMBER/OCTOBER 2013 PROTESTS

Further protests broke out in cities around Sudan on 23 September 2013, shortly after President al-Bashir announced cuts to fuel subsidies. The security services, including the police, the NISS and the paramilitary Central Reserve Forces, employed unnecessary or excessive force from the moment the demonstrations began, including the use of live

ammunition.⁵⁴ ACJPS further documented instances involving the Sudanese Armed Forces (SAF) in the use of excessive force against protestors. The scale of casualties and injuries sustained by protestors following the armed deployment of security forces to disperse them was unprecedented since the ruling NCP came to power in 1989. ACJPS received reliable reports of 185 deaths and verified the names and identities of 144 deceased persons in major cities throughout Sudan.⁵⁵ The majority of the protestors reportedly died as the result of gunshot wounds to the chest and head.⁵⁶ According to eyewitness reports, a number of individuals killed during the demonstrations were bystanders and not actively participating in the protests.

In the majority of cases documented by ACJPS and Amnesty International, the deceased had bullet wounds to their heads and chests. In other cases, individuals were shot in the back, suggesting they were running away from the demonstrations when they were killed. In at least one case, a demonstrator was shot non-lethally once but then shot again at point-blank range.

Although some of the demonstrations turned violent as protestors vandalised and set fire to gas and police stations and threw stones at the police and other security services, the response of the security services was evidently disproportionate.

The UN Basic Principles of the Use of Force state that even in the context of unlawful or violent assembly, use of force must be necessary and proportionate, and intentional lethal force may not be used except where strictly unavoidable to protect life.⁵⁷ In the incidents mentioned above, the use of force failed to meet the criteria of necessity and proportionality.

The response by the GoS has been inadequate. The GoS has taken no responsibility for the deaths, with the Interior Minister, Ibrahim Mahmoud Hamid, stating “armed groups and individuals” were responsible for the killings. The number of fatalities has been a source of contention, with the police and Ministry of Interior initially stating 32 people were killed, including police officers. In late October 2013, the Governor of Khartoum, Abdel Rahman al-Khidir, dismissed these figures and stated the death toll was roughly 60–70. On 4 November 2013, the Justice Minister, Mohamed Bushara Dosa, stated to the pro-government newspaper *Al Rayaam* that 84 individuals had been killed and that an investigation has been opened. The official death toll then released by the GoS was 85, including two security officers.

The committee of solidarity with families of those killed during the September 2013 protests issued a report documenting the deaths of 200 protestors and scores more injured during the protests. The report stated 230 people were injured during the protests, 33 of which required urgent medical treatment unavailable in Sudan.⁵⁸

ARBITRARY ARRESTS AND DETENTIONS

The scale of arrests was also unprecedented – Amnesty International and ACJPS received reports from human rights and political activists, journalists and lawyers in Sudan indicating there were over 800 arrests, with several detainees being held incommunicado without access to their families or lawyers before being released without charge.⁵⁹ The GoS reported it had arrested 600 people. Many were released within hours or days, after being summarily tried and either fined or sentenced to flogging. Flogging sentences were carried out immediately. In one case on 24 September 2013, the Omdurman Central Criminal Court

sentenced eight demonstrators without legal representation under articles 67 (on disturbance of public peace) and 77 (on creating a public nuisance) of the 1991 Penal Code. The group was sentenced to twenty lashes and fines of 200 Sudanese pounds each. The sentence was carried out immediately. The group was arrested from demonstrations in the Al Abbassia area of Omdurman the evening before. Two minors were also referred to a juvenile court.

Others remained in detention for periods varying between weeks and months without charge or access to their families, a lawyer or a court.

A wave of arrests was carried out during the night of 30 September 2013 and in the early hours of the following day. At least 17 members of the Sudanese Communist Party were arrested in and around Khartoum.⁶⁰ On 27 September 2013, the NISS arrested Dr Sidig Kabbalo, a member of the Central Committee of Sudan's Communist Party, shortly after he returned from the United Kingdom (UK). Family members attempted to visit him on 30 September 2013, but were told to return in 15 days. The NISS would not disclose his whereabouts to his family. He was released without charge on 15 October 2013.

Youth group members were also targeted during this spate of arrests by the NISS. On 23 September 2013, six armed men from the NISS reportedly raided the home of Mohayed Siddig, a founding member of the youth movement Sudan Change Now. They arrested him after searching his home for more than two hours and confiscating his wife's laptop, as well as CDs and documents. Mohayed Siddig was held incommunicado without charge for over a month.

Other members of Sudan Change Now were also arrested, including Dahlia Al Roubi, Rayan Zein Abideen, Omar Ushari and Khalid Omar. On 30 September 2013, Dahlia Al Roubi and Rayan Zein Abideen were reportedly taken to the NISS building in Al Amarat area where they were held without charge, access to lawyers, a court or their families. They were released a week later.

The ACJPS also documented incidents of torture and ill-treatment of detainees arrested during the September 2013 demonstrations in NISS and police custody, including beatings with fists and batons, electrical shocks and threats of sexual violence. Detainees in NISS custody also reported being detained in the 'fridges' of the NISS facility nearby Shendi Bus Station, where individuals reported being subjected to cold temperatures and detained ten–20 detainees per cell.

UNIVERSITY OF KHARTOUM PROTESTS IN MARCH 2014

On 11 March 2014, Ali Abakar Musa, an economics student at the University of Khartoum died from gunshot wounds sustained when the security services opened fire during a demonstration at the university. The demonstration took place immediately after the conclusion of a public forum organised by the Darfur Students' Association concerning escalating violence in South Darfur. Students marched to the main university gate, where they were met by the joint force of the police, the NISS and student militias. The security services reportedly fired tear gas, rubber bullets and live ammunition at the students. Amnesty International spoke to eyewitnesses, including students and journalists, who said at first armed men dressed in civilian clothes, believed to be part of the pro-government student

militia, came and started beating the students. Subsequently, the police and the NISS came and used tear gas and live ammunition to disperse the protestors, resulting in the death of Ali Abakar Mussa Idris.⁶¹ A medical report obtained by ACJPS stated Ali Abakar Musa had been shot by live ammunition in the chest. The police subsequently issued a statement denying responsibility for his death. Seven other students were injured after being beaten with batons and shot at with rubber bullets.

The death of Ali Abakar Mussa Idris sparked protests the following day in Khartoum. His funeral, attended by around 1,000 people, was broken up by the security services using tear gas after mourners began to shout anti-government slogans. In the days following this protest and Ali Abakar Mussa Idris' funeral, the NISS carried out a wave of arbitrary arrests across Khartoum of students that had participated in the protests.⁶²

International standards are clear firearms must not be used for dispersing protestors. They may be used only in defence against an imminent threat of death or serious injury and only when less extreme measures are insufficient to achieve this.

To date, ACJPS and Amnesty International are not aware of the establishment of any investigation into the events at the University of Khartoum.

ARBITRARY ARRESTS AND DETENTIONS

Many protestors were arrested the day of the protest and the following day. Amnesty International and ACJPS documented the arrests and detention, sometimes without charge, of students, human rights defenders, political activists and lawyers. Many of those detained were originally from Darfur but resident in Khartoum.⁶³

Abdelaziz Eltoum Ibrahim, a lawyer with the Darfur Bar Association, went missing on 12 March 2014 during dispersal of the funeral. His family were contacted on 17 March 2014 by the NISS, who confirmed he was in detention. The following day, a series of raids across Khartoum resulted in further detentions, including that of Abdelmoniem Adam Mohamed, a lawyer who had been visiting police stations to search for any student arrested during the protest. He was arrested at his office in downtown Khartoum on 13 March 2014. On March 20 2014, Mohamed Salah Mohamed Abdelrahman, a recent graduate of the University of Khartoum who spoke at the funeral of Ali Abakar Mussa Idris, was detained at Khartoum Airport while attempting to fly to Tunisia to attend a workshop.

