



## **“It’s an Everyday Battle”**

**Censorship and Harassment of Journalists and  
Human Rights Defenders in Sudan**

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Human Rights Watch  
350 Fifth Avenue, 34th floor  
New York, NY 10118-3299 USA  
Tel: +1 212 290 4700, Fax: +1 212 736 1300  
hrwnyc@hrw.org

Poststraße 4-5  
10178 Berlin, Germany  
Tel: +49 30 2593 06-10, Fax: +49 30 2593 0629  
berlin@hrw.org

Avenue des Gaulois, 7  
1040 Brussels, Belgium  
Tel: + 32 (2) 732 2009, Fax: + 32 (2) 732 0471  
hrwbe@hrw.org

64-66 Rue de Lausanne  
1202 Geneva, Switzerland  
Tel: +41 22 738 0481, Fax: +41 22 738 1791  
hrwgva@hrw.org

2-12 Pentonville Road, 2nd Floor  
London N1 9HF, UK  
Tel: +44 20 7713 1995, Fax: +44 20 7713 1800  
hrwuk@hrw.org

27 Rue de Lisbonne  
75008 Paris, France  
Tel: +33 (1)43 59 55 35, Fax: +33 (1) 43 59 55 22  
paris@hrw.org

1630 Connecticut Avenue, N.W., Suite 500  
Washington, DC 20009 USA  
Tel: +1 202 612 4321, Fax: +1 202 612 4333  
hrwdc@hrw.org

Web Site Address: <http://www.hrw.org>



# **“It’s an Everyday Battle”**

## **Censorship and Harassment of Journalists and Human Rights Defenders in Sudan**

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## I. Acronyms

<b>ACHPR</b>	African Charter on Human and People's Rights
<b>CPA</b>	Comprehensive Peace Agreement
<b>GoSS</b>	Government of Southern Sudan
<b>GNU</b>	Government of National Unity
<b>ICC</b>	International Criminal Court
<b>ICCPR</b>	International Covenant of Civil and Political Rights
<b>INC</b>	Interim National Constitution
<b>JEM</b>	Justice and Equality Movement
<b>NCP</b>	National Congress Party
<b>NPC</b>	National Press Council
<b>NISS</b>	National Intelligence and Security Services
<b>NSFA</b>	National Security Forces Act 1999
<b>PPA</b>	Press and Publications Act 2004
<b>SPLM/A</b>	Sudan People's Liberation Movement/Army
<b>UNMIS</b>	United Nations Mission to Sudan

## II. Summary

The government of Sudan is cracking down on human rights activists who engage and speak out on human rights and international justice in Sudan. Over the past several months, the National Intelligence and Security Services (NISS) have detained and ill-treated three high profile activists who have spoken out in support of international justice. Two of them were severely beaten while in custody. Other activists have been harassed and intimidated.

Meanwhile, the NISS is using sweeping powers granted under the 1999 National Security Forces Act (NSFA) to control the content of the country's media, and engage in direct pre-print censorship of newspapers. Combined with harassment of journalists and newspaper editors, this severely restricts journalists' ability to report on politically sensitive subjects, including the work of the International Criminal Court, the Darfur conflict, and human rights.

The Sudanese government's active repression of journalists and human rights defenders not only violates the human rights of those who are directly abused, it severely impedes freedom of expression and access to information throughout Sudan. This repression is particularly critical in light of the national elections scheduled for mid-2009—Sudan's first national elections in more than 20 years—and the ongoing International Criminal Court (ICC) investigation into crimes in Darfur. Severe limitations on freedom of expression and repression of media and human rights defenders will act as a huge barrier to the holding of free and fair elections. Human Rights Watch is concerned that the elections and the ICC investigation may be used by the Sudanese government as excuses to further intensify repression.

The majority National Congress Party (NCP) has a long history of trying to silence those who criticize it. While broadcast media, including radio and television, has been consistently subject to government controls, the 2005 Comprehensive Peace Agreement (CPA), which ended Sudan's 21-year civil war, briefly brought increased freedom for Sudanese print media. However, by 2006 the Sudanese government had returned to its pre-2005 policy of actively stifling debates and discussions in the print media on topics it deems "sensitive" and has placed further limitations on freedom of expression and the media.

This repression worsened considerably in February 2008, when many Sudanese newspapers accused the Sudanese government of supporting a failed coup attempt in neighboring Chad. The Sudanese government responded by resuming direct censorship of newspapers using a variety of measures. In particular, the NISS media unit began to review newspaper content

and remove sensitive and critical articles before the NISS permitted the newspaper to publish. Journalists were also summoned to NISS offices and harassed. A number of newspapers were suspended.

Censorship further intensified following the May 10, 2008 attack on the Sudanese capital, Khartoum, by the Justice and Equality Movement (JEM)—a Darfur rebel group. The NISS media censors began to heavily censor newspaper reporting of the attack and on the subsequent government crackdown on suspected Darfur rebels and rebel supporters. The NISS similarly suppressed reporting on the Darfur conflict, on the May 2008 clashes between Sudan Armed Forces (SAF) and allied militias with the Sudan People's Liberation Army (SPLA) in the disputed border town of Abyei, and on forced displacement at the Merowe dam site in northern Sudan. The NISS has also heavily censored reporting on the ICC prosecutor's July 2008 request for an arrest warrant for Sudanese President al-Bashir on charges of war crimes, crimes against humanity, and genocide.

