

14 February 2018

TO:

UN Human Rights Committee

UN Working Group on Arbitrary Detention;

UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. David Kaye;

UN Independent Expert on the situation of human rights in the Sudan, Mr. Aristide Nononsi

UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Ms. Annalisa Ciampi

UN Special Rapporteur on the situation of human rights defenders, Mr. Michel Forst

RE: Open letter concerning the crackdown on peaceful protests and the wave of arbitrary arrests and continued incommunicado detentions by Sudanese government forces

Honourable Commissioners,

We, the undersigned Sudanese, African and international organisations, write to you in your capacities as Special Procedure mandate holders to draw your attention to the worrying developments concerning the excessive use of force by Sudanese authorities to disperse peaceful protests across Sudan. We urge you to call on the Government of Sudan to respect the peoples' rights to freedom of assembly, association and expression as guaranteed in international standards and UN treaties ratified by Sudan and refrain from using excessive force to disperse protests.

The Sudanese authorities' reaction to the recent January 2018 protests is contrary to Sudan's commitment to respect human rights and fundamental freedoms enshrined in regional and international treaties to which it is party. Since 7 January, the authorities, including the National Intelligence and Security Service (NISS) and police have beaten peaceful protestors with sticks and batons and fired tear gas and live ammunition into crowds. On 7 January, in El Geneina,

West Darfur one student was killed and six other students were injured after joint forces of the National Intelligence and Security Services and Sudanese Police used live ammunition to disperse a peaceful student march.¹ At least 5 people were killed and 26 others sustained gunshot wounds when joint forces of the Sudanese Armed Forces (SAF) and Rapid Support Forces (RSF) opened live ammunition on a crowd of protestors at Hasahisa camp for internally displaced persons (IDPs) in Zalingei, Central Darfur, on 20 January.²

From 6 January to 6 February, the security forces have arrested and detained scores of Sudanese citizens including opposition political party leaders, human rights defenders/activists, journalists, student activists and others for prolonged periods without charge or trial.³

We are concerned about the prolonged detention, in most cases incommunicado, of individuals under NISS custody feared to have been abused or at risk of abuse as well as those of advanced age with serious health conditions. The lack of access to lawyers and family members for the detainees, together with the well-documented use by the NISS of torture and other forms of ill-treatment against detainees, particularly whilst held in unknown locations, gives rise to serious concerns for their safety.

We are also concerned about the repeated confiscation by the Sudanese authorities of national newspapers to prevent the coverage of the nationwide January 2018 protests, often at great cost to the newspapers. These restrictions have indirectly caused newspapers to self-censor, limiting the availability of information in order not to cross “red lines”. Censorship is often ramped up around key events with post-print censorship, whereby entire print-runs of daily editions are confiscated prior to morning distribution. Authorities also tightened restrictions to prevent coverage of the [nationwide anti-austerity protests in 2013](#), in April 2015, to prevent coverage of [an elections boycott by opposition parties](#) and again in November 2016 to prevent coverage of [the civil disobedience campaign protesting anti-austerity measures](#) introduced in early November.

The January 2018 incidents are the latest examples of an ongoing pattern of abuse. In September 2013 government forces used live ammunition to disperse peaceful protests, killing more than [170 protesters](#) and detaining at least 800 protesters without charge. Many of those detained were subjected [to ill-treatment in detention](#). There has been little or no accountability for the deaths, injuries and various other abuses perpetrated by Sudanese authorities against protesters. A

¹ ACJPS, Sudanese forces fire live ammunition at student protesters killing one student and injuring six others in El Geneina, West Darfur, 8 January 2018, available at: <http://www.acjps.org/sudanese-forces-fire-live-ammunition-at-student-protesters-killing-one-student-and-injuring-six-others-in-el-geneina-west-darfur/>

² ACJPS, Five IDPs killed as SAF and RSF use live ammunition to disperse a protest in Central Darfur, 24 January 2018, available at: <http://www.acjps.org/five-idps-killed-as-saf-and-rsf-use-live-ammunition-to-disperse-a-protest-central-darfur/>.