They were all freed on 8 April 2014. However, Mohamed Salah Mohamed Abdelrahman was re-arrested on 12 May 2014 with two youth group members, Taj Elsir Jaafar and Moammer Musa Mohammed by NISS officials near the University of Khartoum.⁶⁴ The three were known for their participation in the campaigns protesting the killing of Ali Abakar Musa Idris on 11 May 2014. Moamar Musa Mohamed was taken to Kober prison, while Mohamed Salah Mohamed Abdelrahman and Taj Alsir Jaafar were held in the NISS detention facility in Bahri, Khartoum. During their detention, both Mohamed Salah Mohamed Abdelrahman and Taj Alsir Jaafar reported being subjected to ill-treatment. They reported being held in cells known as 'the fridges,' kept deliberately cold to make detainees feel uncomfortable. Both were also reportedly beaten, resulting in bruises on their bodies and faces.⁶⁵ In late June 2014, Mohamed Salah Mohamed Abdelrahman and Taj Alsir Jaafar began a hunger strike, which, according to their parents, lasted three days before they were taken to a nearby hospital. At

no point during their detention were Mohamed Salah Mohamed Abdelrahman, Moamar Musa Mohamed or Taj Alsir Jaafar charged or granted access to a lawyer. The NISS rejected four applications by the families of Mohamed Salah Mohamed Abdelrahman and Taj Alsir Jaafar to visit them in detention, only allowing family members to briefly visit them on 13 June 2014. The NISS twice refused to accept medication that Taj Alsir Jaafar's family tried to send him via the NISS. Moamar Musa Mohamed's family did not manage to visit him while he was in detention.

Prior to the family visit, Mohamed Salah Mohamed Abdelrahman's father, Salah Abdurrahman, was arrested and briefly detained by the NISS alongside three other demonstrators on 9 June 2014, from a peaceful demonstration organised by a group calling itself the Sudanese Solidarity Committee with the Detainees, in Area 2 of Khartoum. The demonstrators called for the release of all political detainees in Sudan.⁶⁶

During the week of 7 July 2014, the NISS informed the families of all three men they would be detained without charge for further investigations for another three months, in line with the 2010 NSA. However, four days later, on 11 July 2014, the NISS released Moamar Musa Mohamed from Kober prison before also releasing Mohamed Salah Mohamed Abdelrahman and Taj Alsir Jaafar that evening after making both sign a pledge stating they would not participate in or call for further demonstrations.

III - THE LACK OF ACCOUNTABILITY AND JUSTICE

Under international human rights law, states must investigate all cases of excessive use of force, arbitrary detention such as secret or unacknowledged detention and torture and other ill-treatment, bring perpetrators to justice and ensure effective redress for the victims.

Amnesty International and ACJPS have identified widespread problems resulting in the persistence of impunity for violations committed by the security services. Firstly, the GoS has repeatedly failed to ensure prompt, thorough, impartial and effective investigations. Second, access to justice for victims and their families is hampered through immunities for the police, the NISS and other security services, the lack of will to investigate lodged criminal complaints, and the harassment and intimidation of those who try to do so.

A- FAILURE TO INVESTIGATE

As examined in Section II of this report, information gathered by Amnesty International and ACJPS indicates that the security services have routinely used excessive force to disperse demonstrations. Scores of protestors have been killed, injured, beaten, arrested and detained. Detainees have been subjected to torture and other forms of ill-treatment.

Any person affected by the use of force or firearms, including dependants or family of persons killed is entitled to an independent judicial process and publication of a report of the investigation.⁶⁷ To facilitate the reporting of misconduct by the security services, law enforcement officials must make independent and impartial complaint mechanisms available and known to the public.⁶⁸

Despite consistent reports of killings and injuries committed by the security services during protests, the Minister of Justice has rarely condemned misconduct. Instead, the GoS often denies responsibility for the deaths and injuries, blaming armed political opposition groups for plotting the protests and attributing the violence to them and/or to outlaws.⁶⁹

In a few cases, the GoS announced the establishment of a committee to investigate human rights violations that have occurred during protests and, in particular, the deaths of protestors. However, in all the cases documented by Amnesty International and ACJPS, concordant information indicates the committees in question were not independent and did not conduct thorough, prompt and impartial investigations.⁷⁰ In cases where the committees issued recommendations, the findings were not public and the GoS did not implement such recommendations.⁷¹ However, Amnesty International was able to obtain information on the measures taken by the committees through interviews with lawyers who have followed up and discussed the recommendations with the committees. Lawyers told Amnesty International that often individuals appointed to be part of the committees have neither knowledge of the situation nor adequate qualifications. Most committees were established without specific mandates and, in cases where recommendations or decisions were issued, they were not

publicly reported. Only a handful of investigations into specific cases of deaths of protesters have progressed.

Scores have been injured by the excessive force used by the security services during protests. However, no steps have been taken to provide reparation to those who were injured. One protestor hit by a bullet during the September 2013 protests told Amnesty International: "Why would they offer me justice and reparation when it hasn't even been done for those who were killed?"⁷²

In addition, many fear reprisals and harassment from the security services, or being charged with public disturbance due to their participation in the protests, and as such prefer to not to seek redress.

NYALA

The findings of a committee announced to investigate the deaths of the twelve demonstrators have never been made public. Based on interviews conducted with lawyers, Amnesty International found the committee made little effort to investigate the killings during the protests, but instead investigated the reasons behind the unrest and the people who coordinated the protests. Additionally, the committee concluded the protests were a result of incitement by the armed political opposition group, the Justice and Equality Movement (JEM) and that the use of live ammunition was by elements belonging to armed political opposition groups, a claim commonly made by the GoS to justify the deaths and injuries of protesters.⁷³

The family of a deceased lodged a criminal complaint against a police officer. A trial was reportedly conducted in an NISS court.⁷⁴ The court reportedly issued a recommendation requesting the NISS Director to lift the immunity of the NISS agent in March 2013. There are conflicting reports, with some stating the NISS Director has yet to make a decision and others reporting he decided to reject the court's decision. Lawyers told Amnesty International they have made several attempts over the last year to follow-up on the decision but did not hear back from the NISS Director's office.

Families of those killed perceived the committee as not having fulfilled its mandate and choosing to ignore evidence of human rights violations committed by the security services. Al Jazeera

On 9 December 2012, the Sudanese Minister of Justice, Mohamed Bushara Dosa, publicly announced the formation of an investigation committee into the incident at Al Jazeera University to be headed by prosecutor Dr Al Tigani Mohamed Ahmed Abdulrahman and supported by committee members Ibrahim Gisim, Alseed Mohamed and Zanoon Mahmoud Mustafa. The committee reportedly had a mandate to work according to the 1991 Criminal Procedure Code, with powers to engage others to support the investigation as necessary and report to the Justice Minister directly.⁷⁵ The committee's findings have never been made public.⁷⁶ Lawyers representing families of the deceased informed Amnesty International that the families had eventually stopped expecting to receive updates from the committee.

SEPTEMBER/OCTOBER 2013

Three committees were established to investigate events surrounding the demonstrations under the direction of the NISS, the Khartoum governor Abdel Rahman al-Khidir and the Ministry of Justice respectively. Their compositions and mandates were never made publicly known and multiple attempts by ACJPS and Amnesty International to access them were unsuccessful. These committees are thought to have been established to identify criminal liability for the destruction of property and looting associated with the demonstrations, rather than to investigate and establish liability for the deaths and injuries sustained by demonstrators.

One prominent Sudanese lawyer told Amnesty International: “The committees were set up to investigate the incidents but no one knows their composition, their mandate or what they have investigated. I have inquired at the Prosecutor General’s office and they repeatedly told me that all the investigations in relation to the September protests have been referred to the three committees. What is also concerning is all those who have been injured who have received no justice and no reparation. Many still require treatment outside of the country.”⁷⁷

On 25 June 2014, the UN Independent Expert on the situation of human rights in Sudan, Mashood Baderin, confirmed he had received the GoS’ investigation report into events of September 2013 and human rights violations that allegedly occurred during the protests.⁷⁸ The findings of this report have not been made public, although they were referred to in a report by the GoS to the UN Human Rights Committee following the interactive dialogue on 8–9 July 2014 between the GoS and the UN Human Rights Committee on Sudan’s Fourth Periodic Report concerning its commitment under the ICCPR. According to that report, the official death toll stands at 85, including two security officers.⁷⁹ The GoS stated post mortems were issued for all dead bodies received in two morgues in Khartoum and preliminary investigations were carried out immediately in each case under article 51 (death in certain circumstances) of the 1991 Criminal Procedure Act. During post mortem exams, firearm bullets were found in seven bodies of the deceased.⁸⁰

B - BARRIERS TO JUSTICE

Victims of human rights violations documented in this report face significant obstacles in getting justice.

IMMUNITIES FROM PROSECUTION

In Sudan, complaints against a member of the security services are effectively curtailed by immunity legislation. Legislation governing the SAF, NISS and police all include immunities for acts committed “in good faith” and “in the course of duty”. Immunities can only be waived by the relevant governing bodies of the Ministry of Interior, Defence or Director of the NISS.⁸¹

Article 52(1) of the NSA 2010 states any act committed by the NISS while pursuing their duties with 'good intentions' should not be considered a crime. The Police Act 2008 also includes several immunities. In particular, the following provisions raise concern: article 45(1) states actions of police officers do not constitute crimes if they take place while he was performing his duties or as a result of official orders. Article 45(2) further prevents initiation of criminal proceedings against a member of the police, if the Police Legal Affairs Unit decides the crime was committed in the course of official duties. In this case, he should not be tried, save for special permission issued by the Minister of the Interior or his delegate.

