

## **Sudan Steps Backward: National Security Intensifies Violations of Freedom of Expression in 2011**

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In the months immediately preceding and following South Sudan's referendum on independence, the Sudanese authorities launched a renewed campaign of systematic repression of freedom of expression featuring new tactics in the government's quest to intimidate and silence independent media in the country.

Historically, the Sudanese government's main method of silencing media was to use the National Intelligence and Security Service (NISS) to ensure prior-censorship of articles deemed sensitive.<sup>1</sup> Recent actions by agents of the government against the media industry indicate the adoption of a new strategy that focuses on the use of censorship after printing by preventing vendors from distributing copies of their printed papers or confiscating copies from the printing warehouses. This new strategy inflicts enormous financial costs on newspapers and media organizations. These actions are clearly designed to pressure editors and publishers to delete any material that might upset the ruling National Congress Party in order to ensure the financial survival of the paper.

A second prong of the new government strategy to intimidate and silence independent media in Sudan is the incessant arrests and prosecution of journalists, columnists and editors. Most media professionals arrested by National Security officials have been victims of torture, confiscation of equipment and even a ban on any future publishing. These arrests and prosecutions have intensified over recent months.

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<sup>1</sup> Pre-publication censorship is a particularly direct form of press control. It was used in the early nineties and reappeared in 2008. As early as February 2008, the National Intelligence and Security Services (NISS) officers began appearing nightly at newspaper offices, requesting that editors-in-chief or their deputies reveal to them all of the articles to be printed in their papers prior to publication. The NISS officers read the articles, and in the case of articles, or portions thereof, that they deemed inappropriate, ordered the editors to remove or replace them. In some cases, NISS officers denied suggested replacement articles. In others, the volume of removed material made publication impossible. If NISS officers did not review the entirety of the newspaper, the NISS would not allow the paper to be sent to the printing press, where other officers would await permission to allow the newspaper to print. It was not possible for newspapers to be published in Sudan without NISS permission.

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Below ACJPS outlines the relevant legal framework, documents various cases of violations of the freedom of expression in Sudan that give evidence to the government's new strategy, and makes the following recommendations.

- ACJPS calls on the Government of Sudan to end its war on freedom of expression and the media in Sudan by allowing space for journalists to conduct their work without fear of harassment, imprisonment, and torture; end its practices of confiscating and/or closing newspapers; and adhere to all relevant international standards on the freedom of expression.
- ACJPS also urges the Special Rapporteur on Freedom of Expression and Access to Information in Africa and the UN Special Rapporteur on Freedom of Expression and Opinion to use the mandates their offices to seek further information about the state of Freedom of Expression in Sudan by undertaking fact-finding missions to the country and engaging in consistent close monitoring of the situation.

## I. Legal Framework

Article 39 of the National Interim Constitution of Sudan states that “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. The State shall guarantee the freedom of the press and other media as shall be regulated by law in a democratic society.”

While the Press and Publication Act adopted by the National Assembly in 2009 positively delineates permissible limitations to freedom of expression by stating inter alia that “no restrictions will be imposed on the freedom of the press except what is envisaged by law in relation to the protection of the national security, order, and public health; newspapers shall not be confiscated, its offices will not be shut, and journalists and publishers shall not be detained for exercising their profession except in accordance with the law,” it retains two retrogressive provisions misused by the state security agents. First, it preserves the extensive powers of the partisan National Council on Press and Publications, over 40 percent of whose members are appointed by the Presidency - to suspend newspapers. This provision allows space for the NISS, the National Press and Publications Council and other government agents to violate freedom of expression under the pretext of safeguarding national security.

Second, the Act retained the special courts for the press with their wide discretionary powers to impose astronomical fines on newspapers. These types of sanctions are known as “indirect imprisonment” because the fine could be very high and result in imprisonment for failure to pay. The Act also gives the courts the powers to ban newspapers and place super injunctions on printing houses from publishing, suspend editors, the publisher or the related journalist who committed the alleged offense for a period determined by the court. It can also, cancel or suspend press registration.

