



Alternative Report

**To Sudan's periodic report before the African Commission
of Human and Peoples' Rights**

Sudan: One step forward, many steps back

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Introduction

Sudan ratified the African Charter on Human and Peoples' Rights (ACHPR) on 18 February 1986. The Sudanese government is therefore under the obligation to respect and protect the internationally recognized human rights contained therein. The International Federation for Human Rights (FIDH) and the Sudan Organization Against Torture (SOAT), its member organization in Sudan, present hereby an alternative report to the Government report before the African Commission of Human and Peoples' Rights. This report highlights, article by article of the ACHPR, the violations of human rights committed by the authorities.

The year 2003 has seen optimism and dismay in the Sudanese political climate; positive moves towards peace in the South, and an emergence of a new conflict in the west of Sudan in Darfur region. Progress of the peace talks between the Government of Sudan (GoS) and the Sudan People's Liberation Movement/Army (SPLM/A) was hugely boosted in September 2003 and January 2004 with the breakthrough in signing the Security Arrangement and the Wealth Sharing agreements respectively. Both parties have declared their commitment to a comprehensive settlement. FIDH and SOAT believe that placing democracy and respect for human rights at the heart of the peace process is essential to create a conducive environment for a sustainable peace. This has been one of the shortcomings in the current peace process, which has also undermined the role of civil society. The Machakos Protocol signed by the two parties agreed to:

"Establish a democratic system of governance taking account of the cultural, ethnic, racial, religious and linguistic diversity and gender equality of the people of Sudan and to find a comprehensive solution that address the economic and social deterioration of the Sudan and replace war not just with peace, but also with social, political and economic justice which respects the fundamental human and political rights of all Sudanese People."

The GoS has been talking increasingly in the last two years about changes, pointing to a series of reforms planned and gradually implemented in areas such as freedom of expression, freedom of association, legislation and the structure of the state institutions. Translating promises of progress and changes into reality has perhaps never been more urgent. The country and its people face a series of overwhelming challenges, related not only to the peace process and human rights concern, but also to the

deteriorating socio-economic conditions, the emerging new conflict in Darfur and the imminent danger of a new conflict that could erupt in Eastern Sudan.

Some of the initiatives taken by the GoS last year with the intention of improving the human rights situation in the country contains some positive elements, these included:

- On 12 August 2003, President Omer al-Bashir, issued a Decree 'officially' lifting the censorship on newspapers, which was under the jurisdiction of the National Security Agency (NSA). This move was welcomed by SOAT. The Decree has transferred the power of censorship to the National Press Council, which has got no such powers in its mandate. However, this seemed to be a moot point as activities against the press continued to be conducted under the NSA less than three weeks after the issuing of the decree. It dictated its restrictions and powers on the media, again, through instructions and orders of what is allowed to be published and what information can be released.

- The release of political detainees from Kober Prison including the release of Dr. Turabi from house arrest

- Engagement of the Government in a dialogue with civil society organisations, particularly the Ministry of Foreign Affairs and the Ministry of Education. They participated in The Human Rights Education Conference organised by Khartoum Centre, SOAT and Ahfad University, in which the Ministry of Education adopted the recommendations and expressed the will to implement these recommendations

- The Presidential Decree on 31 March 2003 abolished the Special Court in Darfur. However, this positive step was undermined by the Chief Justice by introducing the Specialised Criminal Courts on 6 April 2003 instead. These courts follow the same special procedure as the Special Courts. Although the Specialised Criminal Courts are headed by a civilian judge and do allow legal representation, they only allow one week for an appeal (the normal Sudanese procedure allows for two weeks). They also follow special procedures in terms of evidence: for example foot prints can be accepted as evidence for conviction without other corroborating evidence and the evidence of co-offenders can be taken as acceptable evidence without other corroborating evidence. In addition the Court does not consider the remittance of the penalty where the offender has retracted their confession (when there is no other evidence) before the execution of the penalty. Confessions may be extracted as a result of torture and used as evidence leading to death

sentences, regardless of any retraction of the confession during the trial⁴.

- The steps taken by the GoS towards the ratification of the International Labour Organisation Convention, concerning the Prohibition and Elimination of the Worst form of Child Labour, as well as the recent steps towards the ratification of the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

However, none of these positive initiatives have been safeguarded and codified in national laws and legislations to ensure the protection of the people of Sudan from maltreatment, abuse and harassment. It has been observed that the government's authority is severely constrained and undermined by unaccountable secretive security establishments whose influence permeates decision-making in the country and who might dare to challenge the government's authority openly. This is combined with the government's repeated use of manipulative tactics, reluctance and relying on winning time for its survival.

There remains serious concern with the current human rights situation in the country, particularly with regards to Darfur where civilian population suffers what could be qualified as war crimes and crimes against humanity according to the International criminal court Statute, as already stated in the United Nations High Commissioner for Human Rights report on Darfur (8 May 2004). Darfur, a region that has traditionally suffered from massive underdevelopment, lack of infrastructure and resources, is now in the grip of a conflict that threatens the lives of many of its inhabitants. Hundreds of villages have been destroyed, populations forced to flee their homes to areas both within Darfur state and also to neighbouring Chad. Human rights violations have now grown to unprecedented levels. Special courts - which were convened under the premise of preventing murder and armed robbery - have in fact further aggravated the situation, since they fail to adhere to international human rights procedures or even basic standards of justice. Armed groups with no basic command and control structure terrorise local populations, committing rape, extra judicial killings, arbitrary arrests, robbery and arson. While there have been some reports of atrocities being committed by the rebel groups, the overwhelming majority of these violations still remains the responsibility of government forces and government sponsored militia groups. Civilians, who stand in the middle of this conflict, bear the overwhelming brunt of human rights violations; something which they have little means to defend themselves against.