³ Annex 1: information on arrests and detention January-February 2018

patchwork of legal immunities effectively shields government forces from criminal prosecution and accountability. In Sudan, complaints against a member of the security services are effectively curtailed by immunities in legislation governing the SAF, NISS and police 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. The ACHPR considered the issue in a number of cases against Sudan, finding that immunities are incompatible with the right to an effective remedy under the African Charter and concluding that Sudan’s legal system does not provide effective remedies for victims of human rights violations.⁴

We, the undersigned African and international organisations, condemn the unlawful killings, arbitrary and continued incommunicado detentions, torture and other forms of ill-treatment, excessive use of force and post-print censorship by government forces. We urge you to reiterate to the Government of Sudan that all Sudanese have the right to freedom of expression, association, and assembly including freedom of the media. We further urge you to call on the Government of Sudan to:

- Guarantee the safety and well-being of all detainees and grant them immediate and unfettered access to their lawyers, family members and medical services.
- Charge or release all those arbitrarily detained, and for those charged, ensure prompt access to a lawyer of their own choosing and full respect for their rights as detainees and to due process and a fair trial.
- End its policies of post and pre-print censorship of newspapers.
- Stop harassing and intimidating Sudanese citizens including human rights defenders, peaceful activists and journalists and others who seek to exercise their rights to freedom of expression, association, and assembly.
- Conduct an immediate, independent and impartial investigation into all allegations of excessive use of force against peaceful protestors as well as ill-treatment and torture of detainees by police and NISS. Findings of such investigations should be made public and perpetrators should be held accountable before an independent and impartial tribunal.

Sincerely,

Organisations:

African Centre for Justice and Peace Studies (ACJPS)

⁴ See in particular ACHPR, *Abdel Hadi, Ali Radi & Others v Republic of Sudan*, Communication 368/10, 2013, paras. 47-49 and *Osman Hummada, Monim Elgak and Amir Suliman v Sudan*, Communication 379/09, 2014, paras. 66-70.

Alkarama Foundation

Al-Khatim Adlan Centre for Enlightenment, Sudan (KACE)

Association for Human Rights in Ethiopia (AHRE)

DefendDefenders (East and Horn of Africa Human Rights Defenders Project).

Face Past for Future Foundation (FP4F)

Horn of Africa Civil Society Forum

Human Rights Watch

International Federation for Human Rights (FIDH)

International Refugee Rights Initiative (IRRI)

National Coalition for Human Rights Defenders- Uganda (NCHRD-U)

Sudan Consortium

Sudan Democracy First Group

SUDO (UK)

The MagkaSama Project, France

The World Organisation Against Torture (OMCT)

Waging Peace

Individuals:

Eltigani Hassan Mohamed Idis, Sudanese Advocate

Bakri Jebril Mohamed, Sudanese Advocate

Mohanad Mustafa Elnour, Sudanese Advocate

Amani Osman Hamdi, Sudanese Advocate

BACKGROUND

Excessive use of force to crackdown on January 2018 Protests

The announcement of Sudan's 2018 budget and the lifting of subsidies and other measures effectively tripling Sudan's US dollar exchange rate and increasing the price of basic commodities sparked off protests across Sudan. On several occasions in January, Sudanese authorities have used excessive force to disperse demonstrators, including beating peaceful demonstrators with sticks and batons and firing tear gas into crowds. Four journalists are reported to have sustained severe injuries after being beaten by police during the protests on 16 and 17 January.⁵

On 7 January, at 10 AM, in Al Madaris neighborhood of El Geneina, West Darfur, hundreds of students marched towards the office of the state Governor to protest the increase in prices of basic commodities. As the students approached the office, they came across a fleet of armored vehicles of the joint forces of National Intelligence and Security Services (NISS), Rapid Support Forces (RSF) and Police who fired live ammunition into the crowd to disperse the students. Seven students sustained gunshot wounds, one of whom was shot in the chest and died on the spot.⁶

On 16 January, at 12 PM, an estimated one thousand protestors including political opposition leaders, journalists, students, human rights defenders and activists participated in a peaceful march in Khartoum to deliver a letter addressed to the governor of Khartoum state, condemning the drastic increase of prices of basic commodities as a result of the recent austerity measures. The march, organized by the Sudanese Communist Party, began at Martyrs Gardens in central Khartoum and proceeded to the main building of Khartoum state government. According to witnesses, after 15-20 minutes, police fired tear gas into the crowd and together with NISS officers began beating protestors to disperse them. According to eye-witness accounts, Ms. Amel Habani, a journalist with *Al Tagheer* newspaper and a human rights defender, was beaten by security officials as they arrested her during the 16 January protest in Khartoum Bahri. Ms. Azza