The Act does not pronounce itself explicitly on the issue of censorship but gives the

government room to justify censorship and other forms of intervention in the name of security, order or public health.

The implementation of the 2009 Press and Publications Act in Sudan as a vehicle for legitimating censorship violates Article 9 of the African Charter on Human and People's Rights as interpreted by the African Commission in relevant decisions. It also violates Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights to which Sudan is a signatory.

## **II. Arrests and Prosecutions of Journalists and Media Professionals**

### **A. Journalists Arrested for Reporting on the Rape of Safia Issac**

On 13 February Safia Isaac was arrested, tortured and raped by of the National Security officers in Khartoum. Safia is an artist and member of Girifna - a youth movement established just before the April 2010 elections in Sudan that focuses on community organizing to protest poor governance. Safia was arrested as part of a government policy of harassment of Girifna members following protests in Khartoum in January 2011. Safia boldly posted a video of testimony to websites in which she recounted the facts of her rape and torture at the hands of NISS, which exposed her and her family to intimidation and harassment by the security body.

In the wake Safia's video, a number of writers and journalists asked the Sudanese authorities to investigate her allegations of rape and torture by three members of the NISS in a detention and torture centre in Khartoum. The government opened numerous cases against journalists and writers who sympathetically covered Safia's case.

#### **1. Faisal Mohammed Saiih**

On 12 March 2011, the NISS brought criminal defamation charges against Faisal Mohammed Salih a journalist and professor of media in a Sudanese university, under the Sudanese Criminal Act 1991. The NISS claimed that publication of his article about Safia's case hurt the reputation of the NISS. Salih had published an article calling for the opening of an investigation into Safia's rape. The case was referred to the Court of Publishing Crimes in Khartoum North. His trial has been postponed to 25 October 2011.

#### **2. Professor Omar Alaqraay**

In March 2011, NISS opened a criminal case against Professor Omar Alaqraay, a civil society activist and the author of *Ajras Alhurria* who also wrote an article calling for an investigation into Safia's claims. The National Security accused Alaqraay of defaming the reputation of Security Service. The first session of Alaqraay's trial was heard on 29 September 2011. The next hearing will be on 14 November 2011. The editor of *Ajras Alhurria*, Sheikh Abdullah, faces similar charges.

#### **3. Fatima Ghazali**

Miss Fatima Ghazali, a journalist for *Aljareeda* newspaper, was fined 2000 Sudanese pounds (US \$670) by Judge Mudthir Elrashid on behalf of the Court of Publishing

Crimes in Khartoum North for writing about the rape and torture of Safia by NISS and calling for further investigation. She was prosecuted under Article 66 of the 1991 Criminal Law “harmful publishing” and Articles 26 and 28 of the Press and Publications Law. Failure to pay the fine came with a sentence of one month in prison. Mr. Saad Eddin Ibrahim, editor of *Aljareeda*, was fined 5000 Sudanese pounds (US \$1670) over the publication of Ghazali’s article.

Ibrahim paid his fine but Ghazali refused to pay her fine. She was subsequently detained and then sent to a women's prison in Omdurman to serve her sentence. Ghazali spent 2 days in prison before she paid the fine.

#### **4. Amal Habbani**

Ms Amal Habbani, a journalist who faced previous criminal charges brought by the public order police after publishing an article criticizing the behaviour of Public Order Police when Sudanese journalist Lubna Ahmed Hussein was put on trial for wearing trousers and assaulting public decency in 2009, also faced charges for an article she published on Safia’s case in which she called for further investigation.

On 25 July, the Judge Mudthir Elrashid sentenced Amal to pay a fine of 2000 Sudanese pounds (US \$670) for defamation. Failure to pay the fine came with a sentence of one month in prison. Amal refused to pay the fine and was sent to the Omdurman women's prison to serve her sentence.