Violation of Article 2

Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Discrimination against African tribes in Darfur

The UN fact-finding mission experts pointed out, on 29 March 2004 that " militias such as the Janjaweed, the Muraheleen and the Popular Defence Forces, encouraged by the Sudanese Government, are trying to forcibly remove the non-Arab segment of the local population. These reports say the victims are mainly from the Fur ethnic communities of the Masalit, Dajo, Tunjur, Tama and Zaghawas ".²

The FIDH and SOAT confirm those assertions and believe that the attacks and harassment of the Fur, Zaghawas and Massalit ethnic communities, are part of a policy of systematic and forced displacement of African tribes from the Darfur. Many examples of the harassment they faced are discussed in the present report in other sections.

Since April 2003, many cases of killings targeting particularly the Fur tribes have been reported :³

- in April 2003, 55 peoples were killed during the attack of armed militias on a Massalit market in Mulli village;
- in July 2003, 42 people were killed during an attack of government troops and Arab militas in Shoba East and Shoba West areas, belonging to the Fur; at least 36 people were killed in Kutum city by Arab militiamen;
- in August 2003, 30 villages belonging to Fur tribes were attacked;
- in September 2003, 22 civilians belonging to the Fur tribe were killed after the attack of Kaila village by armed militia 'Janjaweed';
- in October 2003, 22 persons were killed after the Janjaweed attack on Hallouf village
- in January 2004, armed forces and the Special forces attacked several villages next to Zalingy province, namely Sourra, Durgay, Yana Birina, Taringa, Jertaga, Dlaybaya and Kanary, killing at least 234 people; one week later, another assault of a Sudanese army officer killed about 200 people in the same province;
- in March 2004, 168 persons belonging to the Fur tribes were

arrested in Zaray, Fairgo, Tairgo and Kaskildo and were summarily executed in Delaij, Wadi Salih province;
- in April 2004, the bombing of Mahajrea village killed four civilians, belonging to the Zakhawa tribe.

Most of these killings have been accompanied by looting and burning of properties.

Many cases of torture directed at member of Fur tribes have also been reported⁴, as well as cases of arbitrary arrests.⁵

Violation of Articles 4 and 5

Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Killings in Darfur

On **23 April 2003**, armed militias, numbered around 150, attacked a traditional Massalit weekly market place in Mulli village. During the attack, 55 people were killed and 53 were injured; market stalls were reportedly burnt and horses and camel were looted, more than 500 donkeys were slaughtered and mutilated. The Massalit leaders claimed that two days prior to the attack, government security forces and police patrolled the Al Jenaina area and surrounding villages, confiscating weapons from Massalit members.

Following this attack a demonstration outside Al Jenaina town hall took place on Thursday 24 April 2003. However, the demonstrators came under attack by government forces leading to the killing of one person from the Massalit tribe, named Mohamed Abd Al Karim, and many reportedly injured.

On Friday, **24 July 2003** at 6pm alleged government troops and Arab militia, posing as government soldiers attacked Shoba East and Shoba West areas, belonging to the Fur tribes, leading to the destruction and depopulation of villages and considerable number of people displaced and lacking

food security and shelter. It was reported that more than 42 people were killed during the attack; most of them were elderly people. The houses were completely burnt and looted during the attack. The settled people on those villages were forced to leave their homeland during the agriculture season.

On **31st July 2003**, the rebel captured the Kutum city and after the withdrawal of rebel fighters from the city after 4 days, the Arab militiamen supported by a unit of the security forces, on horses' back and on camels, launched a brutal raid on the city killing people, looting and burning properties.

The following are some who reported dead:

- 1- Abdulrahman Fadhil Abdullah, about 39 years, Prayers' Caller at the central mosque.
- 2- Mohammed Ishaq Adam, about 35 years, Solider.
- 3- Ali Abdullah Ahmed Sircola, about 42 years, Mason.
- 4- Nouraddin Fadhil Hussain, about 41 years, Mechanic.
- 5- Abdulrahman Ali Sujoon, about 45 years, Driver.
- 6- Shattah Adam Ali Abu Kaka, Police Officer.
- 7- Mohammed Ahmed Kishito, about 50 years, Policeman.
- 8- Mohammed Adam Abakar.
- 9- Ali Suleiman, about 63, retired Cashier.
- 10- Al Sirr Ali Suleiman, about 42 years.
- 11- Three unidentified guests found dead in Mr. Ali Suleiman's house.
- 12- Three kids of Mr. Abdulrahman Abu Hanouna.
- 13- Saddiq Abdullah.
- 14- Mohammed Adam.
- 15- Ibrahim Adam.
- 16- Shareef Abdullah Shareef, Teacher.
- 17- Ahmed Abakar.
- 18- Yousif Al Hajj, Merchant.
- 19- Samar Mohammed Ahmed (female) 19 years, student.
- 20- Mohammed Hassan Hood, about 48 years, Farmer.
- 21- Mubark Khatir Abdulrasool.
- 22- Abu Bakar Khatir Abdulrasool.
- 23- Khalid Adam Bakheet.
- 24- Ali Abdullah Binaiyo.
- 25- Fat'he Mohammed Abdulrahman.
- 26- Mubark Abdullah Obied.
- 27- Ali Al Hajj Adam.
- 28- Ahmed Hussein Bakr, about 50 years, Merchant.
- 29- Zainuldeen Ahmed Khaleel, about 12 years, student.
- 30- Mohammed Adam Sabi.
- 31- Adam Ahmed Kambooti, about 58 years, retired Teacher.
- 32- Issa Suleiman, about 58 years, retired Teacher.
- 33- Abdulrahman Addoomah Adam, about 38 years, Teacher.
- 34- Ibrahim Deraig, about 40 years.