Human Rights Watch research has found that between January and November 2008 NISS officials visited certain newspapers daily to review final editions of papers, and removed or partly removed articles or commentaries that they regarded as sensitive or critical of the government. If the newspaper did not remove the articles, the media censors would not allow the newspaper to print. As a form of protest, newspapers initially left the censored articles blank, but they are no longer allowed to do so. Editors are now forced to replace the offending article with an alternative "acceptable" article. Often NISS media censors visited newspaper offices less than an hour before the paper went to press—at which point newspaper publishers, if censored, were unable to salvage the next day's edition of the newspaper, resulting in financial loss.

Sudanese authorities have also harassed journalists, sometimes arresting those who have written or published critical articles. Since February 2008 NISS have arrested and detained overnight at least three journalists for publishing critical articles. Journalists have also been arrested for protesting against government repression of freedom of speech; on November 17, 2008 Sudanese police arrested and detained more than 60 journalists after they staged a peaceful protest against censorship outside parliament.

The NISS have also suspended and even closed newspapers. Since February 2008 *The Citizen*, *Ajrass Al Huriya*, *Al-Midan*, and *Ray Al-Sha'ab* newspapers have all been suspended—*the Citizen* and *Ajrass Al Huriya* repeatedly—after publishing articles deemed sensitive or critical of the government. *Al-Alwan* newspaper has been closed altogether since

it published an article that the NISS claimed posed a danger to national security in May 2008.

Government of Southern Sudan (GoSS) authorities have also abused and harassed journalists. GoSS officials twice arrested Nhial Bol, editor of *The Citizen*, after he published two articles which were critical of GoSS salaries. Another journalist told Human Rights Watch that in July 2008 he had been harassed and even beaten by authorities for reporting on sensitive topics.

The Sudanese government relies on various legal provisions to justify this censorship, including the 2004 Press and Publications Act (PPA) which includes licensing and registration procedures for journalists and newspapers. The Sudanese government controls these procedures via the National Press Council, which is overseen by its Minister of Information and Communications. By using these laws not to regulate the media, but to control and restrict who can say what, Sudan is acting in violation of its obligations as a party to the International Covenant on Civil and Political Rights (ICCPR), which protects freedom of the press and freedom of expression. Indeed Sudan's own 2005 Interim National Constitution (INC) also includes provisions to protect free speech.

In addition, the Sudanese government should urgently revise the structure of the National Press Council (NPC) which is controlled by the government through the Minister of Information and Communications. The NPC is currently a tool for state control of the media, as it enjoys the power to grant licenses to domestic and foreign press and register journalists. It should instead be reconstituted as an independent body that can protect the media and journalists from illegitimate government interference, and that promotes diversity in and access to the media.

The international community has not taken any action to address violations of press freedom in Sudan. The United Nations, the African Union, and other governments and regional bodies with influence should, in the run-up to 2009 elections, put pressure on the Sudanese government to ensure full implementation of the 2005 National Interim Constitution and to amend the NSFA and the PPA to protect press freedoms. These governments and bodies should also take robust action against any future government of Sudan human rights violations, including the arbitrary arrest, detention, and torture of human rights activists who speak out in support of human rights or justice in Sudan.

### **III. Recommendations**

#### **To the Government of Sudan**

- End direct pre-print censorship of newspapers and allow full and open reporting of and comment on issues of pressing public interest, such as political affairs, in Sudan.
- End harassment and abuse, including arbitrary arrest, detention, and mistreatment, of human rights activists or other individuals who engage in public discourse or speak out on issues of human rights, rule of law or justice in Sudan, and publicly commit to respect the right of such individuals to speak publicly and freely.
- Issue clear public orders to government officials, security forces, and their agents to cease obstruction, harassment, arbitrary detention, or other mistreatment of journalists or human rights activists; conduct a full investigation into incidents of harassment, detention, and other mistreatment of journalists and human rights activists in the past.
- Abolish legal ambiguities in the 2004 Press and Publications Act that threaten the freedom of journalists, including the ban on reporting on topics regarded as sensitive to or critical of the government, and bring all laws into conformity with Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and the 2005 Interim National Constitution (INC).
- End use of the 1991 Penal Code and the 1999 National Security Forces Act to target the print media and allow full freedom of expression in accordance with international human rights standards.
- Revise the structure of the National Press Council (NPC) to establish it as an independent body that can protect the media and journalists from illegitimate government interference, and that promotes diversity in and access to the media.

#### **To the Government of Southern Sudan**

- Issue orders to all authorities at Juba and at state level to cease all harassment and abuse of journalists.
- Urgently enact the Right to Information Bill, the Independent Broadcasting Authority Bill, the South Sudan Broadcasting Corporation Bill, and the Ministry of Information and Broadcasting Organizational Bill.



## **To the United Nations, African Union, European Union, League of Arab States, and Member Governments**

- Publicly press the Sudanese government to cease direct pre-print censorship and urgently reform laws and institutions to bring them into compliance with Sudan's obligations under the ICCPR and the INC in relation to freedom of expression; provide technical assistance and support to such efforts.
- Publicly call on the Sudanese government to cease all harassment and abuse of human rights activists or other individuals who speak out in support of human rights, rule of law, or justice in Sudan.
- Monitor and respond immediately to any future threats or abuses by Sudanese authorities against journalists and activists. When Sudanese officials summon or detain such individuals call on the Sudanese government to provide reasons for such summons or detention, to account at all times for the whereabouts and wellbeing of those detained, and to charge or release them within a reasonable time.