#### **B. *Al Midan* Newspaper**

On 2 February 2011, NISS officials surrounded *Almidan* newspaper from 6 PM to 10:30 PM. They arrested all of the newspaper’s journalists, other employees, and visitors as they left the building at the end of the day and took them to an unknown location. It is believed that they were taken to the offices of political security in Khartoum North where they were held incommunicado for a number of days and subjected to torture, inhuman and degrading treatment. The following persons were detained:

- Kamal Karrar - Deputy Editor of the newspaper - was released on 12 February.
- Ibrahim Mirghani – worked in the Political Section - was released on 12 February.
- Khaled Tawfik - Designer, was released but ACJPS cannot confirm the date of his release.
- Fatima Bashir – worked in printing – was released on 3 February.
- Fathiyia Ibrahim –worked in printing – was released on 3 February.
- Suliman Wedaa - Managing Director of Dar Al-Eltanour, which produced the newspaper – was released on 3 February.
- Samer Salah al-Din - a journalist trainee, was released in March.
- Mohamed Rahama- official archivist was released in March.

- Abdel-Azim al-Badawi – a visitor to the paper, was released in March.
- Ahmed Ali - a visitor to the paper, was released on 11 February.
- Shadia Abdel Moneim – a visitor to the paper, was released on 3 February.
- Hind El- Tijani - a visitor to the paper, was released on 3 February.
- Najat Ahmad - a visitor to the paper, was released on 3 February.
- Muawiya Abu Hashem – a newspaper employee, was released in March.
- Muhannad Dardiri - trainee journalist, was released in March.

### **C. Other Arrests of Journalists and Targeting of media professionals**

1. On 3 November 2010, authorities arrested Jaafar AlSubki, a journalist working with *Alsahafa* newspaper allegedly for working with Radio Dabanga, a radio programme that broadcasts on Sudan from the Netherlands. Al Subki was initially held for seven months without any charges brought against him. In January 2011 he was charged for undermining the constitutional system, which carries the death penalty as a possible punishment. There was a hearing of his trial on 12 July 2011 in a Khartoum Court presided over by Judge Abdel-Moneim Selim Mohammad Ali. On 27 August 2011, the Sudanese President granted him amnesty. However, six of his colleagues, four of them working for the media, continue to await trial in the same case. The court continues summoning Al Subki to attend hearings under the rubric of not having received official notice of his amnesty from the President of the Republic.

2. On 2 May 2011, the National Security and Intelligence stopped Zeinab Mohamed Saleh (a journalist working for the web site Sudan Votes), at a polling centre in Muglad in South Kordofan. Saleh was escorted to the security office in town where she was detained for two hours and interrogated about her relationship to the SPLM and her employer. Saleh was released without charge.

3. On 14 May, Security officials stopped Mohamed Alfatih, a journalist who works for *Almidan* newspaper and Rchan O'Shea who works for *Altair* newspaper at the Jabal Awlia checkpoint in South Khartoum. The two journalists were forced to open their computers, personal equipment and luggage and had their mobile phones confiscated. They were interrogated about the following issues:

- their relationship with the SPLM and the Communist Party;
- any interactions with the International Criminal Court; and
- motivations for reporting on gubernatorial election of South Kordofan.

In the course of their interrogation by the NISS, one intelligence official photographed a piece of paper that had picture of President Bashir and the words “to The Hague” on it, claiming that he found the paper in the journalists’ bags. After a long and humiliating interrogation characterized by degrading treatment at the NISS offices at Jabal Awli, the two journalists were moved to the security offices in Alkalkla Alafaa - South of

Khartoum for further interrogation. They were held in detention for 13 hours and eventually released.

4. On 16 May, the Minister of Finance ordered his bodyguards to arrest Ibrahim Abu al-Qasim, a journalist who works for *Alsudani* newspaper. Ibrahim was investigating corruption relating to the Ministry and was at the Ministry asking questions in relation to his story when the Minister ordered his arrest. Al-Qasim was held for two hours at the Ministry.