⁵ ACJPS, 79 activists detained incommunicado amidst heavy crackdown on popular protests in Sudan, 22 January 2018, available at: <http://www.acjps.org/79-activists-detained-incommunicado-amidst-heavy-crackdown-on-popular-protests-in-sudan/>; HRW, AI, KACE, ACJPS, Sudan: Stop Abuse of Peaceful Demonstrators, 29 January 2018, available at: <http://www.acjps.org/sudan-stop-abuse-of-peaceful-demonstrators/>.

⁶ Op. cit., ACJPS, Sudanese forces fire live ammunition at student protesters killing one student and injuring six others in El Geneina, West Darfur.

Ibn Aouf and Ms. Nada Ramadan, were also beaten by police as the protestors were being dispersed. Authorities arrested approximately 82 individuals, released 52, and detained 30 individuals at the NISS office in Khartoum Bahri.⁷

On 20 January⁸ and 5 February⁹, NISS released two detainees who were in their custody since 16 January. On 28 January 2018, two other detainees were transferred to NISS political section at Zalingei prison in Central Darfur, approximately 1,300 kilometres away from Khartoum and are still being detained incommunicado.¹⁰

On 17 January, police and security forces arrested and detained 38 more individuals who were participating in a protest against the increase in prices of basic commodities, held in Omdurman. Mr. Bahram Abdulmonim was beaten by the police and sustained injuries to his right hand.¹¹ Three detainees were released on 22 January 2018.¹²

On 18 January, national security in Port Sudan, in Red Sea state, raided the University of Red Sea whilst students were engaged in a protest against the increase in prices of basic commodities. The security officials, armed with water hose pipes, beat up the student protestors as they dispersed them. During the raid, three students were arrested and detained at the NISS office in Port Sudan.¹³

On 20 January, at least 5 people were killed and 26 others sustained gunshot wounds when the Sudanese Armed Forces (SAF) and Rapid Support Forces (RSF) opened live ammunition on a crowd of peaceful protestors at Hasahisa camp for internally displaced persons (IDPs) in Zalingei, Central Darfur.¹⁴

⁷ Op. cit., ACJPS, 79 activists detained incommunicado amidst heavy crackdown on popular protests in Sudan.

⁸ Rashaan Aushie, a journalist with Aljazeera newspaper was released on 20 January. ACJPS, Update: Continued arbitrary arrests and incommunicado detention of Sudanese citizens amidst crackdown on January 2018 peaceful protests, 30 January 2018, available at; <http://www.acjps.org/update-continued-arbitrary-arrests-and-incommunicado-detention-of-sudanese-citizens-amidst-crackdown-on-january-2018-peaceful-protests/> .

⁹ Mr. Sidig Yousef Ibrahim Elnour, a member of Central Committee of opposition Sudanese Communist Party, was arrested on 16 January and released on 5 February. ACJPS, Update: 29 individuals join the list of individuals detained incommunicado, 7 February 2018, available at; <http://www.acjps.org/update-29-individuals-join-the-list-of-individuals-detained-incommunicado/>.

¹⁰ Op. cit., ACJPS, Update: Continued arbitrary arrests and incommunicado detention of Sudanese citizens amidst crackdown on January 2018 peaceful protests, 30 January 2018.

¹¹ Op. cit., ACJPS, 79 activists detained incommunicado amidst heavy crackdown on popular protests in Sudan.

¹² Op. cit., ACJPS, Update: Continued arbitrary arrests and incommunicado detention of Sudanese citizens amidst crackdown on January 2018 peaceful protests, 30 January 2018.

¹³ Ibid.

¹⁴ Op. cit., ACJPS, Five IDPs killed as SAF and RSF use live ammunition to disperse a protest in Central Darfur.

In Sudan, NISS and armed forces have powers concurrent to police's powers during demonstrations as provided for in the National Security Act of 2010 and the Armed Forces Act of 2007.¹⁵ The involvement of military and armed security in policing has proven to be highly problematic in Sudan; all forces should only use force as a last resort and in proportion to what is strictly necessary to respond to acts of violence.