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- 35- Mohammed Abdulhameed, about 30 years.
36- Mohammed Abdulrahman Ahmed, about 33 years.

The following are injured, and being evacuated to be hospitalized in Al Fashir:

- 1- Ahmed Abu Badreeya.
- 2- Al Saddiq Doodah.
- 3- Mohammed Orobee.
- 4- Mohammed Abakar.
- 5- Ali Abdullateef.
- 6- Ibrahim Ahmed Khaleel.
- 7- Al Faki Ahmed Abdullah Hassan.
- 8- Seidi Tigani Adam Abakar.

Many are reported missing or forced to disappear. The above lists are not inclusive; as searching is still going on, and because of the instable security situation.

Moreover, the Arab militiamen looted the central market of Kutum and burned the shops. In addition, many people, especially the rich ones, lost their precious properties.

Consequently, on 10 August 2003, 15 vehicles arrived Al Fashir from Kutum, carrying people fleeing their

homes. Media was not given access to or permission to talk to the victims.

In the period between **14- 21 August 2003**, 30 villages belonging to Fur tribe were attacked by an armed militia wearing Sudanese soldier's uniform in Wady Salih province in western Darfur. The attackers killed at least 123 civilian and 6 other people were wounded.

On **4 September 2003**, an armed militia, 'Janjaweed' attacked Kaila village in eastern Jabel Marra region. The attack led to the killing of 22 civilians belonging to the Fur tribe.

On **4 October 2003**, the Janjaweed attacked Hallouf village in Nyala province, Southern Darfour state and killed at least 22 persons and injured 11 others. The victims are members of the Fur tribe. The Fur tribe leaders believe the government was involved in these attacks.

The names of those reportedly killed are as follows:

1. Alshaikh Adam Abdel Kaream
2. Issa Hessain

3. Adam Hessain
4. Abdella Abdel Kaream
5. Mohamed Hessain Abdella
6. Omer Mohamed Nour
7. Musa Hessain Ishag
8. Issa Mohamed Adam
9. Abaker Musa Mohamed
10. Idreas Argo
11. Mohamed Arbab Mohamed
12. Osman Issa Osman
13. Idreas Mohamed Abdella
14. Mohamed Musa Abdella
15. Hessain Mohamed Ahmed
16. Habeab Adam Mohamed
17. Mohamed Abaker Haroun
18. Abdel Rahman Abaker
19. Shayib Firro
20. Ahmed Abdella Altahir
21. Musa Yagoub Nour Aldean
22. Jawahir Mohamed Adam (F)

As a response to the Janjaweed attacks, the Justice and Equality Party attacked Kulbos town, in western Darfour state, and killed at least 23 soldiers from the army forces. The attack was took place on **5 October 2003**. They accused the government of supporting the attacks against Fur, Masaleat and Zaghawa tribes, and finally against, Dajo tribe.

Between **1- 8 January 2004**, the armed forces and the Special Forces, who are staying in Zalingy and Nertati cities, attacked several villages belonging to the Fur tribe (30 kilometers east of Zalingy province). It was reported that at least 234 people were killed and 900 houses were burnt and destroyed. The details of the villages attacked are as the follows:

- 1/ Sourra:- 106 person were killed and 384 houses were burnt
- 2/ Durgay:- 15 person were killed and 150 houses burnt
- 3/ Yana Birina:- 27 killed and 200 houses burnt
- 4/ Taringa:- 7 killed and 250 houses burnt
- 5/ Jertaga: 60 houses burnt
- 6 Dlaybaya: 8 killed and 150 houses burnt
- 7/ Kanary: 9 killed and 200 houses burnt

Between **16 and 22 January 2004**, Sudanese Army officer, Ahmed Alrizeigi, led an assault, composing of armed militia and government forces from Nertati town, on 15 Fur tribe villages in the Zalingy province. Approximately 200 people were killed and tens wounded, more than 3,500 houses were

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burnt and at least 30,000 people were displaced in these attacks. The people fled to Zalingy town and Nertati town where they are now living in camps (school grounds) inside the towns. The 15 villages attacked are named as follows: Shawa, Campo Apor, Hilat Baida, Mercino, Dankoj, Kilmo, Jertinga, Thouru, Kouja, Cayo, Taringa, Maseb, Dirgay, Biringa, Shawa Kabira.