## **To the African Commission on Human and People's Rights, the Human Rights Council, and the UN Special Rapporteur on Freedom of Opinion and Expression**

- Seek an invitation from the Sudanese government to visit the country and assess media laws and freedom of expression in advance of the 2009 national elections.

## **IV. Methodology**

This report is based on research carried out between May and December 2008 by Human Rights Watch, including interviews and correspondence with journalists, editors, lawyers, and civil society activists. The names of people interviewed have been withheld or changed to protect their security.

## V. Harassment, Detention, and Torture of Human Rights Activists

Since late 2008, the government of Sudan, using detention and ill-treatment including torture, has increased its harassment and intimidation of Sudanese human rights activists who have spoken out about human rights abuses or in support of justice for the victims in Darfur. In particular, the government appears to be targeting individuals it suspects of speaking out in support of the work of the International Criminal Court.

In November, the government arrested, detained, and tortured well-known Sudanese human rights activists in Khartoum. On November 24, 2008 the NISS in Khartoum summoned three men to the NISS political section in Khartoum North: Amir Suliman, chairperson of the Khartoum Centre for Human Rights and Environmental Development (KCHRED), and Osman Hummaida and Abdelmoneim Aljak, both human rights campaigners who work as consultants to civil society and nongovernmental organizations. All three have participated in awareness-raising campaigns on justice and accountability, and have spoken out against ongoing human rights violations in Sudan. All three have previously been detained because of their human rights activities.

Security officials released Amir Suliman the same day at 10.30 p.m., but then summoned him again and briefly detained him the following evening. They released Abdelmoneim Aljak early on November 25, re-arrested him on November 26, and finally released him late that same night. They kept Osman Hummaida in custody until November 27, although he was hospitalized twice during that period to treat a health condition.<sup>1</sup>

The security service did not charge any of the men with any crime. However, they questioned the three men repeatedly regarding their human rights activities and their support for justice for the victims in Darfur. During their time in detention NISS officers tortured both Aljak and Hummaida.

Abdelmoneim Aljak—in an open letter to Salah Gosh, Director General of Sudanese Security and Intelligence—described how NISS officers beat him during interrogation. He reported how one officer had given orders to four others to beat him:

Pointing to where precisely on my body they should direct their blows, and with what instrument, spilling water on my head, kicking my face with his

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<sup>1</sup> Confidential interview with Human Rights Watch, February 1, 2009.

shoe and pointing his cigarette at my eye, saying he would blind me... He tried to threaten me by ordering his soldiers to rape me.<sup>2</sup>

Osman Humaida described to Human Rights Watch how security officials tortured Aljak in front of him, then proceeded to beat Humaida himself. On November 26, on Humaida's third day of detention, he was taken to a room his interrogators called the "dark room" and Abdelmoneim Aljak was brought in:

They took me to [an office in NISS political section] where I again saw Abdelmoneim. He was on the floor and they were beating him with piping. He seemed to be unconscious. [An NISS officer] kicked him in his face and I saw the blood gushing from his mouth... I thought he was dead. [Later] They took me back to the dark room where I had first seen Abdelmoneim. They asked me to sit on the floor and they started beating me on the feet and the knees and the legs with piping and saying: you will soon be like your friend.<sup>3</sup>

Sudanese authorities continue to harass those who they believe to support the ICC. On December 29, 2008, security forces in Khartoum arrested Ali Mahmoud Hassanein, the Vice President of the opposition Democratic Unionist Party (DUP). They did not charge Hassanein with any crime, but interrogated him at length, specifically over his suspected support for the ICC, and threatened him with death should he speak out again.<sup>4</sup>

Authorities have also intimidated displaced people and others in Darfur from speaking out in support of the ICC. On January 19, 2009 the government of Sudan security chief in West Darfur warned chiefs of local communities and displaced people in camps that any demonstration by any group in support of a warrant for President Bashir would be "met with live bullets."<sup>5</sup>

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<sup>2</sup> Open Letter from Monim Elgak to Salah Gosh: regarding my arrest, torture and the International Criminal Court (ICC), December 19 2008, <http://ncfsudan.blogspot.com/2009/01/open-letter-from-monim-eltak-to-salah.html> (accessed January 20, 2009)

<sup>3</sup> Human Rights Watch confidential interview, January 5, 2009.

<sup>4</sup> Human Rights Watch confidential interview, January 8, 2009; "Sudan security arrests opposition veteran – party," *Reuters*, December 29, 2008, <http://www.alertnet.org/thenews/newsdesk/LT583620.htm> (accessed February 10, 2009).

<sup>5</sup> Human Right Watch confidential email communication, January 20, 2009

## VI. Repression of the Media in Sudan

The media too has faced increasing harassment and repression in relation to commentary around justice and the work of the ICC, but also regarding reporting on a wide range of issues that the government deems sensitive.

Currently, more than 30 local Sudanese newspapers are available at the news stands in Sudan. However, despite the number of newspapers available, the scope of information available to people in Sudan is more and more restricted as discussions and debates about political developments or other matters of significant public interest are curtailed through harsh limitations.

