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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 Rencontre Africaine Pour la Défense des Droits de l'Homme (RADDHO), 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).

## **Situation of persons held in custody for political reasons in Sudan\*\***

A campaign of arbitrary arrest and detention of perceived government political opponents that targets people from all walks of life including students, youth and community leaders, professionals and human rights and pro-democracy activists has intensified in recent months following the political unrest in Sudan's northern neighbours and the renewed fighting and violence in the Nuba Mountains and in Darfur.

On 12 July 2011 the Sudanese National Intelligence and Security Service (NISS) announced that it has released all persons held in its custody in Khartoum and other states. The release was reportedly ordered by President Omer Al-Bashier and 66 detainees, including 11 foreigners, were released. Most of the released detainees were held in relation to the armed conflict in Darfur or because of cross-border crimes. Among those released was Mr. Mohamed Nur Ushar, half-brother of Dr. Khalil Ibrahim, Chairman of the Justice and Equality Movement (JEM). Mr. Ushar was sentenced to death in 2009 along with more than one hundred JEM fighters. There were reports that most of the released detainees were since then rearrested by NISS.

While we welcome the release of political detainees in Sudan, we are concerned that the number of people held in NISS custody is higher than those released. At least 2000 political prisoners are held in NISS secret facilities in different parts of Sudan. Detainees were released in a selective manner and many activists were excluded from such measures. Mr. Jaffar Al-Subkey Ibrahim (33 years old) journalist and Mr. Abdelrahman Adam Abdelrahman (33 years old) have been in NISS custody in Kober prison since 31 October 2010. Four male students from Nyala University, Shakir Abdelrahman Adam, Adil Abdalla Ibrahim, Abdalla Haran Adam and Salah Al-Deen Babiker Adam were arrested and detained by the NISS since the last week of April 2011. They were accused of organising a public demonstration and conspiracy against the state. On 17 August 2011, a court in Nyala ordered their release for lack of evidence. The NISS rearrested Mr. Abdalla Haran and Mr. Salah Al-Deen Babiker immediately after they left the courtroom. Mr. Bushra Gamar Hussein Rahma, (47 years old), X-Ray Technician and human rights activist from the Nuba Mountains has been held by NISS in Khartoum since 25 June 2011. He appeared before court on 14 August 2011 and the judge ordered his immediate release for lack of evidence but he was rearrested by the NISS when he left the courtroom.

The security forces in Sudan particularly target activists from Darfur where a large number of individuals – women and men – are currently held in government custody in different prisons and unidentified security facilities. Most of these people are held for prolonged periods without proper charges or trials. In some cases such detention dates back to May 2008 when the Darfur insurgents launched a military attack against Sudan's capital. Some of these detainees are held incommunicado without access to legal counselling, medical service or family visits. Torture and degrading treatment and punishment as well as ill-treatment were reported in many cases. It has also been reported that the security forces confiscate all personal belongings especially cash and other valuables as well as mobile phones, personal computers and laptops and other properties owned by people from Darfur when such persons are arrested and detained. Such properties are usually not recovered because of theft or because the NISS forced the detainees to leave without them.

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\*\* The Darfur Relief and Documentation Centre and the Darfur Bar Association, NGOs without consultative status, also share the views expressed in this statement.

Leaders of internally displaced persons (IDP) especially those critical of the government policies are regularly harassed, arrested and detained. IDP leaders in Abu-Shouk, Kalma and Al-Salaam camps are frequently held in government custody and some were rearrested several times. Arrest and harassment of IDP leaders usually intensify during opposition to government policies especially its policy to force the IDPs to leave the camps or to accept relocation to government designated villages. IDP leaders are also targeted following contacts with foreign diplomats or UN officials. On 7 October 2010, a UN Security Council delegation led by US and UK Ambassadors Susan Rice and Mark Lyall Grant visited Darfur. They received complaints from IDPs about the deteriorating humanitarian situation, the lack of security and the human rights abuses they suffer in the hands NISS agents. The IDPs also called on members of the Security Council to implement outstanding resolutions they adopted on Darfur. On 8 October 2010 and the following days, NISS agents stormed Abu-Shouk, Al-Salaam and other camps to harass and arrest IDP leaders who met the Security Council delegation.