Officers from military intelligence and militia leaders (Janjaweed) arrested 168 people all belongs to the Fur Tribe, **5 - 7 March 2004**, and then summarily executed them at security offices in Delaj, Wadi Salih province, Western Darfur State. The arrests took place in the villages of Zaray, Fairgo, Tairgo and Kaskildo, all south of Garsilla, Wadi Salih province. They were detained for alleged involvement with the Sudan Liberation Army (SLA) and taken to the security offices in Delaj, a village 30 kilometres east of Garsilla town, Wadi Salih province. During their detention the 168 people were allegedly subjected to torture and summarily executed by firing squad. SOAT has received information that they were executed outside of the judicial process and were not given their rights as guaranteed by Sudanese law.

Below are the names of some of the people who were executed (118).

A) People from Zaray village:

1. NASREL DEAN AHMED ABDEL RAHMAN
2. IDREAS AHMED ABDEL RAHMAN
3. ISMAEAL MOHAMED DAWOOD
4. NOUR ALDEAN MOHAMED DAWOOD
5. ABAKER MOHAMED ISSA
6. OMER ADAM ABDEL SHAFI
7. MOHAMED AHMED MOHAMED KHAMIS
8. OMER SIDEAG ABAKER
9. MOHAMED ABAKER ATEAM
10. ABDELLA ABDEL RAHMAN
11. MOHAMED ADAM ATEAM
12. ABAKER SALIH ABAKER
13. ADAM YAHYA ADAM
14. ISSA ADAM
15. ISHAG ADAM BILAL
16. SIDEAG ABAKER ISHAG
17. SHAYIB ADAM ABDEL MAHMOUD

B) People from Fairgo village:

1. MOHAMED MOHAMED ADAM
2. ABDEL MAWLA MUSA

3. HAROUN AHMED HAROUN
4. MOHAMED SIDEAG YOUSIF
5. BAKOUR SOULEIMAN ABAKER
6. IBRAHEAM AHMED
7. MOHAMED BOURMA HASSAN
8. MOHAMED ISSA ADAM
9. ZAKAREA ABDEL MAWLA ABAKER
10. ADAM MOHAMED ABU ALGASIM
11. ADAM ABDEL MAJEAD MOHAMED
12. OMDA: ADAM ADAM DEGAISH
13. KHALEEL ISSA TOUR

C) People from Tairgo village:

1. IDREAS ADAM AHMED
2. YAGOUB ADAM AHMED
3. ALFAKI HAROUN ADAM ISSA
4. SHAREF ALDEAN SALIH MUSA
5. SHAREF ALDEAN ABAKER ABDEL KAREAM
6. MOHAMED IBRAHEAM ARMAN
7. MUSA TAHIE IBRAHEAM
8. MUSA MOHAMED YAHYA
9. JIBREAL MUSA MOHAMED
10. YAHYA ABDEL KAREAM ABDELLA
11. ADAM ABDEL KAREAM MOHAMED
12. ADAM MOHAMED IDREAS
13. ADAM ABDEL MAJEAD MOHAMED
14. ABDEL RAZIG ADAM ABEL MAJEAD
15. FADOUL ADAM HAMID
16. ISSA HAROUN ADAM
17. YAGOUB MOHAMED YAGOUB

D) People from Kaskildo village:

1. ISHAG AHMED ISHAG
2. ISSA HAROUN ISMAEAL
3. NOURAIN IDREAS ADAM
4. ABDEL MAWLA HAROUN IBRAHEAM
5. MOHAMED YAHYA HUSSAIN
6. SALIH YOUNIS MOHAMED
7. HAROUN MOHAMED HAROUN
8. SOULEIMAN AHMED HASSAN
9. MOHAMED ISSA HAROUN
10. IDREAS HASSAN YAHYA
11. MUSA ADAM ABDEL MAWLA
12. ABDEL MOUMIN SALIH
13. ABAKER ISMAEAL
14. MUSA ABDEL GADIR
15. OMDA: MOHAMED SOULEIMAN ABDEL SHAFI
16. OMDA: GANTOUR

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17. ADAM ABDEL RAHMAN
18. ISMAEAL ABDEL AZIZ
19. YAYA AHMED ZAROUG
20. MOHAMED OMER AHMED ZARUOG

E) People from Kirting village:

1. HASSAN ISMAEAL DAWOOD
2. ALHADI ADAM ABDEL KAREEM
3. FADOUL ADAM HAMID
4. ADAM ABDEL MAJEED
5. ABDEL RAZIG ADAM ABDEL KAREEM
6. ISSA HAROUN
7. YAGOUB MOHAMED
8. ABDEL RAZIG ABAKER
9. ALHAJ SALIH HASSAN
10. FAKI SALIH ABDEL KAREEM
11. MOHAMED BAHER
12. FAKI ISMAEAL SOULEIMAN
13. FAKI ADAM ABDELLA
14. ADAM ABAKER ISSA
15. FAKI ABDELLA KERRY

F) People from Kuso village:

1. HUSSAIN ABDELLA
2. SAYYID ABDELLA MUSA
3. MOHAMED SALIH
4. ISMAEAL
5. MUSA YOUSIF
6. ABAKER HUSSAIN
7. YAYA YOUSIF
8. FAKI YOUSIF TAGALAY
9. IBRAHEAM ADAM SOULEIMAN
10. AHMED ISHAG