The GoS has repeatedly stated the immunities are "procedural rather than substantive" and 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. Yet precedents demonstrate attempts to seek justice have been rejected by courts, including the Constitutional Court. In previous trials, the Constitutional Court has also affirmed immunities provided for NISS personnel are not in conflict with the Constitution. It has stated immunities are only "procedural" and that the Director of the NISS would remove them if deemed necessary.⁸² However, in practice, immunities are rarely lifted, with a few exceptions in cases against the police or the NISS which are then tried in special Police or NISS courts, which raises separate concerns about the adequacy of such trials. The lack of legal remedies for victims of human rights violations committed by the NISS demonstrates these immunities, even if procedural by law, are substantive in practice.

A Darfuri lawyer told Amnesty International: "Because of the immunities, it is almost impossible for victims of human rights violations to file charges against NISS officers and the police. A lot of people don't even want to try despite the glaring evidence because they know it's not going to lead to anything."⁸³

Further immunities are included under the 1991 Penal Code. Police, NISS and SAF members may be charged under the 1991 Penal Code, but can only be charged under the vague charge of "semi-intentional" homicide under article 130. Article 11 (on performance of duty and exercise of right) also includes immunities.⁸⁴

These immunities have long been recognized as an obstacle to accountability, as they create legal barriers to effective investigations and prosecutions into human rights violations committed by the security services.

LACK OF WILL TO INVESTIGATE ALLEGATIONS

Even in the rare cases where there is irrefutable evidence and witnesses and immunities are lifted, the judicial system fails to effectively investigate complaints of excessive use of force, torture and other ill-treatment by the security services with a view to prosecuting those who commit such human rights violations.

Amnesty International and ACJPS have interviewed lawyers acting for people who have brought criminal complaints against the police and the NISS. These lawyers have expressed the view that, in cases of such complaints about the police or NISS, the response of the relevant prosecutors has been inadequate, sometimes even to the extent of defending the police or NISS officers. Due to the lack of rigour by prosecutors in pursuing cases, the initiative is left in many cases to victims to press for criminal investigations to be pursued.

For example, despite the high number of people killed and injured during the September/October 2013 protests, only one prosecution case – regarding the death of Dr Sara Abdelbagi -- was opened out of 85 criminal complaints made by victims' families. The first instance trial ended in an acquittal, which was overturned on appeal (See Box below). One of the lawyers assisting families of victims told Amnesty international: "There are 84 open cases right now, but we have not heard from the police in any of them. And I am sure that none will be investigated. Only one case has proceeded to trial to this day, the case of Sara Abdelbagi."

Reliable sources have informed ACJPS that a number of cases were stalled under article 47 (on initiating a criminal suit) of the 1991 Criminal Procedures Act.⁸⁵ Article 47 allows the Prosecution to gather evidence; reliable sources indicated to ACJPS that courts were refusing to hear cases under the basis that evidence was still being collected.

Failure to investigate such complaints effectively not only prevents victims of human rights violations from gaining access to justice, but also allows human rights violations to go unpunished, contributing to impunity for perpetrators and the continuation of human rights violations.

SARA ABDELBAGI

Sara Abdelbagi was shot and killed outside her uncle's home in the Aldorashab neighbourhood of Khartoum Bahri on 25 September 2013. Dr Sara Abdelbagi had reportedly joined other friends and family members outside the home of her uncle after hearing that her 15 year old cousin, Soheib Mohamed Musa, had been shot and killed. A number of family members gathered at home reportedly saw an army officer dressed in civilian attire, with at least one police officer heading west from Dr Mashayeer Pharmacy. The SAF officer, had reportedly been off-duty and was armed by the storekeeper of Aldorashab North police station despite not being a member of the police. He had reportedly previously been employed in the security police unit before being dismissed for misconduct and recruited to the SAF. Several eye-witnesses reported seeing him fire two gunshots, one of which hit Dr Sara Abdelbagi in the side of her body. One eye-witness reported seeing him then apologise and say he did not mean to shoot her. Another witness reported s/he was not sure if it was him or the other police officer that shot and killed Dr Sara Abdelbagi. She was rushed to the nearest hospital, where there were no surgeons available to treat her. The streets were blocked and there was no car available to transport her safely. She was carried in a blanket to the main street, where a police car picked up the group and agreed to take her to another hospital where she died shortly after. The death certificate originally issued for Dr Sara Abdelbagi stated she died of mysterious causes. It was later changed to state that she died of gunshot wounds further to her family's demands after they opened an official complaint into the circumstances of her death at the local police station in Aldorashab.

The army officer was arrested on 15 December 2013 and charged under article 130 of the 1991 Penal Code. He was later dismissed from his unit in Alkadaro. The family's lawyer reported the prosecution refused to question the police storekeeper and press charges against the police chief who allegedly ordered the shooting of demonstrators. The family's lawyer also reported difficulties in following the case with the prosecutor, secretary of the court and Aldorashab North police station. Khartoum Bahri's High Court refused the request for further investigation into the death of Dr Sara Abdelbagi on 12 January 2014, stating the police were performing their mandated duties under article 117 of the Criminal Procedures Act 1991 (on prevention of crime) which unfortunately resulted in deaths.⁸⁶ The first hearing was on 28 January 2014. The prosecution refused to confirm the charges against the police chief

and the storekeeper who issued the army officer a weapon. Court proceedings continued till 28 May 2014 when he was acquitted, with the judge reporting the prosecution did not provide sufficient evidence he had killed Dr Sara Abdelbagi. On 26 August the Bahri Court of Appeal overturned the decision of the Aldoroshab North Criminal Court. The Court of Appeal stated that the evidence presented during the initial trial was sufficient in establishing murder under article 130 of the 1991 Sudanese Penal Code. The case file was returned back to the Aldoroshab North Criminal Court for review. The defendant is entitled to appeal the Bahri Court of Appeal's decision within 15 days. The Bahri Court of Appeal's decision comes following comments made by the Government of Sudan to the UN Human Rights Committee in July 2014 that the accused was acquitted due to lack of sufficient evidence and eyewitnesses.⁸⁷

Lawyers and families of victims described difficulties in gathering evidence relevant to lodge a complaint against the security services. Medical and autopsy reports and other documents stating the cause of death or providing details regarding injuries sustained were difficult to obtain from morgues and hospitals.⁸⁸ Many doctors and morgues were hesitant about providing information given their fear of reprisals by the security services. Lawyers reported to Amnesty International and ACJPS that the majority of death certificates issued in September 2013 listed the cause of death as 'mysterious circumstances'. In some cases, families were forced to bury their relatives without death certificates. The police then used the lack of evidence to justify their reluctance in opening cases.

In most cases, those allegedly injured during protests or tortured during detention decline to submit formal complaints against the suspected perpetrators because they lack confidence in the investigation process and also fear submitting complaints could lead to the security services taking retaliatory action against them.

Arrests and detentions of prominent human rights and political activists, journalists and members of opposition political parties at the hands of the NISS are often arbitrary. Research and cases documented by ACJPS and Amnesty International demonstrates that detainees in NISS custody are routinely not allowed access to a lawyer or to his or her family and left outside of the protection of the law. Often, when families inquire about the detention of family members, the NISS denies the arrests. Amnesty International has identified cases indicating that the NISS attempted to erase all traces of mistreatment during the detention.⁸⁹ Additionally, few victims of torture and other ill-treatment seek redress through the justice system. Many fear if they attempt to pursue legal remedies, they risk being threatened by the security services or being re-arrested. Lawyers who have encouraged their clients to file complaints against members of the NISS or the police told Amnesty International that many victims back down at the last minute given fear of reprisals.