Physical and psychological torture, solitary confinement and ill-treatment of detainees are widespread in Sudan's detention centres. They are practiced against political detainees, especially persons from Darfur, in a systematic manner in order to extract confessions. Most of the people interrogated by DRDC and DBA confirmed that their bodies carry torture marks. Torture and degrading treatment contravene article 33 of Sudan's Constitution which states that: "No person shall be subjected to torture or to cruel, inhuman or degrading treatment."

Some detainees from Darfur have been in detention without legal basis. Prolonged detention and ill-treatment of detainees are measures that violate Sudanese laws and regulations such as the Criminal Procedures Act of 1991 as amended in 2009, which prohibits the incrimination or punishment of any person save in accordance with an existing law and without retraction. It should be noted that a number of detainees arrested by NISS in the wake of JEM's attack against Omdurman in May 2008 were acquitted by courts for lack of evidence but they have not yet been released and remain in detention. Other detainees were in fact released but have been immediately rearrested and detained. In most cases the detainees were held beyond the period stipulated in Sudanese laws including the National Security Act (NSA) of 1991 as amended in 2010. Article 50 of NSA allows the arrest and detention without charges or judicial review for up to 30 days. The detention could be extended by 15 days in case the NISS's Director considers it necessary for completion of the investigation. Detention can only be extended beyond this period by order of the National Security Council, which can extend the detention for any period but not more than three months in cases of threats to public safety and security, political violence, conspiracy against the state or the disruption of peace. Detention without judicial review under security custody in Sudan could therefore last for a maximum of four and a half months. Detention beyond this period violates Sudan's laws. Article 51(10) of NSA stipulates that detainees are allowed access to courts if they were kept in NISS custody for longer than the period specified in article 50. This clause has not been fully implemented in many cases of imprisonment of political detainees in Darfur.

It is of concern that most political Detainees in Darfur and elsewhere in Sudan have been deprived of their human rights and fundamental freedoms as spelled out in the Bill of Rights and enshrined in Sudan's Interim National Constitution. According to article 48 of Sudan's Constitution, the rights and freedoms contained therein are not subject to any kind of derogation. These are namely article 28 which states that: "Every human being has the inherent right to life, dignity and the integrity of his/her person, which shall be protected by law; no one shall arbitrarily be deprived of his/her life" and article 29 which states that: "Every person has the right to liberty and security of person; no person shall be subjected to arrest, detention, deprivation or restriction of his/her liberty except for reasons and in accordance with procedures prescribed by law."

We are also concerned that prolonged detention without charges or trial, torture and other government measures that manifestly entail non-respect for the inherent human dignity and integrity violate Sudan's obligations under article 9 (sub-article 1,2,3,4 and 5) and article 10 (sub-articles 1 and 2.a) of the International Covenant on Civil and Political Rights. Such illegal measures also violate the provisions of the African Charter on Human and Peoples' Rights namely articles 4, 5, 6 and 7 (1).

We, therefore, call on the government of Sudan to:

1. Investigate all cases of arbitrary and unlawful detention of political dissidents in Sudan, release all persons held outside judicial purview and promptly produce all cases of new arrests before courts of law.
  2. Repeal all unconstitutional laws including the National Security Act of 2010.
  3. Cease the practice of torture and ill-treatment of detainees and provide medical treatment to the victims of such practices.
  4. Guarantee the rights of detainees as provided for in Sudan's Constitution and laws including the right to family visits, access to medical service and legal counselling as well as the right of the detainees to challenge the legality of their arrest before competent courts.
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