G) People from Gaba Village:

1. OMDA: JIDDO KHAMEAS ABDEL KAREEM
2. ALSHAIKH: ZAKAREA ABAKER ADAM
3. MOHAMED ADAM MOHAMED BAHER
4. ADAM MUSA YOUSIF
5. HAMZA HUSSAIN ISHAG
6. ABDEL KAREEM HUSSAIN ISHAG

H) People from Sogo Village:

1. FAKI HAROUN ABDEL RAHMAN
2. YAHYA ABDEL KAREEM RIZIG
3. MUSA AHMED YOUSIF

4. JIBREAL MUSA AHMED
5. IDREAS ADAM AHMED
6. YAGOUB ADAM AHMED
7. MUSA ALTAHIR ADAM
8. MOHAMED IBRAHEAM NASOUR
9. SHAREF ALDEAN ABAKER YAHYA
10. SHAREF SALIH

I) People from Masa Village:

1. ABDELLA ADAM ABDEL RAHMAN
2. ADAM YAHYA
3. ABDELLA MUSA
4. ADAM ADEL RAHMAN ISHAG
5. ALSHAIKH ISMAEAL
6. OMDA: MOHAMED SOULEIMAN
7. OMDA: ADAM HUSSAIN
8. OMDA: AHMED GANTOUR
9. OMDA: YAHYA AHMED ZAROUG
10. MOHAMED OMER AHMED ZAROUG

J) People from Um Jammaina Village:

1. ALSHAIKH ADAM ABAKER RIZIG
2. MOHAMED ABAKER DAWOOD
3. MOHAMED SALIH
4. YAHYA YAGOUB IBRAHEAM
5. ADAM YAGOUB IBRAHEAM
6. OSMAN YOUSIF
7. ADAM HUSSAIN
8. HAROUN SOULEIMAN
9. ADAM SALIH ALI

The armed forces bombed Mahajrea village, **4 April 2004**, east Nyala, Southern Darfur State. The military bombed the village using two Helicopter gunships and one military plane (Antinov). At least four civilians have been killed with one civilian wounded. The aerial bombardment took place between 3: 30pm and 7: 30pm. The victims of this bombardment have been named as:

1. Student Yagoub Adam Hussain Omer, 15 years, from the Zakhawa tribe (killed at the scene).
2. Student Fawzi Issa Hassan Omer, 18 yrs, from Zakhawa the tribe (he was taken to Nyala hospital but he died, 4 April 2004, at 5 o'clock in the evening).
3. Farmer Abdel Kareem Toubaya, 67 yrs, from the Zakhawa tribe (killed at the scene).
4. Student Abbas Adam Jouma Bakheat, 15 yrs, from the Zakhawa tribe (killed at the scene).

5. Farmer Dossa Khatir Doud, 32 yrs, from the Zakhawa tribe (wounded and taken to Nyala hospital where he is receiving medical treatment).

Other killings, police and military brutality⁶

At 9 am on **2 June 2003**, 6000 army personnel and 1000 riot police officers along with a convoy of 6 tanks and a number of military bulldozers began to demolish the village of Al-Ghariyya, north of Omdurman in Sudan. Eight villagers were killed in total, including a woman and her child who were crushed under the rubble at the time of the child's birth.

It is understood that the army took these steps because they were promised that the same land, which happened to be located near a military base, would be allocated to them in plots on which they could build new houses. Despite a statement issued by the Ministry of Justice ordering an immediate cessation of the demolition process, the army chose to overlook this.

The inhabitants of Al Ghariyya, numbering 26,000 inhabitants, attempted to oppose the destruction of their village, which led to the death of 2 military officers in the clashes which ensued between both sides. Since this time, the people of Al- Ghariyya have erected tents in place of their demolished houses and they have been informed that they must not try to rebuild. 13 villagers are still missing to this date.

Death sentences

There has been evident increase in the number of reported cases of those sentenced to death. Also of serious concern is the number of minors sentenced to such crimes is on the rise. Between March 2003 and March 2004, SOAT received reports of 71 people convicted and sentenced to death, of which 10 people death sentences were carried. There are many more cases that have not been reported. Many of those prosecuted have predominantly been from Darfur under the Specialised Courts, setup in March 2003 to replace the Special Courts. There has also been concern over their treatment, where many have been allegedly tortured to extract confessions. Also there have been a considerably large number of cases where the defendants had no legal representation and their right to appeal was neglected.⁷

In Darfur the death penalty was applied on convictions of Murder or /and Armed Robbery (Hiraba) in the Special and Specialised Courts set up to contain the worsening security situation in the region and counter the increase in small arm

proliferation and armed robberies and attacks .

On **26 April 2003**, 24 people belonging to the Arab tribes of Darfur were sentenced to death by hanging after being convicted of armed robbery (Hiraba) under Articles 168 130, 139, 182 and 175, of the 1991 Penal Code, which states that the punishment for armed robbery (Hiraba) is death and death followed by crucifixion if the act resulted in murder or rape. They were tried in the Special Court, Number One, in Nyala, in south Darfur province. One man was fined 5 million Sudanese Pounds by the Special Court and one child was sentenced to three years imprisonment and was referred to a children's reform centre.