Censorship takes a variety of forms. The National Intelligence and Security Services (NISS) actively engages in hands-on vetting of articles, and has also suspended and even closed newspapers. They have also summoned for questioning or detained a number of journalists.<sup>6</sup>

### Pre-Print Censorship

Between May and November 2008, NISS media censors removed or partially removed more than 200 articles from a variety of newspapers on issues that the government of Sudan deems sensitive or critical.<sup>7</sup>

A journalist told Human Rights Watch about the challenges that the Sudanese press face on a daily basis:

The NISS sends different officers in rotation every night so we don't build a relationship with them. They usually come around 9 or 10 p.m. and sometimes even later... Occasionally, they come [to the newspaper offices] so late, and if they remove any items in lead articles, or even whole articles, we just can't issue the newspaper because it's too late to come up anything else. Before they come [to the newspaper offices] we have to prepare a full print-out of the newspaper for them to review—which can take them about 1-

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<sup>6</sup> Human Rights Watch confidential interview with a Sudanese newspaper editor, May 23, 2008.

<sup>7</sup> Information based on data collected by Human Rights Watch between May, 2008 and November 9, 2008 from *Ajrass Al-Huria*, *Al-Ayam*, *Al-Sahafa*, *Al-Ahdath*, and *Rai Al-Shaab* Arabic language daily newspapers.

2 hours to look through. We try to negotiate for some of the articles to be allowed to be published, especially if it means it will be difficult to issue the newspaper. As backup, we try to have additional articles available in case they remove too many. For example, many of the journalists will have a second article written, in case the [original] submitted is regarded as too controversial for the censors. It's an everyday battle.<sup>8</sup>

The increase in pre-print censorship began in February 2008. On February 14, 2008 NISS stopped the publication of *Rai al-Shaab* after the newspaper tried to publish an article accusing the Sudanese government of backing the Chadian rebels who launched a coup attempt on the Chadian capital, N'Djamena, on February 2-3, 2008.<sup>9</sup>

Following the May 10, 2008 rebel attack on Khartoum and the ensuing crackdown on perceived rebel supporters, several newspapers were forced to remove any articles that raised concerns about reports of enforced disappearances and torture by the Sudanese government that took place following the attack.<sup>10</sup>

Government authorities also prevented several newspapers from fully covering a May 23, 2008 press conference by the Sudan People's Liberation Movement (SPLM) regarding deadly clashes in the contested border area of Abyei that took place in May 2008. *Ajrass Al Huria*, *Al-Sahafa*, and *Al Ayam*, amongst other daily newspapers, were not allowed to publish details about the press conference.<sup>11</sup> The NISS also censored coverage in at least four newspapers of a press conference held on May 25, 2008 by the United Nation Mission to Sudan (UNMIS) regarding the security and humanitarian situation in Abyei.<sup>12</sup>

On May 24, 2008 a group of lawyers and activists representing persons affected by the May 10 attack, including the families of those who have been "disappeared," held a press conference. NISS censors removed articles covering the press conference from at least four newspapers, including an article by the host of the conference, *Ajrass Al-Huria* newspaper.<sup>13</sup>

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<sup>8</sup> Human Rights Watch confidential interview with a journalist, September 6, 2008.

<sup>9</sup> "Sudan paper blocked over Chad columns," *Reuters*, February 14, 2008, <http://uk.reuters.com/article/worldNews/idUKL1476710420080214> (accessed August 9, 2008).

<sup>10</sup> Human Rights Watch, *Sudan: Crackdown in Khartoum: Mass Arrests, Torture, and Disappearances since the May 10 Attack*, June, 2008, <http://www.hrw.org/reports/2008/darfuro608/>

<sup>11</sup> Human Rights Watch confidential email communication, September 14, 2008.

<sup>12</sup> Human Rights Watch confidential email communication, September 16, 2008.

<sup>13</sup> Human Rights Watch confidential interview, May 25, 2008.

On June 18, 2008, trials in the Anti-terrorism Special Courts started in Khartoum, Khartoum North, and Omdurman, to try individuals accused of participating in the May 10 JEM attack.<sup>14</sup> The trials led to the sentencing of 50 individuals to death—their appeals have not yet been heard. Government censorship of coverage of these trials was intense; between June 20 and July 30, the NISS censors removed at least 18 articles that were critical of how the trials were conducted.<sup>15</sup>

The government also censors discussions on legal reforms. On May 26, 2008 NISS censors blocked articles covering a statement by one of the main opposition blocks, the National Democratic Alliance, demanding amendments of all laws that are in contradiction to the 2005 Interim Constitution.<sup>16</sup>

Discussions seen as supportive of the ICC have also been largely silenced by the NISS censors. A journalist told Human Rights Watch:

We don't dare to write articles that support the ICC—the government is just too sensitive to it. Even if we try to put a [sentence] about the ICC, the [sensors] will just remove it...<sup>17</sup>

Articles or opinion pieces on other human rights issues, including those widely reported on by international human rights organizations, are also subject to censorship. On July 26, 2008 a column by Abdelmoneim Ajak in *Ajrass Al Huria* newspaper, discussing Human Rights Watch's report, "Five Years On: No Justice for Sexual Violence in Darfur" was removed by censors.<sup>18</sup> The NISS also censored coverage of a press release by Human Rights Watch, on government-backed militia attacks in more than a dozen villages in operations against rebel forces near Muhajariya, South Darfur, between October 5 and 17, 2008, in which more than 40 civilians were killed, from at least two daily Sudanese newspapers on October 27.<sup>19</sup>

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<sup>14</sup> "Sudan: End Unfair Trials," Human Rights Watch news release, June 25, 2008, <http://www.hrw.org/english/docs/2008/06/25/sudan19200.htm>.