Prolonged and incommunicado detention

From 6 January through 6 February 2018, the NISS arrested and detained approximately 94 individuals, including opposition political party leaders, student activists, journalists, and human rights defenders for an indefinite period and in most cases *incommunicado*, without charge or access to their families or lawyers.¹⁶

The NISS routinely holds detainees incommunicado and without charge for prolonged periods including in excess of the four and a half months permitted by the National Security Act of 2010.¹⁷ See Annex 1 for a list of detainees currently under NISS custody.

On 15 January, the Security Committee of Al Obeid, in North Kordofan, headed by the governor of the state, placed two human rights defenders, Mr. Osman Salih, an advocate and a member of the Sudanese Communist Party and Ali Abulgasim, an advocate and a member of the National Umma Party, under six months detention in accordance with the emergency law¹⁸. Following

¹⁵ Amnesty International and ACJPS, Excessive and Deadly: The use of disproportionate force, arbitrary detention and torture against protestors in Sudan, 3 September 2014, available at: <http://www.acjps.org/excessive-and-deadly-the-use-of-disproportionate-force-arbitrary-detention-and-torture-against-protestors-in-sudan/>.

¹⁶ Annex 1: information on arrests and detention January-February 2018. See also: ACJPS, 18 individuals arbitrarily detained in the wake of anti-austerity protests throughout Sudan, 12 January 2018, available at: <http://www.acjps.org/18-individuals-arbitrarily-detained-in-the-wake-of-anti-austerity-protests-throughout-sudan/>; Op. cit., ACJPS, 79 activists detained incommunicado amidst heavy crackdown on popular protests in Sudan; Op. cit., ACJPS, Update: 29 individuals join the list of individuals detained incommunicado; Op. cit., ACJPS, Update: 29 individuals join the list of individuals detained incommunicado, FIDH, Sudan : Incommunicado detention of 8 human rights defenders, lawyer and journalists, and arbitrary detention of a journalist and human rights defender for participating in peaceful protests, 8 February 2018, available at: <https://www.fidh.org/en/issues/human-rights-defenders/sudan-incommunicado-detention-of-8-human-rights-defenders-lawyer-and>

¹⁷ Under the 2010 National Security Act (NSA), detainees can be held for up to four and a half months without judicial review

¹⁸ A state of emergency is in force in the five states of Darfur, South Kordofan and Blue Nile, bringing Sudan's emergency laws into operation. The legal framework for emergencies as set out in the Emergency and Protection of Public Safety Act of 1997, read together with the Emergency and Public Safety bylaw of 1998, permits preventive arrest and detention on vague grounds. These include the belief of the authorities that the person in question has acted or may act in a way that "affects public security, or public safety, or ... participated in any crime related to the declaration". The 1998 bylaw provides neither time limits for this type of detention, nor judicial oversight, and therefore authorises prolonged if not indefinite detention. The broad powers given to the

this decision, the two human rights defenders were transferred from NISS custody in Al Obeid where they were being held incommunicado since their arrest on 10 January and taken to the Al Obeid Prison. Two applications requesting that the families be granted permission to visit the detainees were denied by the security committee of Al-Obeid on 15 January and 4 February. The detainees have been held *incommunicado* for 28 days.

On 25 January and 30 January, two constitutional petitions were submitted by a team of Sudanese lawyers on behalf of 20 individuals currently in NISS detention. The petition was filed against the Government of Sudan and the National Intelligence and Security Services. The petition argues that the arrest and continued detention of the 20 individuals, among others, violates their rights to freedom of expression and assembly as guaranteed in the Interim National Constitution and international treaties ratified by Sudan. The petition also requests the court to order authorities holding the 9 detainees to produce them before the court for the hearing of the case to proceed.¹⁹

Confiscation of print runs of daily newspapers

In addition to the crackdown on protests, the NISS have continuously confiscated daily print runs of Sudanese daily newspapers without giving any reason. The confiscations started on 7 January after newspapers covered anti-austerity protests that occurred on 5 and 6 January in Khartoum, Aljazeera, and Kassala. The authorities have continued to prevent distribution of print runs of different daily newspapers, including traditionally pro-government newspapers, across the month of January. According to a reliable source, newspapers suffer a loss of approximately \$450 when their daily print runs are confiscated.