5. Hassan Isaac, a journalist who works for *Aljareeda* was arrested and tortured by the security apparatus on 8 April 2011 while covering a public forum organized by the Sudanese Congress Party. NISS arrested everyone present at the event, including journalists. Isaac was detained in one of the security offices and subjected to beatings, insults, and other forms of harsh treatment by the security officers. Isaac was later transferred to the police station in Khartoum where he held incommunicado for a day without being allowed to notify his family and the newspaper. Isaac was later charged before the Criminal Court of Khartoum North on 1 June 2011 and his trial is still pending.

6. Faiz Alselaik is facing a number of criminal cases filed against him by different arms of the government allegedly accusing him of harmful press and defamation. Alselaik was a journalist for *Ajras Alhurria* and wrote many articles on issues deemed sensitive by the NISS. During his period of attention, Alselaik's family has repeatedly received direct threats from security officials.

On 13 March, the Court of Publishing Crimes postponed his trial to due to the absence of the complaining party. Alselaik has now left Sudan as a result of this harassment and persecution.

7. On 12 December a guilty judgment was announced in a case filed by the NISS against the *Aljareeda* newspaper under article 66 of the Sudanese Criminal Act and articles 25, 26 and 35 of the Media and Publication Law. The editor of the paper, Saeed Aldeen, and journalist Maha Altilib were listed as the first and second defendants. In September 2011, the paper was accused of publishing false information in an article reporting that the Sudanese army would not withdraw from Abyei. The newspaper and Maha Altilib were ordered to pay fines of 500 and 250 Sudanese Pounds respectively. At the same time, the NISS announced that *Aljareeda* would be allowed to resume publication, which had been suspended since September.

8. On 25 December, while covering student protests at Khartoum University, journalist Khalid Ahmed was taken to NISS offices where all the photos on his camera relating to the protests were deleted. He was released several hours later, but was forced to give NISS his identification and mobile phone numbers, full address, and a map to his home.

#### **D. The Case of Abuzar Ali Elamin and Rai Alshaab**

On 28 April 2010, the government closed down *Rai Alshaab*, a newspaper affiliated with the opposition Popular Congress Party, and arrested the following four journalists:

1. Abuzar Ali Elamin
2. Asharf Abd-Elaziz
3. Eltahir Abu Guhara
4. Ramadan Mahjoub

Eltahir Abu Guhara was immediately released. Three other journalists were charged for crimes against the state, prosecuted and sentenced to imprisonment. Elamin was sentenced to five years imprisonment and the other two were sentenced to two years imprisonment. On appeal, Elamin secured a reduction of term to three years and the others' terms were reduced to one year. The three journalists spent hard time in detention before their eventual release as they were tortured, humiliated, beaten and denied visitation by family and lawyers.

On 3 May 2011, Elamin was released. However the authorities of Kobar prison handed Elamin over to the Attorney of State Security in Khartoum because new criminal cases had been filed against him by National Security accusing him of jeopardizing national security in an article he wrote about the inner workings on the ruling National Congress party during the 2010 elections. Elamin was detained on these new charges and denied access to lawyers. Elamin has written hundreds of articles on sensitive topics and if the government's intention is to arrest and or try him for each article, he may be held indefinitely.

*Rai Alshaab* was allowed to reopen in November 2011 during a period of NCP flexibility designed to entice members of the opposition to join the government. However on 2 January 2012, officials from the NISS confiscated printed copies of the newspaper, appropriated the organization's offices and announced the closure of the paper on Sudan TV. Two weeks earlier, Mauda Hmad, a journalist for the paper, was interrogated for three hours regarding an article published about the death of a community leader in West Darfur.

### III. Confiscation of Printed Newspapers

NISS recently began seizing copies of newspapers after they had been printed to prevent distribution. No reasons have been given for these confiscations. Preventing newspapers from distributing copies that have already been printed is a well-known tactic designed to impose extreme financial harm against the newspaper that will lead to the weakening of these newspapers economically and could force them into bankruptcy. It is a tactic that is meant to intimidate paper owners from allowing journalists to publish articles on topics that might not be favourable to security officials.