<sup>15</sup> Human Rights Watch interviews with *Ajrass Al-Huria*, *Al-Ayam*, *Al-Sahafa*, *Al-Ahdath*, and *Rai Al-Shaab* Arabic language daily newspapers

<sup>16</sup> Human Rights Watch confidential email communication, September 16, 2008.

<sup>17</sup> Human Rights Watch confidential interview, September 7, 2008.

<sup>18</sup> Human Rights Watch, *Sudan - Five Years On: No Justice for Sexual Violence in Darfur*, April, 2008, <http://hrw.org/reports/2008/darfuro408/>.

<sup>19</sup> "Sudan: New Darfur Attacks Show Civilians Still at Risk," Human Rights Watch news release, October 24, 2008, <http://www.hrw.org/english/docs/2008/10/24/sudan20061.htm>.

In the early hours of the morning on August 25, 2008, Sudanese police and national security forces conducted what they described as a weapons search and seizure operation at Kalma Internally Displaced People's (IDP) camp in South Darfur. During the operation, more than 30 persons were killed and scores more injured, the majority of them women and children. Details of the attack on Kalma IDP camp were covered widely in the international media, but were stifled in Sudan. On August 27, 2008, NISS censors removed more than seven articles reporting on the attack.<sup>20</sup>

On October 16, 2008 President al-Bashir launched the "Sudan Peoples' Initiative." The initiative was set up to bring different groups and parties in Sudan together to consult on ways to bring peace to Darfur.<sup>21</sup> Some of the political opposition parties are taking part in the consultation, but the initiative is being boycotted by rebel groups and most of the Sudanese opposition parties. Many Sudanese newspapers have taken an editorial line that is critical of the initiative, and on the day the initiative was launched, censors removed more than 16 critical articles.<sup>22</sup>

In 2008 in northern Sudan the government moved forward with the construction of two major dams in Merowe (also known as Hamadab) and Kajbar. As the Merowe dam is expected to displace more than 50,000 people, and the Kajbar more than 10,000, the projects have caused controversy and public concern, provoking protests from local communities and environmental and human rights campaigners. Since July 2008 several areas were reported to have flooded, leading to displacements amongst the local communities in the Merowe dam area. However, NISS have censored any reporting on the situation at Merowe dam or denied any access to the area by the media. On October 30, 2008, three United Nations Mission to Sudan (UNMIS) human rights officers went to investigate reports that there had been displacement from some of the villages near the Merowe dam site. When they arrived, they were ordered to leave the area and were escorted away by police.<sup>23</sup>

Crackdown on the media has extended to the internet. From July 22 to mid October 2008, the authorities blocked access to the YouTube website.<sup>24</sup> Other blocked sites include a website

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<sup>20</sup> Human Rights Watch confidential email communication, September 16, 2008.

<sup>21</sup> "Sudan launches Darfur peace effort, rebels boycott," *Reuters* October 16, 2008, <http://www.alertnet.org/thenews/newsdesk/LG263997.htm> (accessed October 17, 2008).

<sup>22</sup> Human Rights Watch confidential email communication, October 17, 2008.

<sup>23</sup> Human Rights Watch interview, October 30, 2008.

<sup>24</sup> "Sudan bans YouTube website," *Sudan Tribune*, August 1, 2008, <http://sudantribune.com/spip.php?article28123> (accessed August 7, 2008).



with stories and novels by a Sudanese author, Muhsin Khalid, whose writings are seen as critical of the government.

## Suspension, Closure, and Other Reprisals

Criticism of Sudanese President Omer Hassan al-Bashir or commentary on other sensitive issues can lead to the imposition of severe penalties on newspapers. Newspapers which cross the “red line”<sup>25</sup> are likely to face reprisal from the government.

On January 7, 2008 *The Citizen*—an English daily newspaper—was suspended by the NISS for two days after it published an article criticizing Sudan’s President.<sup>26</sup>

On May 14, 2008 NISS officials raided the offices of *Al-Alwan* newspaper, closing the offices and confiscating their equipment. This followed the publication of an article that the NISS claimed was sensitive and posed a danger to national security. The article related to the disappearance of a MiG-29 fighter plane, along with its Russian pilot, during the May 10 JEM attack on Khartoum.<sup>27</sup> *Al-Alwan* newspaper remains closed.

The Arabic-language daily *Ajress Al Huriya* has been prevented from publishing on at least five occasions since May 2008. On May 16 NISS forced the newspaper to suspend publication for one day. On June 19, *Ajress Al Huriya*’s editors initiated a four-day publishing strike in protest over NISS direct pre-print censorship—resuming publication on June 24.

*The Citizen* was again temporarily suspended in August when the National Press Council (NPC) failed to renew its license for more than a month. Then on September 1, 2008 the NPC suspended both *the Sudan Tribune* and *The Citizen* for several days. According to the NPC, the suspensions were because both had failed to submit copies of their papers to the (government-controlled) NPC each day before going to press.<sup>28</sup>

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<sup>25</sup> Journalists in Sudan use the term, “red line” to describe issues they cannot report on for fear of reprisals by government authorities. “Red line” issues include Darfur, the International Criminal Court (ICC), and Abyei, amongst other issues which are regarded as sensitive by the Sudanese authorities.

<sup>26</sup> “Sudan paper suspended for “insulting” president,” *Reuters*, January 7, 2008, <http://www.sudantribune.com/spip.php?article25479> (accessed August 9, 2008).