These barriers to accessing justice, particularly in respect of violations perpetrated by the NISS, are a persistent problem that have been recognised by regional and international human rights mechanisms. A number of complaints have been lodged against Sudan before the African Commission on Human and Peoples' Rights, on behalf of victims who have not been able to seek effective remedies within the Sudanese justice system for torture and other ill-treatment at the hands of the NISS and the police. The African Commission has found in some of these cases that remedies are not available for victims of arbitrary detention, torture and other ill-treatment at the hands of the NISS in Sudan because of legal and procedural barriers that grant immunity to NISS officials.⁹⁰ The African Commission has called on Sudan to reform its laws, including the NSA of 2010 governing the work of the NISS, and bring them in line with international and regional standards.⁹¹

In July 2014 the UN Human Rights Committee repeated concern and calls it made previously for Sudan to abolish provisions that grant immunity from criminal prosecution to the police, the armed forces and the national security forces for violations of human rights committed in the course of their duty.⁹²

SAMAR MIRGHANI

23 year old pharmacist, Samar Mirghani, was arrested on 27 September 2013, while she was recording on her cell phone the killing of a protestor by police officers during protests in the neighbourhood of Bahri. While she was filming, a group of men attacked her, snatched her cell phone and took her away in a pickup truck. She was verbally and physically abused in the car. The police officers threatened to rape her and they beat her and slapped her. She told Amnesty International: "They took me to Safiya police station. They saw the video of the person being killed by a security agent. They interrogated me, and asked me who I work for, and who did I send the video to. I told them I was a pharmacist, and I am not political. Then, the head of the police station came and started hitting me with a stick, and one of the police officers hit me on my head with the back of his gun and I passed out." Later, six officers transferred her to another police station. On the way to the police station, she was subjected to further verbal and physical abuse. Samar was released the following day early in the morning, after the police charged her with public disturbance and possession of pornography. In October 2013, a court found her not guilty of possession of pornographic materials, but guilty of public disturbance and she was fined 5,000 Sudanese pounds (USD1,000). Her lawyer encouraged her to lodge a complaint against the policemen who beat and assaulted her. However, when they lodged the complaint, the police refused to do preliminary investigations to lift the immunities of the police officers. Given the reluctance of the police, her lawyer subsequently wrote to the Minister of Justice requesting that preliminary investigations take place. The Ministry of Justice ordered the prosecutor to do the investigation. In October 2013, the prosecutor concluded the investigation and submitted a request to the Head of Police to lift the immunities of the officers involved in the case. Samar Mirghani and her lawyer have been following up since, but there has been no answer at the time of writing.

HARASSMENT AND INTIMIDATION

In many instances where human violations were reportedly committed by the security services, victims and/or their families have faced harassment and intimidation. Most of the people interviewed by Amnesty International and ACJPS were afraid to lodge criminal complaints, but also in some cases, to seek treatment. A number of families who attempted to bring cases were threatened by the security services about making formal complaints regarding the deaths of their family members.

Lawyers told Amnesty International the families of those who have been killed in Al Jazeera have abandoned hopes of obtaining justice and reparation: "It's difficult for them, they may face harassment and intimidation, but also they don't believe in the justice system."⁹³

People injured during the protests were afraid to seek medical treatment due to their fear of being arrested in hospitals. For example, some individuals injured during the Nyala protests in July 2012 reported not seeking medical treatment due to fears they would be arrested by the NISS at Nyala Hospital.⁹⁴ It was reported that the police and NISS obstructed access to Nyala hospital on 1 August 2012.⁹⁵ Similarly, during the September/October 2013 demonstrations, ACJPS and Amnesty International received reports of the NISS and Central Reserve Police (CRP) blocking access to Khartoum hospitals or arresting injured demonstrators and their family or friends on their way to the hospital, deterring people from accessing medical treatment or verifying reported injuries and deaths. Two medical doctors in

Kosti, Dr Adil Sidig and Dr Omer Fagiry, were arrested and detained by the NISS on 25 September 2013 while on their way to the hospital to treat students injured by teargas and rubber batons during the demonstrations. ACJPS received reports that the family of one male protestor shot in the Alkalka district of Khartoum refused to take him to the hospital owing to fears that he would be arrested and detained. Private doctors learned of his case and treated him in his home.⁹⁶

Doctors have also reportedly been harassed by the GoS when making statements regarding those killed and injured during demonstrations. Dr Ussama Murtada, a medical director of Omdurman hospital, was summoned by the NISS after he gave an interview to the British Broadcasting Corporation (BBC) on 25 September 2013 about the number of dead and injured in his hospital. He was released later that day.⁹⁷

Many protestors injured, beaten or otherwise mistreated during the protests are afraid to come forward because they do not want to risk facing charges related to public order disturbance or be accused of supporting armed political opposition groups.

One lawyer told Amnesty International: "People are afraid to go to the police and to lodge complaints. Many of those who are released from detention are often still under surveillance and have to go back for follow ups to NISS offices and as such prefer to avoid further run-ins with them. As for the families of those who have been killed [in September 2013], many of them are afraid to come forward. Those who attempted to received threatening phone calls and were even discouraged by people in their surroundings who support the current Government."⁹⁸

Amnesty International and ACJPS have also collected testimonies from victims of torture and their families who reported intimidation and harassment at the hands of the NISS. One student detained after the University of Khartoum protest in March 2014 and reportedly ill-treated in detention was initially considering lodging a complaint against the NISS. However, fear of reprisal and lack of confidence in the justice system deterred him from doing so.⁹⁹

One political activist, AB, detained from 22 September – 28 October 2013 reported receiving telephone calls from the NISS every few hours for five days following his release. He also noted an increased security presence in his neighbourhood, with around three or four NISS agents deployed on his street. AB also believed the NISS was monitoring his movements and visitors.

Amnesty International and ACJPS interviewed many victims who spoke about the barriers they faced when attempting to report human rights violations suffered at the hands of the NISS. These failed attempts undermined their confidence in the national justice system and deepened their lack of trust in public institutions.

CONCLUSION

In the past two years, protests have surged in Sudan, in part due to austerity measures implemented after the interruption of oil flows following South Sudan's independence but also due to growing dissent against the ruling party. The response of the government to these waves of demonstrations has been characterised by a pattern of excessive use of force leading to deaths and injuries, arbitrary detentions, torture and other ill-treatment. The arbitrary detention of activists, human rights defenders and political opposition figures has continued unabated, against a backdrop of ongoing restrictions on free expression and peaceful political activities. Law enforcement officials and other security services are vested with considerable powers to ban and disperse assemblies and arbitrarily detain individuals, which are in a number of cases subject to torture or other forms of ill-treatment. This system provides limited safeguards against abuses and almost no accountability in cases of violations.

This report examines restrictions on freedoms of expression and assembly, at a time where Sudan is preparing for national elections in 2015 and a national dialogue is meant to take place. President Bashir's announcement in January 2014 that he plans to hold a national dialogue open to all political parties serves as a reminder that the Sudanese authorities must end such restrictions. On 8-9 July 2014, the UN Human Rights Committee lamented the lack of constructive dialogue with Sudan during its review, emphasizing that issues raised in previous reviews, some of them dating back to 1997, had not been addressed.

Should the GoS want to avoid a repeat of the September 2013 protests, and commit to its promise of a national dialogue, respecting fundamental freedoms, it needs to end to the continuing practice of human rights violations at the hands of its police and security services, remove provisions that provide them with broad powers of arrests and detention, and repeal their immunities. Effective steps need to be taken to reform laws and practice resulting in restrictions to the exercise of the right to freedom of expression and assembly contrary to Sudan's obligations under international human rights law, investigate abuses by police and the NISS, hold perpetrators to account without recourse to the death penalty, and provide justice and reparation for the victims and their families.

Amnesty International and ACJPS recommend:

RECOMMENDATIONS

To the Government of Sudan

- Complete and make public the results of their investigations into the killings and injuries that occurred during the Nyala 2012, Al Jazeera 2012, September and October 2013 and March 2014 protests across Sudan. The investigations should provide a full accounting of the dead and injured, the circumstances surrounding each incident resulting in death or injury, evidence that indicates the extent to which the security services are implicated in human rights violations and credible evidence of any third party responsibility.

- Officially and publically condemn excessive use of force, unlawful killings, arbitrary detention, torture and other ill-treatment and other serious human rights violations; make clear they are prohibited and will not be tolerated under any circumstances; and ensure they cease.
- Ensure police and other security services policing demonstrations or performing other law enforcement duties do not use excessive force and comply fully with the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and are carrying uniforms and individually identifiable at all times. All such organs should issue clear orders to their forces that any use of force must be strictly necessary and proportionate to a real and imminent threat and that use of unnecessary or excessive force will be punished. Resort to lethal force should be limited to specialized units, with the appropriate training, when such force is strictly necessary to save life.
- Ensure protesters are not arbitrarily arrested or detained, tortured or otherwise ill-treated and that no one is deprived of their liberty except in accordance with legally established procedures and in accordance with international law. Ensure all persons taken into custody are given prompt access to a lawyer and all necessary medical treatment.
- Ensure all allegations of the use of unnecessary or excessive force against protesters, unlawful or arbitrary arrest and detention and the use of torture and other forms of ill-treatment are investigated promptly, thoroughly and impartially, that the results of these investigations are made public without delay, and that the suspected perpetrators are brought to justice in fair trials without recourse to the death penalty.
- Provide all victims of human rights violations with full reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
- Ensure that security services respond to and cooperate with investigations. Legal immunities for any security officers implicated in shootings or other use of force should be waived by the relevant authorities.
- Take all necessary measures, including instructing the police, armed forces and other security personnel to end all mistreatment of detainees, making clear there is never any justifiable reason for mistreatment, including extracting confessions or punishment.
- Ensure conditions of detention conform to international human rights standards, including permitting and facilitating visits by legal counsel, medical personnel and family members.
- Investigate all allegations of mistreatment, torture and death in detention and promptly take steps to bring suspected perpetrators to justice in fair trials without recourse to the death penalty.
- Put an end to any forms of corporal punishment.

