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## Human Rights Council

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Human rights situations that require the Council's attention

### **Written statement\* submitted by the Cairo Institute for Human Rights Studies (CIHRS), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 August 2011]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **The human rights situation Sudan: The need for continued engagement by the UN independent expert**

The Cairo Institute for Human Rights Studies (CIHRS) believes that there is need for the continued engagement of the UN Independent Expert (IE) on the situation of Human Rights in Sudan in light of increased violations of human rights in Sudan as well as the relapse of the humanitarian situation into a crisis in the past three months. We regret the campaign led by the government of Sudan (GoS) to end the mandate of the IE. The following reasons all support the continuation of the IE's mandate:

1. The humanitarian strife in Sudan continues. Despite the split of the North and South, the crisis in Sudan has not been resolved. As the IE noted; "Abyei still remains a flashpoint which could potentially derail the entire peace process."<sup>1</sup> Throughout the months of January to May reports of outbreaks of violence and clashes between the Ngok Dinka and the Misseriya tribes increased. Approximately 100 persons were killed in February and March clashes, while in January alone 162 were killed.<sup>2</sup> In what seems to be a similar strategy to that employed against Darfurians in 2004, Sudan Armed Forces (SAF) carried ground and aerial attacks and employed a "scorched earth" policy destroying a third of all homes and causing the displacement of an estimated 60,000 in Abyei by 30 May.<sup>3</sup>

The continued fighting in Southern Kordofan, with the direct involvement of the SAF, has caused the displacement of thousands of civilians since 5 June, estimated at 73,000 by July. Government blocking of humanitarian organizations trying to access affected populations and prevention of setting up IDP camps has worsened the humanitarian crisis.<sup>4</sup> Many have been killed and there are allegations of mass graves in the Kadugli town of Southern Kordofan.<sup>5</sup>

Additionally, the GoS once more failed to respect the ceasefire agreement. For instance, immediately after signing a ceasefire agreement to end fighting in Southern Kordofan, President Bashir made orders to the SAF to "carry on its operations and not to stop until Southern Kordofan is purged as Abyei was purged before."<sup>6</sup> The targeting of Nubas in Southern Kordofan and the Ngok Dinka in Abyei raises concerns that the SAF attacks could amount to crimes against humanity.<sup>7</sup> Thus, it appears that the political will to end the war and the violations is lacking.

2. The GoS alleges that it has reformed its human rights culture and hence the IE mandate is no longer necessary. Willingness to reform can be proved by compliance with the previous reports of the IE regarding constitutional, legislative, policy, and institutional reforms, as well as transformation in the

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<sup>1</sup> Statement of the IE on the Situation of human rights in the Sudan, Mr. Justice Mohamed Chande Othman following his visit to Sudan from 6 to 13 March 2011.

<sup>2</sup> Annual Report of the U.S. Commission on International Religious Freedom May 2011 (April 2010 – March 2011) p162.

<sup>3</sup> OCHA, "Sudan: Abyei Crisis, Situation Report #8", 30 May 2011.

<sup>4</sup> African Centre for Justice and Peace Studies, Sudan Human Rights Monitor, April – May 2011.

<sup>5</sup> African Centre for Justice and Peace Studies, Sudan Human Rights Monitor, April – May 2011.

<sup>6</sup> NCP denies discord over Addis Ababa deal as SPLM warns against scrapping it <http://www.sudantribune.com/NCP-denies-discord-over-Addis,39422> 3 July 2011.

<sup>7</sup> Thirteenth periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan, P11 Para 57.

attitude and practices of the government. This has not taken place in Sudan; if anything, Sudan has witnessed regression.

Existing constitutional guarantees of rights have been disrespected. Laws enabling the repression and violation of human rights, which have been criticized repeatedly since their promulgation, have not been amended. For instance, the Security Act endorses the arrest and detention of persons by security forces for long periods without judicial oversight on unspecified grounds and gives them extensive powers of search and seizure, enabling them to invade publishing houses, seize publications in print and destroy them. This has been ongoing since 2008.<sup>8</sup> The GoS has not shown signs of amending or repealing this law despite recommendations ensuing from the IE's previous visits where he stated:

"I am also concerned about the continued existence of certain provisions in the National Intelligence and Security Services (NISS) Law... which infringe fundamental rights. During my visits in Northern Sudan including in Darfur, several cases of alleged violations of human rights including arbitrary arrests and detentions, were brought to my attention. Most of these reports named the [NISS] as the main entity responsible."<sup>9</sup>

There are many allegations of torture and rape in prisons and detention facilities housing political opposition and human rights activists. This is illustrated by the example of Safiya Ishaq, a female activist who was raped in NISS custody for participating in Khartoum's mass protests on 30 January.<sup>10</sup>

The independence of the judiciary is compromised as reflected in judicial decisions. The courts have been roped into the systematic harassment and persecution of human rights defenders who expose human rights violations through judicial decisions. A blatant example is in the ongoing trial of Abdelrahman Mohammed Al-Gasim and others; a trial lacking basic guarantees for due and fair process. The group underwent enforced disappearance and severe torture and at the hands of the NISS.