<sup>27</sup> “Sudan newspaper closed for publishing report on missing fighter jet,” *Sudan Tribune*, May 15, 2008, <http://www.sudantribune.com/spip.php?article27169> (accessed September 23, 2008).

<sup>28</sup> “Sudan: Press Council Uses Restrictive Regulations to Suspend Newspapers,” Article 19 news release, September 4, 2008, <http://www.article19.org/pdfs/press/sudan-press-council-uses-restrictive-regulations-to-suspend-sudanese-newspap.pdf> (accessed January 24, 2009)

In protest against the ongoing censorship by the Sudanese authorities, more than 150 journalists launched a 24-hour hunger strike on November 4, 2008 and three newspapers—*Ajrass Al-Huria*, *Al-Midan* and *Ray Al-Sha'ab* Arabic dailies—suspended publication for three days.<sup>29</sup> In response to the strike, the NISS prevented *Ajrass Al-Huria* and *Ray Al-Sha'ab* newspapers from publishing on November 8, 2008.<sup>30</sup>

## Arrest, Detention, and Harassment of Journalists

Journalists have also been summoned for questioning and detained for writing critical articles. On February 18, 2008 the NISS detained Sid Ahmed Khalifa, editor in chief of *Al-Watan*, and editor in chief of *Al-Ahdath*, Adil al-Baz, and questioned them regarding articles published by their newspapers about changes in ranks amongst senior officials in the police force. Both were released the following day.<sup>31</sup>

On May 18 the NISS detained a journalist after he published articles written for *Ajrass Al-Huria* newspaper on a popular Sudanese website, *Sudanese Online*.<sup>32</sup> NISS media censors had previously removed the articles from the newspaper, which included articles on the May 10 crackdown, the situation in Darfur, and other articles which cross the “red line.” NISS officials extensively questioned the journalist and he was forced to sign numerous papers stating he would not carry out these types of activities again. He was released the following day without charge.<sup>33</sup>

Government authorities have also arrested Sudanese journalists for protesting against government attacks on the freedom of the press. On November 17 Sudanese police detained more than 60 journalists after they staged a peaceful protest against censorship outside parliament. When they refused to disperse, police ordered them into a truck and drove them to a police station in Omdurman. They were released after three hours but told to appear in court the next day.<sup>34</sup>

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<sup>29</sup> “Sudanese journalists start hunger strike over censorship,” *Sudan Tribune*, November 4, 2008, <http://www.sudantribune.com/spip.php?article29160> (accessed November 5, 2008).

<sup>30</sup> Human Rights Watch email communication, November 9, 2008.

<sup>31</sup> “Two Sudanese editors held overnight; others summoned,” *Committee to Protect Journalists*, February 20, 2008, [http://www.sudaneseonline.com/en2/publish/Latest\\_News\\_1/Two\\_Sudanese\\_editors\\_held\\_overnight\\_others\\_summoned.shtml](http://www.sudaneseonline.com/en2/publish/Latest_News_1/Two_Sudanese_editors_held_overnight_others_summoned.shtml) (accessed August 7, 2008).

<sup>32</sup> [www.sudaneseonline.com](http://www.sudaneseonline.com)

<sup>33</sup> Human Rights Watch confidential interview, May 21, 2008.

<sup>34</sup> “Sudan: Journalists Arrested At Censorship Rally,” International Freedom of Expression Exchange Clearing House (Toronto) news release, November 19, 2008, <http://allafrica.com/stories/200811200007.html> (accessed January 12, 2009).

## Arrests, Detention, and Harassment by the Government of Southern Sudan

The authorities in Khartoum are not the only party responsible for such acts. As new legislation has yet to be enacted in Southern Sudan, the semi-autonomous Government of Southern Sudan (GoSS) reverts to the laws currently in place in the north, even though they are not compliant with the Sudan's Interim National Constitution (INC). GoSS has applied the 2004 Press and Publications Act and used the Penal Code to punish journalists who publish articles on sensitive subjects such as corruption. GoSS authorities arrested Nhial Bol, editor of *The Citizen*, in July and again in October 2008 after he published two articles which were critical of the salary scales in the GoSS Ministry of Legal and Constitutional Affairs.<sup>35</sup> On the second occasion Bol was charged with "disseminating false information," and held for two days before being released on October 12. The charges against him were dropped.

Manyang Mayom, a journalist working in Southern Sudan for *Gurtong* and *the Sudan Tribune* newspapers, also told Human Rights Watch he had been harassed by authorities for reporting on sensitive topics. On July 20, 2008 while investigating an allegation that a state governor was selling guns supposedly collected in disarmament campaigns, Mayom was picked up by Sudan People's Liberation Army (SPLA) soldiers in four pick-up trucks. Two of the soldiers beat him so badly with their guns that he had to be transferred to Khartoum for hospital treatment. He also reported harassment and violent intimidation following articles he had written about police and the SPLA in Rumbek cracking down on women wearing trousers and riding bicycles, and about the detention and torture of youths in military prison.