- Ratify the UN 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.
- Revise the National Security Act 2010, in particular provisions granting broad powers of arrest and detention, in conformity with international law.
- Repeal provisions of the Police Act of 2008 that provide police immunity from prosecution.
- Repeal all provisions of the Armed Forces Act of 2007 that provide members of the SAF immunity from prosecution.
- Reform articles 67-69 and 77 of the Criminal Act of 1991 with a view to ensuring that demonstrators are not subject to unwarranted or disproportionate criminal sanctions.
- Reform articles 124-129A of the Criminal Procedure Act of 1991 with a view to ensuring that peaceful assemblies are not subject to bans or dispersals and that any use of force is subject to the strict application of the principles of necessity and proportionality.

To the ACHPR

- Press the Government Sudan to immediately end the use of excessive force against protesters and related human rights violations and to investigate and hold accountable those responsible for unlawful killings and other human rights violations.
- Consider sending a fact-finding mission to establish the facts and circumstances leading to the deaths that took place during protests in September and October 2013.
- Urge Sudan to revise the National Security Act, the Police Act with particular attention being paid to removing the extensive powers and immunities granted to NISS and police officers.
- Call for the release of individuals who have been arbitrarily detained by the NISS for their real or perceived political opinions and for the GoS to conduct impartial and prompt investigations into all allegations of torture and ill-treatment.

To the member states of the UN Human Rights Council:

- Call on the Government of Sudan to ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.
- Call on the Government of Sudan to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- All governments should press Sudan to immediately end the use of excessive force

against protesters and related human rights violations and to investigate and hold accountable those responsible for unlawful killings and other human rights violations.

- Urge Sudan to revise the National Security Act, the Police Act with particular attention being paid to removing the extensive powers and immunities granted to NISS and police officers.
- Call for the release of individuals who have been arbitrarily detained by the NISS for their real or perceived political opinions and for the GoS to conduct impartial and prompt investigations into all allegations of torture and ill-treatment.
- Strengthen the special procedure mandate on Sudan by establishing a Special Rapporteur on the situation of human rights in Sudan under item 4, with a mandate to monitor and publicly report on violations of human rights and international humanitarian law in all parts of Sudan, and mandate the Special Rapporteur to report to the Human Rights Council and the General Assembly.

ANNEX

List of names of protesters killed during the September – October 2013 protests as confirmed by ACJPS.

1. Abdalla Mahmoud Abdalla, (m).
2. Abdul Gadir Mohamed Abdalla, (m).
3. Abdul Gadir Rabea Kuku, (m).
4. Abdul Lateef Al Ameen, (m), 17 years of age.
5. Abdul Rahman Saeed Wida't Alla, (m).
6. Abeer Al Haj Osman Bayin, (f).
7. Abu Bakr Mohamed Al Hassan, (m), `16 years of age.
8. Abu Bakr Mohamed Saeed Suliman Jum'aa, (m), 17 years of age.
9. Adil Al Nur Mohamed, (m), 17 years of age.
10. Ahmed Ayyoub, (m), 14 years of age.
11. Ahmed Hamad Al Neel Mansour Al Jizouli, (m).
12. Ahmed Mohamed Al Tayib, (m).
13. Ahmed Mohamed Ali Ahmed, (m).
14. Ahmed Mohamed Ali Al Arabi, (m).
15. Ahmed Yousif Mohamed Omer, (m).
16. Aiman Ahmed Kidir, (m).
17. Aiman Bija Habeela, (m).
18. Aiman Mohamed Yassen Ibrahim, (m).
19. Aiman Omer Tiyya, (m), 14 years of age.
20. Aiman Salih Ibrahim, (m), 14 years of age.
21. Akram Al Zubair Ahmed Al Zubair, (m).
22. Al Sadiq Abu Zaid Izz Al Deen, (m), 17 years of age.

23. Al Sadiq Mohamed, (m), 17 years of age.
24. Al Saiq Ibrahim, (m).
25. Al Tayib Abdul Wadud, (m).
26. Al Toam Daldoum, (m), 16 years of age.
27. Alaa Al Deen Babikir, (m).
28. Alam Al Deen Haroun Eisa Abdul Rahman, (m).
29. Ali Abu Ahmed, (m).
30. Ali Ahmed, (m).
31. Ali Mohamed Ali, (m).
32. Amal Munzir, (f).
33. Ameer Adam Ibrahim, (m), 16 years of age.
34. Asim Husham,(m).
35. Awad Alla Al Hadi, (m), 15 years of age.
36. Ayman Baiga Habeela , (m).
37. Ayman Salah, (m).
38. Babiker Abbashar Musa Hammad, (m), 17 years of age.
39. Babikir Al Nur Hamad, (m).
40. Babikir Yousif, (m).
41. Badawi Salah, (m).
42. Bakri Hamid, (m), 16 years of age.
43. Basheer Musa Basheer, (m).
44. Bashir Abdalla Ahmed Al Manna, (m), 16 years of age.
45. Bashir Abdul Nabi, (m).
46. Farah Mohamed, (f).
47. Faris Hashim, (m), 17 years of age.
48. Farouq Babikir Idris, (m), 15 years of age.
49. Fateh Al Rahmen Saeed, (m).

50. Fatima Yahya Adam, (f).
51. Haitham Ali Ghareeb, (m).
52. Hamad Osman, (m).
53. Hasab Al Rasoul Al Khaleefa Mohamed Haj Al Sideeg, (m).
54. Hassan Suliman, (m).
55. Hatim Mohamed, (m).
56. Hawa Ahmed, (f).
57. Hazim Mohamed Zain, (m), 16 years of age.
58. Hazza Izz Al Deen Jafar, (m).
59. Hijir Abdul Al Aleem , (m).
60. Hussein Hasan Tutu, (m).
61. Ibraheem Mohamed Ali , (m).
62. Imad Al Sideeq Ismail, (m).
63. Iman, (f), 2 years of age.
64. Isam Al Deen Mohamed Ahmed Hasan, (m).
65. Isam Al Dirdeeri, (m), 16 years of age.
66. Isam Al Tijani Omer Kajo, (m), 14 years of age.
67. Isam Mohamed Bakheet, (m).
68. Jafar Osman Ya'Aqoub, (m).
69. Khadeega Mohamed Salih, (f).
70. Khalid Muhi Al Deen, (m).
71. Khalid Yahya, (m).
72. Ma'az Abdul Daiem, (m).
73. Majdi Mohamed Ali, (m).
74. Majid Mohamed Ahmed Musa, (m).
75. Mazin Sid Ahmed , (m).
76. Midrar Abu Al Gasim Jum'a Nasir, (m), 16 years of age.

77. Mohamed Abdul Aziz, (m).
78. Mohamed Abdul Rahman Abu Zaid, (m).
79. Mohamed Adam, (m), 13 years of age.
80. Mohamed Ahmed Hasan Ali Al Kabeer, (m).
81. Mohamed Ahmed Mohamed Al Tayib, (m).
82. Mohamed Al Khatim, (m).
83. Mohamed Al Sadiq Hussein, (m).
84. Mohamed Bashir Suliman, (m).
85. Mohamed Faris Abdul Farraj, (m).
86. Mohamed Hamid Mohamed Ali, (m).
87. Mohamed Hamid Sultan, (m), 17 years of age.
88. Mohamed Husain Mohamed Saleh, (m.).
89. Mohamed Idriss Abdul Hameed, (m).
90. Mohamed Kheir Alla, (m), 16 years of age.
91. Mohamed Mansour, (m).
92. Mohamed Musa Mohamed Ali, (m).
93. Mohamed Osman Sharoam, (m).
94. Mohamed Sadiq Hussein, (m).
95. Mohamed Sideeg Mohamed Osman, (m), 16 years of age.
96. Mohamed Younis, (m).
97. Mohamed Zain Al Abdeen Al Ansari, (m), 12 years of age.
98. Monim Osman Satti, (m).
99. Mujtaba Hasan, (m).
100. Mumin Osman Satti, (m).
101. Muna Abdul Rahman Suliman , (f).
102. Muneer Ahmed, (m).
103. Muntasir Al Tayyib Abdul Bagi, (m).

