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Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, 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.

[16 May 2010]

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

Sudan: End human rights violations by the National Intelligence and Security Services

The human rights situation in Sudan remains dire.

While armed inter-ethnic clashes continue to escalate in southern Sudan, the conflict in Darfur intensified again in March 2010 with clashes in the Jebel Marra area of West Darfur, leading to thousands of new displacements.

In April 2010, general elections were held in Sudan. Many human rights violations were reported prior to and during the elections. As the 2011 referendum on the independence of southern Sudan approaches, efforts to protect the space for freedom of expression, association and peaceful assembly are much needed.

Amnesty International calls on the Human Rights Council to remain seized of the situation in Sudan and to renew the mandate of the Independent Expert on the situation of human rights in Sudan.

Amnesty International calls on the Independent Expert to follow up on the 2007 recommendations of the Experts Group on the human rights situation in Darfur, particularly those addressing accountability and justice.

Powers and immunities of the national intelligence and security services

In 2010, a new National Security Act came into force. The 2010 National Security Act maintains the wide ranging powers of arrest, detention, search and seizure that were provided to members of the National Intelligence and Security Services (NISS) under the 1999 National Security Forces Act. The 2010 Act also provides NISS agents with immunity for acts carried out as part of their work. Under the new Act, NISS agents can detain people for a period of up to four and a half months without judicial oversight.

Specific human rights violations by the NISS

Amnesty International is concerned that these powers have been used to intimidate, arbitrarily arrest, detain, and torture or otherwise ill-treat people in Sudan, often on the basis of their ethnicity. The NISS have used these powers to specifically target human rights defenders, journalists and political dissidents thereby largely restricting freedom of expression, association and assembly in Sudan.

The NISS continues to detain people arbitrarily and hold them incommunicado, often in unofficial places of detention, particularly in Khartoum and Darfur.

Arbitrary arrests, incommunicado detention, torture and other forms of cruel, inhuman or degrading treatment or punishment

Between 2008 and 2010, Amnesty International documented many cases of torture and other forms of ill-treatment in NISS detention.

After the International Criminal Court issued an arrest warrant against President Al Bashir for war crimes and crimes against humanity in March 2009, the government expelled 13 international organizations and closed down three national humanitarian and human rights NGOs. NISS agents raided the offices of several Sudanese NGOs, confiscating their files and equipment. Staff of national and international NGOs were harassed, arbitrarily arrested

and detained. A large number of human rights defenders fled the country to escape the government's reprisals.

Amnesty International has also collected testimonies of women and children who alleged they were tortured or suffered other forms of cruel, inhuman or degrading treatment at the hands of the NISS.

Enforced disappearances and extra-judicial executions

According to the June 2009 report of the Special Rapporteur on the situation of human rights in Sudan to the Human Rights Council¹, around 200 persons remained unaccounted for as a result of the large scale arrests that were carried out by the NISS, mainly in Khartoum, following an attack by the Justice and Equality Movement (JEM) on Khartoum in May 2008.² The government has still not acknowledged the detentions or clarified the status or whereabouts of these persons. Amnesty International considers them to be possible victims of enforced disappearance.

In April 2010, the government announced it had buried 108 alleged JEM fighters who were reportedly killed during the attack on Khartoum. The government reported that DNA tests had been carried out before the deceased were buried.

Mohamed Moussa Abdallah Bahr El Din

On 10 February 2010, Mohamed Moussa Abdallah Bahr el Din, a student of the University of Khartoum, was arrested by NISS agents outside the university. He was found dead the next day and carrying traces of torture, including cuts and bruises. According to the information available to Amnesty International, no independent investigation has so far been carried out into the circumstances surrounding his death.

Unfair trials and resort to the death penalty

Between July 2008 and January 2010 special counter-terrorism courts sentenced 106 men to death, eight of whom were allegedly under 18 at the time of the alleged offence. The defendants were convicted following unfair trials relating to their alleged participation in the JEM attack on Khartoum in 2008. The special courts were set up in the aftermath of the attack in application of the 2001 Counter-Terrorism Act. The "confessions" of most defendants were allegedly extracted under torture during their pre-trial detention with the NISS and were accepted by the courts as the main evidence towards their conviction. Many defendants only had access to a lawyer once their trial had begun.