There are currently draft bills pending before the Southern Sudan Legislative Assembly that would help regulate the media and protect freedom of expression, including the Right to Information Bill, the Independent Broadcasting Authority Bill, the South Sudan Broadcasting Corporation Bill, and the Ministry of Information and Broadcasting Organizational Bill, which seek to implement the terms of the Southern Sudan Interim Constitution in relation to freedom of expression.<sup>36</sup> The Sudan People's Liberation Movement (SPLM), the majority party in GoSS, is part of the Government of National Unity but has decided to remove its officers from the NISS media unit, reportedly because it sees the activities of the unit as inconsistent with the INC.<sup>37</sup>

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<sup>35</sup> "South Sudan authorities arrest *The Citizen* editor," *Sudan Tribune*, October 11, 2008, <http://sudantribune.com/spip.php?article28897> (accessed October 13, 2008).

<sup>36</sup> "Appeal to First Vice President of the Government of National Unity (GNU) and President of the Government of Southern Sudan (GoSS) His Excellency Salva kiir Mayardit," The Southern Sudan Media Roundtable news release, December 6, 2008

<sup>37</sup> "SPLM withdraws officers from Sudan censorship unit," *Sudan Tribune*, November 8, 2008, <http://sudantribune.com/spip.php?article29203> (accessed November 9, 2008).

## VII. International and Sudanese Law on Freedom of Expression

Sudan is obliged to respect the right to freedom of expression of all its citizens under international law and Sudan's National Interim Constitution. However, certain national laws are inconsistent with these obligations. The Sudanese government continues to use these laws to practice censorship and other forms of repression of freedom of expression and the media.

### International Law and the National Interim Constitution

Sudan is a party to the International Covenant on Civil and Political Rights (ICCPR),<sup>38</sup> which under article 19 imposes legal obligations on states to protect freedom of expression and information:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.<sup>39</sup>

The ICCPR permits governments to impose certain restrictions or limitations on freedom of expression, if such restriction is provided by law and is necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.<sup>40</sup> However according to the "Johannesburg Principles"<sup>41</sup> for a restriction to be legitimately in the interests of national security:

Its genuine purpose and demonstrable effect must be to protect a country's existence or its territorial integrity against the use or threat of force, or its

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<sup>38</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, (entered into force March. 23, 1976), acceded to by Sudan June 18, 1986.

<sup>39</sup> International Covenant on Civil and Political Rights (ICCPR), article 19.

<sup>40</sup> International Covenant on Civil and Political Rights (ICCPR), article 19 (3).

<sup>41</sup> The Johannesburg Principles set out standards for the protection of freedom of expression in the context of national security laws. They were adopted on October 1, 1995 by a group of experts in international law, national security, and human rights convened by ARTICLE 19, the International Centre Against Censorship, in collaboration with the Centre for Applied Legal Studies of the University of the Witwatersrand, in Johannesburg. They have been endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression and referred to by the Commission in their annual resolutions on freedom of expression every year since 1996. Johannesburg Principles on National Security, Freedom of Expression, and Access to Information (Johannesburg Principles) adopted on October 1, 1995. Available at [www.1umn.edu/humanrts/instree/johannesburg.html](http://www.1umn.edu/humanrts/instree/johannesburg.html)

capacity to respond to the use or threat of force, whether from an external source such as a military threat, or an internal source such as incitement to violent overthrow of the government... In particular, a restriction sought to be justified on the ground of national security is not legitimate if its genuine purpose or demonstrable effect is to protect interests unrelated to national security, including, for example, to protect a government from embarrassment or exposure of wrongdoing.<sup>42</sup>

The actions taken by the Sudanese authorities, in particular the NISS do not stand up to scrutiny as limitations which are compatible with international human rights law.

Sudan is also a party to the African Charter on Human and Peoples' Rights (ACHPR),<sup>43</sup> which in article 9 states:

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.<sup>44</sup>

In October 2002 the African Commission on Human and Peoples' Rights adopted a Declaration of Principles on Freedom of Expression in Africa, which sets forth the positive obligations of the state parties to the African Charter on Human and Peoples' Rights (ACHPR) in relation to freedom of expression, including the incompatibility of a state monopoly over a broadcasting system.<sup>45</sup>

Sudan's Interim National Constitution (INC) of 2005 also incorporates the international obligations to protect the freedom of expression contained in the ICCPR and the ACHPR. Article 39 of the INC asserts that:

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<sup>42</sup> The Johannesburg Principles, Principle 2.

<sup>43</sup> African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU doc. CAB/LEG/67/3rev.5, 21 I.L.M. 58 (1982) entered into force October 21, 1986, ratified by Sudan in 1986.

<sup>44</sup> Banjul Charter, art. 9 (right to receive information and express opinions).

<sup>45</sup> Resolution on the Adoption of the Declaration of Principles on Freedom of Expression in Africa, African Commission on Human and Peoples' Rights 32nd Session, October 17-23, 2002: Banjul, The Gambia. Available at [www1.umn.edu/humanrts/achpr/expressionfreedomres.html](http://www1.umn.edu/humanrts/achpr/expressionfreedomres.html). Article 5 (1) states that: States shall encourage a diverse, independent private broadcasting sector. A state monopoly over broadcasting is not compatible with the right to freedom of expression.

1. Every citizen shall have an unrestricted right to the freedom of expression, reception and dissemination of information, publication, and access to the press without prejudice to order, safety or public morals as determined by law.
2. The State shall guarantee the freedom of the press and other media as shall be regulated by law in a democratic society.
3. All media shall abide by professional ethics, shall refrain from inciting religious, ethnic, racial or cultural hatred and shall not agitate for violence or war.

## National Laws

A number of Sudan's national laws allow for conduct that is inconsistent with Sudan's obligations under international law in relation to freedom of expression. Officials use these laws to control the activities of journalists and censor print media.