On 8 May 2002 the Special Court in Nyala sentenced five men to death followed by crucifixion after convicting them under article 168 of the Penal Code (Hiraba). An appeal was lodged by their lawyers on 11 May 2002; the Appeal Court confirmed the sentence on 19 December 2002 and against this judgment, another appeal was lodged in the Supreme Court in Khartoum on 21 April 2003. The Supreme Court confirmed the sentence and on 25 September 2003 the punishment was carried out. The punishment was carried out despite the fact that the defendants had the right to have the decision of the Supreme Court reviewed by the Constitutional Court. Their names are as follows: Ahmed Jouma Mohamed, Adam Abdella Mohamed, Habeab Ali Abdel Gadir, Mohamed Abaker Nour, Khaleal Tahir Bashir. The five men were accused of armed robbery between Aldeain and Abu Soufyan village and murdering seven people on 28 August 2001.

On **29 September 2003**, the Criminal Court in Nyala sentenced Mohamed Ahmed Mohamed Arbab, 64 years old, farmer, to death by hanging after being convicted under article 130 (murder) of the Penal Code (1991). An appeal was submitted to the Appeals Court in Nyala on 5 October 2003. He was also sentenced to 40 lashes before the same court after convicted under article 78 (drinking alcohol and nuisance) of the Penal Code, the sentence was carried out on the same day as the judgement.

On **13 October 2003**, Nyala Criminal Court sentenced 14 men and one woman to death by hanging. They were convicted under articles 167 and 168 for Armed Robbery (Hiraba) and article 130 for Murder of the Penal Code (1991). They were accused of attacking two villages, Jukhma and Jebra in Darfur, and the killing of at least eight persons belonging to the Fur tribe. The attackers are from an Arab tribe. The alleged attack took place on 15 May 2003 and they were arrested on the 26 May 2003. They were detained in Shala prison prior to their conviction.

On **3 November 2003**, Nyala Criminal Court sentenced three men to death by hanging after convicting them for murder under Article 130 of the Penal Code (1991). Their details are as follows: Masar Ahmed Ishag, 37 yrs, nomad, was arrested on 2 February 2003 from Lawea village east Nyala town from his house, Jali Adam Ahmed, 18 yrs, nomad, lived in Kirokirro, was arrested on 1 February 2003 from Krikiro market; Musa Hamid Ahmed, 20 yrs, lived in Kirokirro, was arrested on 2 February 2003 from Lawea village.

The three men were detained at the police station in Lawea, and then were transferred to Nyala prison on 8 February 2003. They men were accused of killing a man from Omgldan village, 30 kilometres west of Lawea, on 1 February 2003. The three men appeared before the criminal court in May 2003 and were sentenced on 3 November 2003. There was no lawyer representing them during the trial.

On **22 November 2003**, 7 people were tried for an attack on a village belonging to the Reziegat tribe on 1 July 2003. Abd Allah Agai Akouj, 24, from the Dinka tribe and a herdsman working for the Ma'alia in Southern Darfur state was sentenced to death, the other six were acquitted. Information received confirmed that that Mr. Akouj was severely tortured during his detention.

Five men, belonging to the Missairiyah tribe, were sentenced to death by hanging on **12 November 2003**, under article 130 of the Penal Code (1991), for allegedly murdering Mr. Jido Ibraheam, a Ta'ayshah tribe member; They are: Dirdima Bushra Hatala, 27 yrs, Adam Yaseen Mohamed, 26 yrs. Abdel Kareem Ahmed Hido, 22 yrs. Saad Ahmed Mohamed, 29 yrs. Burma Abdel Rahman Masar, 30 yrs. They were allegedly tortured.⁸

On **29 December 2003**, Nyala Criminal Court sentenced Sanousi Alhaj Ismaeal, 27 yrs, merchant, from Hey Alwihda in Nyala, to death by hanging after convicting him for murder under Article 130 of the Penal Code (1991). He was accused of killing a man in Hey Alwihda on 18 August 2003 and was arrested on 30 August 2003. He was allegedly tortured by police officers in Nyala Janoub (south) Police Station. He stated that they beat him and flogged him to extract a confession from him but he refused. In September 2003 he was transferred to Nyala prison and remained there until 29 December 2003, the date of the judgment. He was not represented with a lawyer during the trial.

On **31 December 2003**, Nyala Criminal Court sentenced Issa Ismaeal Sabeel, 27 yrs, farmer, from Mahajrea, to death by hanging after convicting him of murder under Article 130 of

the Penal Code (1991). He was arrested in August 2003 from Labado village for drinking alcohol (Article 78 of the Penal Code, 1991) and was detained in the police station in Labado. He was later transferred to Nyala prison on 15 August 2003. He was accused of killing a policeman in Labado police custody and appeared before the court on 30 August 2003.