#### **A. *Ajras Alhurria* Newspaper**

Members of the Division of Information Security Agency have on several occasions confiscated copies of *Ajras Alhurria* after it has gone to print in order to prevent distribution. The editors of *Ajras Alhurria* have on several occasions written to the National Council of Press and Publication seeking explanation for these confiscations in vain. Since the beginning of 2011, the Security Service and NISS prevented *Ajras*

*Alhurria* from distributing its paper on nine occasions: 20 January 2011, 31 January 2011, 8 March 2011, 6 April 2011, 7 April 2011, 10 June 2011, 21 June and 26 June 2011.

## **B. Other Confiscations of Newspapers.**

Please see below a list of recent confiscations of newspapers by security forces:

- Confiscation of *Alahdath* newspaper 7 and 8 August 2011
- Confiscation of *Aljareeda* newspaper 7 August 2011
- The authorities confiscated the printed copies of *Aljareeda* newspaper on 20, 21, and 22 August and 4 September 2011 because *Aljareeda* allowed journalists from *Ajras Alhuria* to publish articles in its paper.
- Confiscation of *Akhbar Alyoumr* newspaper on 13 September 2011.
- Confiscation of *Almidan* newspaper after printing and without explanation on 2, 4, 6, 8, 12, 14 of September 2011.
- Confiscation of *Alsahafa* newspaper after printing and without explanation on 8 and 11 September 2011. *Alsahafa* was confiscated again on 11 October by NISS in Khartoum without justification. Observers indicated to ACJPS that they suspect the paper was confiscated due to an article within that criticized President Bashir for wearing illegal lion skin shoes while greeting President Kiir at Khartoum airport.
- Confiscation of *Akhbar Elyoum* newspaper after printing and without explanation on 13 September 2011.
- Confiscation of *Alwan* newspaper on 23 October without justification.

In addition to all of the confiscations, the sudaneseonline website was hacked into and disabled for two weeks in October 2010. Bakri Abu Bakar, the owner and administrator of the web site said in a statement that he filed a case against the hackers saying that they belong to electronic department of NISS, “El-jihad Electrony.”

## **IV. The Closure of Six Newspapers**

On 8 July 2011, the National Press and Publications Council issued a decision to close six newspapers, including five newspapers that publish in English and one in Arabic. The targeted papers are the *Khartoum Monitor*, *Sudan Tribune*, *the Advocate*, *Juba Post*, *The Democrat* and *Ajras Alhuria*, which publish in Arabic.

The Secretary-General of the Council issued a statement about the closures saying that the “newspapers have been stopped from the ninth of July against the backdrop of the existence of citizens of the State of South Sudan as part of the owners and publishers of these newspapers, based on Article 28 of the Press and Publications Law of 2004.” This action was taken before the end of the six-month transitional period set by the Council



itself to adjust the situation of media licensure following the secession of South Sudan. The council withdrew the licenses of the newspapers, which constitutes a direct violation of the Press and Publications Act.

## V. Banning Specific Journalists from Publishing

As noted above, the Council suspended the issuance and publication of *Ajras Alhurria* newspaper on 8 July, citing the presence of people from South Sudan as part of shareholders in the company.

In August *Aljareeda* newspaper offered to allow some of the former journalists, Faiz Elselaik, Rasha Awad and Khalid Fadul from *Ajras Alhurrias* to continue to publish articles in their paper. Once *Aljareeda* started to publish articles, the security and intelligence targeted the paper and repeatedly prevented it from distributing copies of its paper, causing heavy financial losses.

On 4 September, the newspaper was confiscated for the fourth time. On the same day, the newspaper issued a statement reporting that NISS officials had told the newspaper explicitly that the cause of seizures is the presence of journalists from *Ajras Alhurria* on staff. The security threatened that the continuation of these writers at the paper would lead to continued confiscations.