Sudan's 1991 Penal Code criminalizes certain activities by journalists, including the "Propagation of False News"<sup>46</sup> and Defamation,<sup>47</sup> which are widely used by Sudanese authorities to charge journalists and editors with these crimes for publishing information seen as critical of the authorities. For example, in November 2007, Al-Fatih Mahjoub Irwa, editor in chief of the Arabic daily *Al-Sudani*, and his deputy and columnist Nureldin Madeni were sentenced to two months in jail after refusing to pay a fine of 10,000 Sudanese pounds each (\$5,000 USD) for defamation. The NISS brought the charges after the newspaper published an article criticizing the security forces for arresting four journalists who were trying to cover a story of the killings of protesters at Kajbar dam site in Northern state and where police opened fire at protesters.<sup>48</sup>

Other legal provisions are not directly related to the media, but are used by the authorities to stifle independent reporting through the threat of serious legal repercussions and financial penalties. While the Penal Code does not give specific powers to the NISS in relation to the media, the 1999 National Security Forces Act (NSFA) gives the NISS broad powers of surveillance, inquiry, search, custody of persons and seizure of property, summoning and

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<sup>46</sup> The Criminal Act 1991, *the National Salvation Revolution Command Council*. Article 66 (Propagation of False News) of the 1999 Penal Code states:

Whoever circulates, propagates any news, rumour or report which he knows to be false with intent to cause fear or alarm to the public or threat to public peace or undermine the respect of the State shall be punished with imprisonment for a term which may not exceed six months or with fine or with both.

<sup>47</sup> Article 159 (defamation) of the 1991 Penal Code states:

A person is said to commit the offence of defamation who publishes, states or conveys to another by any means facts relating to a certain person or an evaluation of his manners with the intent to harm his reputation.

<sup>48</sup> "Sudanese journalist face prison for libel," *Reuters*, November 19, 2008, <http://sudantribune.com/spip.php?article24804> (accessed August 23, 2008).

interrogation of persons and requiring of information, statements and documents<sup>49</sup> in the pursuit of its functions (which are also broadly stated but include keeping the national security of Sudan and preserving its unity and any other functions the President of the National Security Council assign to it).<sup>50</sup> The NSFA permits the NISS to arbitrarily arrest, hold individuals in incommunicado, and prolong detention without judicial review<sup>51</sup> and carry out arbitrary searches. In addition, the NSFA grants NISS broad immunity from prosecution under article 33 (b):

No civil or criminal proceeding shall be instituted, against a member [of the NISS] or collaborator for any act connected with the official work of the member, save upon approval of the Director [the Director General of the NISS].<sup>52</sup>

The NISS censors interpret the NSFA as authorizing them to control the media through a variety of measures—including direct pre-print censorship, suspension or even shutting down newspapers for publication of any information seen as sensitive or critical of the government, and threatening individual journalists and editors with arrest and detention.

Sudan’s national laws also allow the government to maintain both direct and indirect state control of the media. The 2004 Press and Publications Act establishes the jurisdiction and powers of the National Press Council, the body responsible for the granting of licenses to domestic and foreign press institutions, the registering of journalists, as well as adjudicating complaints, through warnings, sanctions and penalties. Article 25 (Licensing of newspapers,

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<sup>49</sup> National Security Forces Act, 1999 *the National Assembly*, article 8.

<sup>50</sup> National Security Forces Act 1999 Article 6 (Functions of the Organ) states:

The organ shall have the competence on the following, to:

- a. keep the national security of the Sudan, and preserve its unity;
- b. collect, analyse and employ information;
- c. conduct such search and inquiry, as may be necessary for revealing any conditions, facts, activities or elements, as by nature may affect the national security and safety of the Sudan;
- d. tender opinion, advice, consultancy and services, in the security and intelligence fields, to the various organs of the state;
- e. reveal the dangers, resulting from foreign activity, in the fields, to the various organs of the State;
- f. combat the subversive activities of foreign organizations, groups, individuals or states, or Sudanese groups, inside and outside the Sudan;
- g. co-operate with similar friendly organs, to combat terrorism and such business, as may threaten the joint order and security, or any of the fields outside security;
- h. any other functions, as the President of the Republic, or the Council, may assign thereto

<sup>51</sup> The National Security Act 1999 Articles 30-32 allow the NISS to detain individuals for interrogation and inquiry for three days, but this can be extended by the Director of the NISS for up to 30 days, and by the National Security Council for up to a further two months.

<sup>52</sup> National Security Act 1999, article 33.

journals and media publications) requires all newspapers and publications to renew their licenses annually and for all journalists to be registered by the NPC to be able to practice journalism. However, the NPC is not an independent body. It is overseen by the Minister of Information and Communications and accountable to the National Assembly, who also controls its financial resources.<sup>53</sup>

These laws allow for, and are used by, the NISS to justify conduct that is in direct contravention of the ICCPR, the Johannesburg principles, and the ACHPR. In addition to ending practices of print censorship and harassment and abuse of journalists and human rights activists, the Sudanese government should urgently reform these laws to bring them into line with their obligations under international law and the principle of freedom of expression as set out in Sudan's own Interim National Constitution.

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<sup>53</sup> "Comments on draft media and access to information laws in Sudan," Article 19, July 19, 2007, <http://www.article19.org/pdfs/analysis/sudan-draft-media-laws-07.pdf> (accessed August 3, 2008).