104. Mus'aab Nuri Alaisir, (m), 17 years of age.
105. Musab Mustafa Muhi Eldean Abdul Wahab, (m).
106. Mustafa Al Nazeer, (m), 17 years of age.
107. Mutasim Mohamed Ahmed Hano, (m).
108. Nabeel Mustafa, (m), 2 years of age.
109. Nahla Jamal Kuwaa (f), 15 years of age.
110. Nur Al Deen Al Tayib Nur Al Deen, (m).
111. Omer Abdul Aziz, (m), 14 years of age.
112. Omer Khalil Ibrahim Khalil, (m).
113. Omer Mohamed Ahmed Al Khidir, (m).
114. Omer Mohamed Al Hasan, (m).
115. Omer Shaib, (m), 17 years of age.
116. Omran Al Sayid, (m).
117. Osama Muhamedein Al Ameen, (m).
118. Osama Osman Wida'a, (m).
119. Raja Mahmoud Mohamed, (f).
120. Sadiq Abu Zaid
121. Salah Al Deen Muddathir Al Sanهوري, (m).
122. Salah Mohamed Ali
123. Salah Mudathir Al Rayyah Al Sanهوري
124. Salih Ayoub Salih, (m).
125. Salih Siddig Osman, (m), 15 years of age.
126. Sallam Ahmd Al Tayib
127. Sami Hasan Hussein, (m).
128. Sami Hassan Hammad, (m).
129. Sarah Abdulbagi, (f).
130. Sarah Haydar Musa Jubara, (f), 14 years of age.

131. Sharf Al Deen Mohamed Mahmoud Basheet, (m).
132. Shawgi Al Rayyah Yousif, (m), 13 years of age.
133. Sidig Adam Mohamed Abdul Wahid, (m).
134. Sohaib Mohamed Musa Jubara, (m), 15 years of age.
135. Suliman Mahmoud Yahya, (m).
136. Tariq Siddiq, (m).
137. Wafaa Mohamed Abdul Raheem Abdul Bagi, (f), 15 years of age.
138. Waleed Wad Al Ageed, (m).
139. Wali Al Deen Al Sadiq, (m), 17 years of age.
140. Walla Al Deen Babikir Hussein Al Jack, (f).
141. Yasir Adil, (m), 16 years of age.
142. Yousif Abdalla Suliman Yahya, (m).
143. Yousif Nour, (m).
144. Zafir Abdalla Ahmed Balla Doaka, (m).

Unidentified Bodies

1. 2 unidentified bodies in Wad Medani
2. 27 in Omdurman
3. 12 in Khartoum North

ENDNOTES

¹ Article 27(4) of the Bill of Rights, Interim National Constitution of Sudan, 2005

² Human Rights Council resolution 15/21, preamble.

³ The Universal Declaration of Human Rights (UDHR) guarantees the rights to freedom of opinion and expression (article 19) and freedom of peaceful assembly and association (article 20). These rights are also enshrined in articles 19, 21 and 22 of the ICCPR. Article 21 stipulates that no restrictions may be placed on the right to peaceful assembly “other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.” Article 11 of the ACHPR states that: “Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law, in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.”

⁴ ACHPR, Resolution 201 on the Right to Peaceful Demonstrations, <http://www.achpr.org/sessions/55th/resolutions/281/>.

⁵ *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/20/27*, 21 May 2012, paragraph 3, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf.

⁶ *UN Special Representative of the UN Secretary-General on the situation of human rights defenders, A/62/225*, 13 August 2007, paragraph 91.

⁷ For example see: Amnesty International, *Sudan must end violent repression of student protests*, 12 December 2012, <http://www.amnesty.org/en/news/sudan-must-end-violent-repression-student-protests-2012-12-12>; *Sudan: Security forces must stop using live rounds against demonstrators*, 2 August 2012, <http://www.amnesty.org/en/news/sudan-security-forces-must-stop-using-live-rounds-against-demonstrators-2012-08-02>; *Sudan: Torture, Abuse of Demonstrators Charge or Release Detained Peaceful Protestors*, 11 July 2012, <http://www.amnesty.org/en/for-media/press-releases/sudan-torture-abuse-demonstrators-charge-or-release-detained-peaceful-prote> ; *Sudan: End crackdown on protesters and journalists*, 26 June 2012, <http://www.amnesty.org/en/news/sudan-end-crackdown-protesters-and-journalists-2012-06-22>; *Sudan must end violent crackdown on protestors*, 7 December 2009, <http://www.amnesty.org/en/for-media/press-releases/sudan-must-end-violent-crackdown-protestors-20091207>; *Sudan urged to end protest crackdown*, 31 January 2011, <http://www.amnesty.org/en/news-and-updates/sudan-urged-end-protest-crackdown-2011-01-31>; *Sudan crackdown on peaceful protest continues*, 9 March 2011, <http://www.amnesty.org/en/news-and-updates/sudan-crackdown-peaceful-protest-continues-2011-03-09>.

⁸ Article 125(1) of the Criminal Procedure Act of 1991 states that: “Where the assembly, mentioned in section 124, does not disperse, upon the issue of the order, or acts in a manner inconsistent with the order, the officer in charge may order the dispersal of such assembly, by use of the least necessary force;

provided that he shall not resort to the use of fire arms, for dispersal of the assembly, save upon the permission of the Prosecution Attorney” and (4) “the right to use force shall not warrant intentional causing of death.”

⁹ Under article 67 of the 1991 Penal Code, the offence of rioting is committed whenever there is an assembly of five or more persons and use of force, intimidation or violence. Article 67(c) refers to exercising any existing, or alleged right in a manner likely to disturb public peace. Rioting is punishable with imprisonment for six months, a fine or whipping. Under article 69 of the 1991 Penal Code, a breach of public peace or an act with the intent of a breach of public peace, may be punished with imprisonment for a term not exceeding three months, a fine or whipping. Article 77 refers to the offense of public nuisance likely to cause public injury, or danger, or annoyance to the public who occupy or reside in a neighbouring place. Public nuisance may be punished with imprisonment for up to three months, with a fine, or both.

¹⁰ For example, on 28 November the Port Sudan Criminal Court in Red Sea state initiated proceedings against seven university students. The case number is no. 4545/2013. The charges were brought by a NISS agent. The charges are articles 36 (“forfeiture and obstruction”), 67 (“rioting”), 77 (“public nuisance”), and 96 (“omission to produce document or deliver public statement”) of the 1991 Sudanese Penal Code. The case was filed against the group when they engaged in a peaceful demonstration on 8 October in front of NISS headquarters in Port Sudan. The demonstrations called for the release of detainees arrested during the September 2013 demonstrations. See ACJPS, “Sudan Human Rights Monitor, August – November 2013”, available online at <http://www.acjps.org/wp-content/uploads/2014/03/SHRM-August-November-2013-FINAL.pdf>. Amnesty International interviewed a number of university students who were detained and charged under the same articles during the June–July 2012 protests and the December 2012 Al Jazeera protests.

¹¹ Redress Trust, Sudan Human Rights Monitor et al, *Sudan Law Reform Advocacy Briefing*, December 2013.

¹² Article 4 of the ACHPR stipulates: “Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.” Article 6(1) of the ICCPR states “Every human being has the inherent right to life... [and] No one shall be arbitrarily deprived of his life.”

¹³ Principle 9 of the UN Basic Principles on the Use of Force and Firearms.

¹⁴ UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principle 1, 1989 (<http://www.unrol.org/doc.aspx?d=2243>); and UN Human Rights Committee, General Comment Number 31 on the nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, 16 May 2004, paragraph 18, <http://tb.ohchr.org/default.aspx?Symbol=CCPR/C/21/Rev.1/Add.13>).

¹⁵ See generally UN Human Rights Committee, General Comment 31, above note 36, paras.15-18.

¹⁶ *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns, UN Doc. A/HRC/17/28, 23 May 2011, paragraphs.61.

¹⁷ Principle 7 of the UN Basic Principles on the Use of Force and Firearms.

¹⁸ Report to the Human Rights Council, *Effective measures and best practices to ensure the promotion and protection of human rights in the context of peaceful protests*, UN Doc A/HRC/22/28, 21 January 2013, paragraph 78.

¹⁹ Article 6(2) of the People's Armed Forces Act of 2007 states that: "help law enforcement organs, upon need, in the time of peace and emergencies, in accordance with the provision of the law, and shall have for the sake of that, such powers and legal protection, as may be granted to such forces". Similarly, The NISS may use force pursuant to article 50(1) (c) of the NSA which vest it with the "powers of the policemen as provided for in the Police Force Act and the Criminal Procedures Act".