Following an agreement between the JEM and the government, 50 of those sentenced to death were unconditionally released in February 2010. Fifty-five remain in prison, awaiting the result of their appeals.

¹ A/HRC/11/14

² On 10 May 2008, the JEM, one of the Darfur-based armed opposition groups, attacked Omdurman, one of the three cities that form greater Khartoum. The attack was stopped within a matter of hours by the Sudanese forces, primarily the police and the NISS. In the days that followed the attack more than 1000 individuals, most of them civilians from Darfur, were arrested by the NISS.

Ahmed Suleiman Sulman

Ahmed Suleiman Sulman was one of the 106 defendants who were sentenced to death by the special counter-terrorism courts over their alleged participation in the JEM attack in May 2008. Ahmed was sentenced to death in August 2008. Information received by Amnesty International suggests that Ahmed had been ill for some time and was not given access to a specialised doctor, despite requests by his lawyer. He was transported to a police hospital two days prior to his death on 21 October 2009 from tuberculosis.

Between April 2009 and January 2010, Amnesty International documented 15 executions following unfair trials. The 15 men, convicted in two different murder cases, had all been allegedly tortured under NISS pre-trial detention. Their “confessions”, reportedly extracted under torture, were used as evidence towards their conviction.

Freedom of expression, assembly and association

Until September 2009, NISS agents subjected newspapers to a daily pre-print censorship. A new press law, passed in June 2009, maintained restrictions on journalists, such as fines against journalists and publications for alleged press offences. On 27 September 2009, President Al Bashir lifted the pre-print censorship imposed 18 months earlier, and called on editors to adhere to a journalistic “ethical code” where they would practice a self-imposed censorship.

NISS agents have used their powers to intimidate and arrest journalists, including foreign correspondents.

Freedom of expression, association and peaceful assembly remains unduly restricted, including in the run-up to and during the elections. NISS agents suppressed peaceful political protests on 7 and 14 December 2009, using excessive force to arrest and disperse protestors. On 7 December, over 200 people, including human rights activists and political opponents, were arbitrarily arrested and detained as they gathered in front of the parliament building.

Recommendations:

Amnesty International calls on the Human Rights Council to:

- Call on the Government of Sudan to close all unofficial places of detention and stop the practice of arbitrary arrest and incommunicado detention;
- Demand that the Government of Sudan issue clear instructions to NISS agents not to resort to torture or other forms of cruel, inhuman or degrading treatment or punishment, and informing them that perpetrators of these human rights violations will be brought to justice;
- Urge the Government of Sudan to reform the 2010 National Security Act by removing the NISS powers of search, seizure, and arrest and detention without judicial review and ensuring that the NISS respects human rights while carrying out its functions of information gathering, analysis and advice to relevant authorities as spelled out in the Comprehensive Peace Agreement.
- Call on the Government of Sudan to report to the Council on steps taken to address impunity of NISS agents for human rights violations they commit in the course of their work, by providing detailed information on complaints filed in connection with

such acts, the number of NISS agents prosecuted and convicted, and reparations disbursed to victims;

- Call on the Government of Sudan to accept outstanding mission requests by Special Procedures, in particular the Working Group on Enforced or Involuntary Disappearances;
 - Demand that the Government of Sudan immediately stop the harassment of human rights defenders and allow them the peaceful exercise of their activities;
 - Renew the mandate of the Independent Expert for at least three years or until a subsequent explicit decision of the Council to terminate it;
 - Closely monitor and regularly review the implementation by the Government of Sudan of the recommendations of the Experts Group to the Government for the implementation of Human Rights Council resolution 4/8;³
 - Request the government of Sudan to inform and update the Council on progress towards implementation at each future Council's session;
 - Request the Independent Expert to bring to Council's attention for consideration at its immediately following session any information about significantly increased numbers or severity of human rights violations.
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³ Annex I of A/HRC/5/6.