On the morning of 7 January, NISS officials prevented six daily newspapers in Khartoum from distributing printed copies with no rationale given. They include:

- *Altayyar*, a traditionally pro-government newspaper;
- *Almustagila*, a traditionally pro-government newspaper;
- *Algarar*, a traditionally pro-government newspaper;
- *Alsiha*, a traditionally pro-government newspaper;

Executive under the 1997 Act and 1998 bylaw have repeatedly given rise to concerns over arbitrary arrest and detention, ill-treatment and torture, and violations of the right to a fair trial, which are facilitated by the virtually complete absence of safeguards and judicial oversight.

¹⁹ Op. cit., ACJPS, Update: Continued arbitrary arrests and incommunicado detention of Sudanese citizens amidst crackdown on January 2018 peaceful protests, 30 January 2018;; KACE, Constitutional Appeal Filed On Behalf Of Amel Habbani And Other Detained Human Rights Defenders, 6 February 2018, available at; <http://www.kacesudan.org/en/constitutional-appeal-filed-behalf-amel-habbani-detained-human-rights-defenders/>.

- *Akhbar Alwatan*, affiliated with Sudanese Congress Party and
- *Al Midan*, affiliated with the Sudanese Communist Party.²⁰

On 8 January 2018, the NISS confiscated the daily print-runs of *Aljareeda*, an independent newspaper and *Albaath*, a newspaper affiliated with Arabic Baath Party, without giving reasons. The lead story of *Aljareeda* newspaper which was confiscated covered [the student protests](#) that took place in El Geneina, West Darfur, the previous day.²¹

On 21 January, NISS confiscated daily print runs of *Akhbar Alwatan* without any reasons given. The trucks carrying the daily print runs were intercepted by the NISS as they headed out of the printing house. The edition contained an article about the crackdown of the protests and the arbitrary arrests carried out in connection with the protests. *Akhbar Alwatan* newspaper is traditionally affiliated to the opposition Sudanese Congress Party. *Al Midan* newspaper was prevented from distributing its daily print runs on 16, 17 and 18 January 2018, without any reasons given. *Aljareeda* was prevented from distributing its daily print runs on 16, 18, 19 and 20 January 2018, without any reasons given. It is very likely that the confiscations relate to their coverage of the peaceful protests against the government. *Al Midan* newspaper is traditionally affiliated with the opposition Sudanese Communist Party that organised the January 16 protest in Khartoum.²²

On 28 January, the NISS of Khartoum prevented the distribution of daily prints runs of *Al Midan* Newspaper, affiliated with Sudanese Communist party and *Akhbar Alwatan* affiliated with Sudanese Congress party, without giving any reason.²³

On 1 February, the NISS of Khartoum prevented the distribution of daily prints runs of *Al Midan* Newspaper, a newspaper traditionally affiliated with Sudanese Communist party and *Aljareeda* independent newspaper, without giving any reasons. According to a reliable source, it is believed that the post-print censorship of the two newspapers was done in response to articles discussing the protest that took place in Khartoum Bahri on 31st January 2018.²⁴

²⁰ ACJPS, 8 newspapers prevented from distribution by NISS amidst protests against recent austerity measures, 9 January 2018, available at: <http://www.acjps.org/8-newspapers-prevented-from-distribution-by-niss-amidst-protests-against-recent-austerity-measures/>; CPJ, Sudanese authorities seize critical papers after reports on rising food prices, 8 January 2018, available at: <https://cpj.org/2018/01/sudanese-authorities-seize-critical-papers-after-r.php>.

²¹ Ibid.

²² Op. cit., ACJPS, 79 activists detained incommunicado amidst heavy crackdown on popular protests in Sudan.

²³ Op. cit., ACJPS, Update: Continued arbitrary arrests and incommunicado detention of Sudanese citizens amidst crackdown on January 2018 peaceful protests.

²⁴ Op. cit., ACJPS, UPDATE: 29 individuals join the list of individuals detained incommunicado, CPJ, Sudan detains local journalist, confiscates newspapers following reporting on protests, 2 February 2018, available at: <https://cpj.org/2018/02/sudan-detains-local-journalist-confiscates-newspap.php>

On 6 February, the NISS of Khartoum prevented *Al Midan* newspaper from distributing copies of its daily print runs without giving any reasons.²⁵

²⁵ Ibid.