²⁰ Article 126, Criminal Procedure Act 1991.

²¹ See Human Rights Committee, *Mukong v Cameroon*, Communication No. 458/1991, para. 9.8. See also, *inter alia*, Human Rights Committee, *Mikhail Marinich v Belarus*, Communication No. 1502/2006, para. 10.4; Human Rights Committee, *Fongum Gorji-Dinka v Cameroon*, Communication No. 1134/2002, para. 5.1; Human Rights Committee, *Jalloh v. The Netherlands*, Communication No. 794/1988, para. 8.2; Human Rights Committee, *Van Alphen v. The Netherlands*, Communication No. 305/1988, para. 5.8.

²² Amnesty International, *Urgent Action: Sudanese lawyer held incommunicado: Magdi Saleem*, (Index: AFR 54/022/2013), www.amnesty.org/en/library/info/AFR54/022/2013/en; *Sudan: Lawyer detained without charge: Adam Sharief*, (Index: AFR 54/023/2013), <http://www.amnesty.org/en/library/info/AFR54/023/2013/en>; *Sudan: Students and lawyers at risk of torture*, (Index: AFR 54/003/2014), <http://www.amnesty.org/en/library/info/AFR54/003/2014/en>; *Sudan: Sudanese authorities must end its crackdown on demonstrators and activists*, (Index: AFR 54/036/2012). 3 August 2012, <http://www.amnesty.org/en/library/info/AFR54/036/2012/en>; *Sudan: Sudanese youth activist at risk of torture: Ussamah Mohammed*, Index: AFR 54/032/2012, <http://www.amnesty.org/en/library/info/AFR54/032/2012/en>; *Sudan: Government crackdown on activists and political opponents*, Index: AFR 54/036/2011, <http://www.amnesty.org/en/library/info/AFR54/036/2011/en>; *Sudan: Student activist detained, risks torture: Mohammed Salah Mohammed*, (Index: AFR 54/033/2012).

²³ See, *inter alia*, Human Rights Committee, General Comment 20 on article 7 ICCPR, para.5

²⁴ ACJPS, *Three protestors, including two children, killed by police at protest outside government offices in Nyala*, 24 September 2013, <http://www.acjps.org/three-protestors-including-two-children-killed-by-police-at-protest-outside-government-offices-in-nyala/>.

²⁵ See, for example: Amnesty International, *Sudan: Security forces must stop using live rounds against demonstrators*, 2 August 2012, <http://www.amnesty.org/en/for-media/press-releases/sudan-security-forces-must-stop-using-live-rounds-against-demonstrators-2012-08-02>. Amnesty International, *Sudan must end violent repression of student protests*, 12 December 2012, <http://www.amnesty.org/en/for-media/press-releases/sudan-must-end-violent-repression-student-protests-2012-12-12>. ACJPS, *Twelve dead, including ten children, and over eighty injured following police and NISS excessive use of force in Nyala*, 2 August 2012, <http://www.acjps.org/twelve-dead-including-ten-children-and-over-eighty-injured-following-police-and-niss-excessive-use-of-force-in-nyala/>. ACJPS, *Call for immediate independent investigation into student deaths and excessive use of force by Sudanese authorities*, 10 December 2012.

²⁶ Amnesty International conducted interviews with eyewitnesses, families of victims who were killed, people who were injured, journalists present at the protests, and doctors during the protests mentioned below. The information was then corroborated and verified through other sources and reports.

- ²⁷ Al Jazeera, "Sudanese protesters clash with police" , 14 July 2012, <http://www.aljazeera.com/news/africa/2012/07/201271484516277166.html>
- ²⁸ Amnesty International, *Sudan: Security forces must stop using live rounds against demonstrators*, 2 august 2012, <http://www.amnesty.org/en/for-media/press-releases/sudan-security-forces-must-stop-using-live-rounds-against-demonstrators-2012>.
- ²⁹ ACJPS, *Excessive force, mass arbitrary detentions, ill-treatment and torture used to crack down on popular protests in Sudan*, 27 July 2012. See also, ACJPS, *UPDATE: Human Rights Defenders Arbitrarily Detained in the Wake of Mass Popular Protests*, 20 July 2012.
- ³⁰ Sudan Tribune, "Sudan 'arrested 1000' in crackdown on anti-regime demos", 1 July 2012, <http://www.sudantribune.com/spip.php?article43121>
- ³¹ Interviews with Amnesty International, July 2012.
- ³² ACJPS, *Excessive force, mass arbitrary detentions, ill-treatment and torture used to crack down on popular protests in Sudan*, 27 July 2012.
- ³³ ACJPS, *Twelve dead, including ten children, and over eighty injured following police and NISS excessive use of force in Nyala*, 2 August 2012.
- ³⁴ Interviews with Amnesty International, August 2012
- ³⁵ Interviews with Amnesty International, August 2012
- ³⁶ See: Association of Physicians in Sudan statement, 29/06/2012, on file with Amnesty International. It stated doctors witnessed police and other security officers taking control of Omdurman Hospital's accidents and emergency entrance to prevent those injured from gaining access to the admission desk and receiving treatment.
- ³⁷ ACJPS, *Sudan Human Rights Monitor, June–July 2012*, <http://www.africancentreforjustice.org/wp-content/uploads/2012/12/SHRM-June-July.pdf>.
- ³⁸ Sudan Tribune, "Sudan 'arrested 1000' in crackdown on anti-regime demos", 1 July 2012 <http://www.sudantribune.com/spip.php?article43121>
- ³⁹ Interviews with victims of torture. Evidence of physical abuse confirmed through medical reports and photographs in some cases.
- ⁴⁰ ACJPS, *Excessive force, mass arbitrary detentions, ill-treatment and torture used to crack down on popular protests in Sudan*, 27 July 2012.
- ⁴¹ Amnesty International, *Urgent Action: Activist seized moments after release*, 16 August 2012, <http://www.amnesty.org/en/library/info/AFR54/038/2012/en>.
- ⁴² Name and date have been changed.
- ⁴³ Interview with Amnesty International, August 2013.
- ⁴⁴ Amnesty International has received medical reports confirming injuries sustained during his detention.
- ⁴⁵ See, for example: European Union (EU), Statement by the spokesperson of the High Representative, Catherine Ashton, on the crackdown on demonstrations in Sudan, 30 June 2012. United States (US)

Department of State, Statement by Victoria Nuland, Spokesperson, Crackdown on Demonstrators in Sudan, 26 June 2012.

⁴⁶ Interviews with Amnesty International, students and eyewitnesses at the university, December 2012

⁴⁷ Amnesty International, *Sudan must end violent repression of student protests, 12 December 2012*, <http://www.amnesty.org/en/for-media/press-releases/sudan-must-end-violent-repression-student-protests-2012-12-12>.

⁴⁸ Radio Dabanga, "Darfuri students found dead, mass demonstrations in Khartoum", 10 December 2012, <https://www.radiodabanga.org/node/39481>

⁴⁹ See ACJPS, *Call for immediate independent investigation into student deaths and excessive use of force by Sudanese authorities*, 10 December 2012.

⁵⁰ Interviews with students present at the protests, Amnesty International, December 2012

⁵¹ Interviews with Amnesty International with eyewitnesses, students and lawyers, December 2012.

⁵² Interviews with Amnesty International, December 2012

⁵³ Interviews with Amnesty International, December 2012

⁵⁴ Amnesty International, *Sudan: Security forces fatally shoot dozens of protesters as demonstrations grow*, 26 September 2013, <http://www.amnesty.org/en/for-media/press-releases/sudan-security-forces-fatally-shoot-dozens-protesters-demonstrations-grow-2>. Also see: ACJPS, *Over 170 dead, including 15 children, and 800 detained as demonstrations spread throughout Sudan*, 4 October 2013, <http://www.acjps.org/?p=1663>.

⁵⁵ See Annex: list of names of people killed during September protests as confirmed by ACJPS.

⁵⁶ Amnesty International interviewed doctors working at hospitals in Khartoum, who confirmed that most of the deceased died of gunshot wounds in the chest or the back.

⁵⁷ UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

⁵⁸ Available on file with Amnesty International.

⁵⁹ Also see: *UN expert deeply concerned at mass arrests and heavy media censorship during protests in the Sudan*, Press Release, October 2013

⁶⁰ Amnesty International, *Sudan escalates mass arrests of activists amid protest crackdown*, 2 October 2013, <http://www.amnesty.org/en/news/sudan-escalates-mass-arrests-activists-amid-protest-crackdown-2013-10-02>

⁶¹ Interview with Amnesty International, March 2014. ACJPS, *One person dead, and 7 critically injured after Sudanese forces open fire on University of Khartoum students*, 12 March 2014.