The GoS has a long standing hostile position towards the media. During the Darfur crisis, it displayed zero tolerance towards media personnel who attempted to unveil violations committed by SAF and affiliated militias. Violations against the media are still ongoing, particularly targeting journalists critical of the government, or covering issues labeled as "sensitive." The GoS has assaulted, arrested, and detained journalists (Al Jazeera crew in South Kordofan in July);<sup>11</sup> and subjected journalists to unfair trials (trial of Fatima Algazali and chief Editor of "Al Garida", Saad Aldeen Ibrahim).<sup>12</sup> Additionally, article 28 of the

<sup>8</sup> Amnesty International: Sudan: a call for human rights council's decisive action to stop violations by national security services <http://www.amnesty.org/en/library/asset/IOR41/022/2010/en/c7c178fb-2433-4a21-8dfa-688125e092dd/ior410222010en.pdf> p.13.

<sup>9</sup> Press Conference :Justice Mohamed Chande Othman, IE on the situation of Human Rights in the Sudan <http://appablog.wordpress.com/2010/02/11/press-conference-by-justice-mohamed-chande-othman-independent-expert-on-the-situation-of-human-rights-in-the-sudan/> 11 February 2010.

<sup>10</sup> 'Sudan: Ongoing harassment and prosecutions against Press Freedom ANHRI condemns the confiscation of "Ajras Al Hurriya "for the fifth time in two months, after printing' ANHR Information 25 June 2011.

<sup>11</sup> 'ANHRI condemns attack on Al Jazeera team in South Kordofan' [http://www.ifex.org/sudan/2011/06/17/south\\_kordofan\\_attack/](http://www.ifex.org/sudan/2011/06/17/south_kordofan_attack/) 17 June 2011>.

<sup>12</sup> 'Journalists Reporting on Sexual Violence Found Guilty of Publication of False News', African Centre for Justice and Peace Studies 6 July, 2011.

Press Law is used to shutdown media institutions in which Southerners have part ownership (the Ajas Al-Horriya, Khartoum Monitor, Juba Post, Sudan Tribune, the Advocate, and the Democrat in July).<sup>13</sup>

The GoS has not shown willingness to protect its minorities or create conditions allowing for their peaceful coexistence with the majority. Threats by President Bashir to “change the constitution,” get rid of “diversity of culture and ethnicity,” make “Sharia and Islam the main sources for the constitution, Islam the official religion and Arabic the official language,” awaken fears of increased religious intolerance, violations of minority rights, including language rights. This may lead to massive, systematic, and coerced migration of individuals, or alternatively, stir resistance and trigger resurgence of violent conflict. A mechanism to guard against another war in Sudan should be strongly promoted and supported.

3. Darfur, described as an “unrelenting tragedy” remains an area of concern.<sup>14</sup> Although agreement was reached in Doha between the GoS and the Liberty and Justice Movement (LJM), LJM has limited control of the situation on the ground. The lack of inclusion of key rebel groups in the agreement, including the Justice and Equality Movement (JEM) and factions of the Sudan Liberation Army (SLA-Minni Minnawi and SLA-Abdel Wahid) remains concerning.
4. In the South, the government of South Sudan (GoSS) faces many security challenges with attacks by the LRA on the borders with Uganda, fights between the cattle herders on the borders with Kenya, as well as the continual threat of conflict with the North because of the unresolved Abyei issue. The SPLA, now the South Sudanese army, infamously known for using excessive force in quelling rebel groups, has caused the displacement of close to 260,000, destroyed 7000 homes, and killed approximately 1800 civilians since January.

Consequently, we recommend that the mandate of the IE be extended to enable the expert to:

- Encourage the GoS to give humanitarian agencies, including the UN, access to affected populations;
- Assess government efforts to prosecute perpetrators of war crimes, crimes against humanity and other violations of human rights in the domestic courts and its status of collaboration with the ICC;
- Continue monitoring and reporting on human rights developments including the situation of human rights defenders; complementing the work of other UN Agencies operating in Sudan;
- Continue follow up on the implementation of past recommendations;
- Give advice and expert opinions regarding legal reforms and institution building to ensure full incorporation of human rights values;
- Encourage a demilitarized no-fly zone and sustenance of the deployed Ethiopian peace-keepers until resolution of the Abyei crisis;
- Urge democratic reforms in South Sudan.

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<sup>13</sup> Ibid.,

<sup>14</sup> Statement of the Independent Expert, same as above.

We further recommend the Human Rights Council to:

- Renew the mandate of the IE on Sudan;
  - Create a new mandate for an IE for South Sudan;
  - Conduct a fact-finding mission on allegations of war crimes and crimes against humanity in Southern Kordofan and Abyei;
  - Invoke the cooperation of South Sudan's neighbors especially Uganda, Kenya and Sudan to promote border security.
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