Nyala Criminal Court sentenced, **31 March 2004**, two men to death by hanging under articles 130 and 175 of the 1991 Penal Code. They were accused of murdering and robbing Mr. Ahmed Haroun in Almalwi, south Nyala. The murder took place on 18 May 2003, the two men were arrested on 19 May 2003 from Dito village, Bouram province, and the trial began on 22 March 2004. The two men are named as:

1. Habeeb Mohamed Ahmed, 28 yrs, Farmer lives in Dito
2. Sideag Abaker Ead, 23 yrs, Farmer lives in Dito

SOAT has received confirmed information that 9 people's appeals against their death sentences and 1 person against their cross amputation, at the Supreme Court in Khartoum, have not been unsuccessful and the Supreme Court approved the initial Specialised Criminal Court's convictions. They are now at risk of execution without the right for further appeals. Below are their details:

- Omer Alajib Jobara, convicted of Murder under Article 130 of the Penal Code (1991). Sentenced to death on 17 March 2003 before Aldeain town Criminal Court, the Appeal Court confirmed the sentence on 29 April 2003

- Ibraheam Dawood Abdelrahman convicted of Murder under Article 130 of the Penal Code (1991). Sentenced to death on 17 May 2003 before Nyala Court, the Appeal Court confirmed the sentence on 12 July 2003

- Abdelraheam Omer Zakaria convicted of Murder under Article 130 of the Penal Code (1991). Sentenced to death on 17 May 2003 before Nyala Court, the Appeal Court confirmed the sentence on 12 July 2003

- Ibraheam Yahya Yagoub convicted of Murder under Article 130 of the Penal Code (1991). Sentenced to death on 29 May 2003 before Bouram Court, the Appeal Court confirmed the sentence on 15 July 2003

- Hassan Shigaf Ali convicted of Murder under Article 130 of the Penal Code (1991). Sentenced to death on 8 June 2003 before Nyala court, the Appeal Court confirmed the sentence on 12 July 2003

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- Ibraheam Mohamed Hussein convicted of Murder under Article 130 of the Penal Code (1991). Sentenced to death on 8 June 2003 before Nyala court, the Appeal Court confirmed the sentence on 12 July 2003

- Bilal Hamid Alhabu convicted of Murder under Article 130 of the Penal Code (1991). Sentenced to death on 30 September 2003 before the Aldeain Court, the Appeal Court confirmed the sentence on 4 December 2003

- Ibraheam Ahmed Omer Abaker convicted of Murder under Article 130 of the Penal Code (1991). Sentenced to death on 30 September 2002 before Kass Court, the Appeal Court confirmed the sentence on 28 June 2003

- Mustafa Adam Abdella, sentenced to death on 27 March 2003 before Nyala Court

Torture, cruel, inhuman and degrading punishment and treatment (amputation, cross amputation, lashes)

Even though the prohibition of torture is provided for in the Constitution, no national law criminalises torture. On the contrary, according to Article 10(1) and 10(2) of the evidence law, evidence obtained by illegal means is legal and could be used in Court. This article implies that evidence obtained by torture is legal and would somehow thus "legalise" torture.

The number of reported cases of torture or alleged torture and ill treatment in Sudan has considerably decreased over the past year. However, the practice continues. The act of torture, in most cases, is carried out by security officers and

other government forces, particularly the military intelligence and the various police forces against persons in police custody. In some cases, torture was carried out by groups supported by the GoS (militias in Darfur or students helping the security forces to control any opposition within the student movement). Generally, torture is used to extract information and confessions, which can be used to prosecute the victim in court regardless of their claims. Certain groups have been increasingly targeted and subjected to torture, which are predominantly persons associated with the events in Darfur and students. However, persons from other groups are also at risk and have been subjected to torture. There is another serious concern over the increased number of people who have been sentenced to death, amputation and cross amputation and other inhumane and degrading punishment (for further details see section on death penalty and amputation).

A number of individuals are identified as perpetrators of human right violations, but at the time of writing no investigations into allegations were initiated. However, pressure on the Sudanese government has forced it to contain the use of torture and so the climate of impunity amongst perpetrators is diminishing.

Between March 2003 and March 2004, SOAT received reports that two sentences of cross amputation have been carried out. Many more cases that have not been reported.

Methods of torture

Below are reported types of torture practiced in Sudan over the period of this report:

Flogging with water hoses	Solid metal objects/ mouth of a bottle inserted into the anus	Beating with iron bars
Solitary confinement	Slashing of the skin with sharp blades	Burning with hot metal poles
Cold water poured when sleeping	Threats of rape against the victim	Burning with cigarettes
Beating about the head and eyes	Crushing of testicles	Death threats against the victim and his/her family
Beating of the genitals	Beating with sticks	Deprivation of medical treatment
Beating with guns	Whipping with a leather whip 'Sot'	Splashing with chemical solution which burns the skin, i.e. acid

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Cases of violations⁹

This is the statement given by 38 year-old woman showing the type of treatment suffered in prisons in Sudan in **1999**, below she describes her ordeal with her young child:

'The police arrested me and took me to the police station accusing me of theft. I was detained at the police station for fourteen (14) days. I was in miserable conditions; I slept on the ground, was denied food for long periods, and was forbidden to use the bathroom. After the fourteen (14) days of detention at the police station I was moved to the women's prison in Nyala, where I stayed for thirty-five (35) days without any trial.

In the women's prison the treatment was very bad. I and my twelve (12) month old baby were forced to sleep on the ground in a crowded prison ward that accommodated around sixty (60) women prisoners. The food was served only twice a day, and was of a very bad quality. My young baby was not provided with any food except that given to me. No milk or sugar was available for my baby which affected her health and caused drastic weight loss. No medical care was given to my baby either.