⁶² Amnesty International, *Sudan: Student shot dead and more than 100 arrested at Khartoum protest*, 11 March 2014, <http://www.amnesty.org/en/news/sudan-student-shot-dead-and-more-100-arrested-khartoum-protest-2014-03-11>

⁶³ Amnesty International, *Urgent Action: Students and lawyers at risk of torture*, 21 March 2014, <http://www.amnesty.org/en/library/asset/AFR54/003/2014/en/05889728-c4a8-4411-bbc7-e2117b02aacf/afr540032014en.pdf>.

⁶⁴ Amnesty International, *Urgent Action: Student activists detained without charge*, 21 May 2014, <http://www.amnesty.org/en/library/asset/AFR54/008/2014/en/c0b5bd8b-35f9-47dc-a2fb-10a37f4767e6/afr540082014en.pdf>.

⁶⁵ ACJPS, Amnesty international, HRW, FIDH, REDRESS, *Sudan: End arbitrary detention of activists and investigate torture allegations*, 25 June 2014, <http://www.amnesty.org/en/for-media/press-releases/sudan-end-arbitrary-detention-activists-and-investigate-torture-allegations>.

⁶⁶ ACJPS, *Sudan: guarantee safety of detainees*, 19 June 2014.

⁶⁷ See: UN Basic Principles on the Use of Force, Principle 23. UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principles 9, 16 and 17.

⁶⁸ See: UN Human Rights Committee, General Comment Number 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add. 13 (26 May 2004), paragraph 15.

⁶⁹ See, for example, in relation to the September 2013 protests: Sudan Tribune, "Defiant Bashir slams 'bandits' and 'traitors' who planned recent protests", October 10, 2013, <http://www.sudantribune.com/spip.php?article48388>.

⁷⁰ Amnesty International conducted interviews with lawyers representing families of those killed during the Nyala, AlJazeera, and September protests as well as with the families themselves. Concerns were repeatedly raised about the lack of thoroughness and/or partiality of criminal investigations into the human rights violations.

⁷¹ See Commission on the Nyala events, p. 23

⁷² Interview with Amnesty International, July 2014.

⁷³ Article in Al Rakoba, online news website, <http://www.alrakoba.net/news-action-show-id-74764.htm> (last accessed 26 August 2014)

⁷⁴ Article 75 of the NSA establishes NISS courts: "(2) Non Summary Court: for hearing crimes provided for in the articles from (54) to (69) of this Act; (2) Summary Court: for hearing other crimes and violations provided for in this Act."

⁷⁵ ACJPS, *Sudan Human Rights Monitor, October 2012–February 2013*, http://www.acjps.org/wp-content/uploads/2013/03/SHRM_October_February.pdf.

⁷⁶ ACJPS and Redress Trust, "Sudan's human rights crisis: High time to take article 2 of the Covenant seriously", Submission to the UN Human Rights Committee ahead of its Examination of Sudan's Fourth Periodic Report under the ICCPR, June 2014, <http://www.acjps.org/wp-content/uploads/2014/06/Sudans-Human-Rights-Crisis-Submission-to-UN-Human-Rights-Committee.pdf>.

⁷⁷ Interview with Amnesty International, 31 July 2014.

⁷⁸ UN Office for the High Commission for Human Rights (OHCHR), "UN human rights expert on Sudan

urges release of political detainees and respect for freedom of press”, 25 June 2014.

⁷⁹ Additional Information in Response to the Questions raised during the consideration of Sudan’s 4th Periodic Report in the 111th session of the Human Rights Committee on 8–9 July 2014.

⁸⁰ Additional Information in Response to the Questions raised during the consideration of Sudan’s 4th Periodic Report in the 111th session of the Human Rights Committee on 8–9 July 2014.

⁸¹ ACJPS, *Sudan Human Rights Monitor, Issue 3, August–September 2009*.

⁸² The Constitutional Court, Farouq Mohamed Ibrahim El Nour versus 1. The Government of Sudan2. The Legislative Assembly, M 2008/1/, November 2008.

⁸³ Interview with Amnesty International, 17 July 2014.

⁸⁴ Redress Trust, Sudan Human Rights Monitor et al, “Sudan Law Reform Advocacy Briefing,” December 2013.

⁸⁵ Article 47 of the Criminal Procedures Act 1991 states: ‘where any information is available to the Prosecution Attorney, as may cause him to suspect the commission of an offence, or information, or complaint is presented thereto, about facts indicating the commission of an offence, he may conduct a preliminary inquiry, to ascertain the facts of suspicion, or administer the oath to the informant, or the complainant. Where he is satisfied with the truth of the facts, or suspicion, he shall order the officer in charge to initiate the criminal suit record, and register the same.’

⁸⁶ Article 117 of the Criminal Procedures Act 1991 states: ‘(1) every policeman, people’s administrator, or person authorised by law, shall keep security and public order and exert the utmost of his effort, to prevent occurrence, or continuance of crime’ and ‘(2) every person shall help the police, the prosecution attorney or magistrate, whenever help is required reasonably thereof, to abate any breach of the public peace, prevent any damage, to property, and avoid the occurrence of any offence in which force is used.’

⁸⁷ Additional Information in Response to the Questions raised during the consideration of Sudan’s 4th Periodic Report in the 111th session of the Human Rights Committee on 8–9 July 2014.

⁸⁸ Interviews during the July 2012 and September 2013 protests.

⁸⁹ For example, Amnesty International documented cases where detainees were administered cortisone shots before their release, suggesting an attempt to improve their appearance.

⁹⁰ African Commission on Human and Peoples’ Rights, decision on admissibility, Communication 386/10, *Redress on behalf of Dr. Farouk Mohamed Ibrahim v. Sudan*, paras. 57-59, <http://www.redress.org/downloads/admissibility-decision.pdf>.

⁹¹ African Commission on Human and Peoples’ Rights, *Concluding Observations and Recommendations on the 4th and 5th Periodic Report of the Republic of Sudan*, para. 66.

⁹² United Nations Human Rights Committee, *Concluding observations on the fourth periodic report of the Sudan, advanced unedited version*, CCPR/C/SDN/CO/4, 2014, para 17.

⁹³ Interview with Amnesty International, 8 August 2014.

⁹⁴ ACJPS, *Sudan Human Rights Monitor, June–July 2012*, <http://www.africancentreforjustice.org/wp-content/uploads/2012/12/SHRM-June-July.pdf>.

⁹⁵ ACJPS, *Twelve dead, including ten children, and over eighty injured following police and NISS excessive use of force in Nyala*, 2 August 2012, <http://www.acjps.org/twelve-dead-including-ten-children->

[and-over-eighty-injured-following-police-and-niss-excessive-use-of-force-in-nyala/](#).

⁹⁶ Interview with ACJPS, 28 September 2013.

⁹⁷ Amnesty International interview with a colleague of Dr Ussama, September 2013. Also see: ACJPS, *Over 170 dead, including 15 children, and 800 detained as demonstrations spread throughout Sudan*, 4 October 2013.

⁹⁸ Interview with Amnesty International, 31 July 2014.

⁹⁹ Interview with Amnesty International, 10 July 2014.

EXCESSIVE AND DEADLY

THE USE OF DISPROPORTIONATE FORCE, ARBITRARY DETENTION AND TORTURE AGAINST PROTESTORS IN SUDAN

Excessive and Deadly: The use of disproportionate force, arbitrary detention and torture against protestors in Sudan is a joint report by Amnesty International and the African Centre for Justice and Peace Studies (ACJPS). In the past two years, a deteriorating economy and other austerity measures have fuelled popular discontent amongst the Sudanese people, leading to a surge in demonstrations across the country. The response to the demonstrations by security services over the last two years has been a recurring concern for Amnesty International and ACJPS. The government continues to use a number of tactics to stifle dissent such as the criminalisation of the exercise of freedoms of expression and assembly, excessive use of force (including with live ammunition), arbitrary detention, torture and other forms of ill-treatment.

By examining allegations of human rights violations committed by the security services in Sudan during the Nyala 2012, Al Jazeera 2012, September and October 2013 and March 2014 protests, this report demonstrates that the police, the National Intelligence and Security Services, and other security forces have repeatedly violated their obligations under international law and the Sudanese Constitution, resulting in a series of unlawful killings and injuries to civilians. Furthermore, this report highlights the Government's failure to ensure the conduct of thorough, impartial and independent investigations, perpetuating impunity and thus hindering deterrence.

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