In prison I was subjected to daily beatings and whippings all over my body by the female prison guards. They did this for trivial mistakes or sometimes no reason at all. They used harsh measures like pulling my hair and slapping my face. These beatings were painful and cause me to have headaches, dizziness, and cuts. One day whilst I was cleaning my clothes I was attacked by three (3) of the female guards who held me on the ground and poured "shutta" chilly pepper liquid (approximately one (1) litre) down my throat, my anus, and my vagina. After they had done this they left me and carried on as if nothing had happened. Because of this sad incident I have serious ongoing health problems still to this day.

Another time, whilst I was praying, one of the female guards hit me in the head with a heavy stick causing me to lose consciousness. I was taken back to the prison ward in a bad condition. Despite suffering pain and agony due to my bad condition I was given no medical care or treatment. Still to this day I suffer from recurrent loss of consciousness, severe headaches, and paralysis to the lower part of my body.

One week after this incident my case was heard by the court and I was acquitted on all charges and released. Now I continue to suffer from other recurrent pain, in addition to my

paralysis, including; headaches and pains in my eyes, general weakness, insomnia, and anxiety. Also, I do not defecate in a normal way'.

In **early April 2003**, the Military Secret Service arrested the following persons from Zalingy: Adam Ahmed Abu Jamal (m), 50yr, Zalingy, Fur tribe, Abd Al Gader Salim Barakat (m), 25yr. There are allegations that they were subject to torture.

Five men, belonging to the Ta'aisha tribe were arrested on **1 April 2003** at the Rehaid Albirdy police station and transferred to Nyala prison on 23 July 2003 until the convening of their trial at a criminal court in Darfur. It was during detention at the police station that they were allegedly subjected to torture. This alleged torture included being beaten with sticks on their arms and legs, being flogged with a water hose, having their testicles crushed, being cut by knives, and mouth of a bottle being inserted into the anus. They have been named as: Dirdima Bushra Hatala, 27 yrs, Adam Yaseen Mohamed, 26 yrs. Abdel Kareem Ahmed Hido, 22 yrs. Saad Ahmed Mohamed, 29 yrs. Burma Abdel Rahman Masar, 30 yrs. The alleged torturers were named as: Musa Easa, Salah Eldin Shukry, Mounas Bashar, and Tigany (a policeman and investigator).

On **29 April 2003**, 3 people belonging to the Salamat and Reziegat tribes were arrested in Yaseen village, east of Nyala, charged with armed robbery (Hiraba) under article 167 of the Penal Code, have been subjected to torture to gain information. Their names are as follows: Yousif Haroun Helu, 23yrs, Salamat tribe, donkey trader, Adam Ebaid Abdella, 25yrs, Salamat tribe, donkey trader and Adam Bakheat Adam, 30yrs, Reziegat tribe, farmer.

Below is the testimony of Ahmad Mohammedin Waadi, a 35 year- old self-employed owner of a pharmaceutical store. He was arrested from his shop in Maleet on **6 May 2003** and later set free on 18 May:

" I was arrested by about 14 members of the Security Forces who came in a pick- up truck. They searched the shop and confiscated some vitamins. The President of the Security Forces was called Said.

They drove me to their offices in Maleet, where they interrogated me as to whether I had any relationship with the SLA . They claimed that I got into their vehicle and had described the government establishments to them. There was no opportunity to defend myself against these accusations when we were at the military base in Maleet.

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They took me to a room which was 3m x 3m in size. There was only one person, by the name of 'Abdallah 'Ali. In the room, they tied me up. They tied my hands behind my back and began to beat me. Five people participated in my beating with whips and electrical wires, punching and kicking me until I passed out. They continued to beat me randomly for a quarter of an hour, until I came to. Then they resumed beating me once again. During the beatings they swore at me and cursed. They threatened to rape my wife and sisters and they humiliated me. They poured water on my wounds, where they had beaten me. This continued for two days.

I remained at the Maleet barracks for two days altogether. Throughout this time, I only left the cell once in order to go to the bathroom. They used to bring us food sandwiches twice a day and water constantly. At the end of the two days, they took me to Al- Fasher City's Military Intelligence buildings, where I remained in a relatively large 5m x 5m cell for three days.

We came across a group of 11 people there. The beatings at the hands of the military intelligence were irregular. They would beat us if we made any request- for example if we needed to use the bathroom they would whip us between about 10 to 15 times. The same would happen if we asked for some water. The humiliations were constant and it reached a point where I was threatened with rape.

There were three others in my cell at Maleet:

- 'Abdallah 'Ali (f)
- Idris Hamed (f)
- Ibrahim Mustafa (f)

'Abdallah, Idris and I were deprived of sleep. They would ask us to sit and stare at the walls.

After three days with the El- Fasher Military Intelligence, they transferred us to the military prison. At the moment we arrived there, each one of us endured between 10 and 15 lashes of the whip. Then they put us into two cells 4m X 4m in size.

Our cell had 5 people other people in it already, so we totalled 8 people altogether. We spent 7 days in the military prison, during which time the whipping ceased. The ventilation was poor, we had one light and we were allowed to go to the bathroom once a day. We were fed twice a day- a meal which consisted of some water, bread and salt. The water was rationed to two cups a day. We had no change of clothes or washing facilities.

As a result of the beatings I sustained on my face and back, I am currently receiving treatment for pain in those areas. One of the people with me- 'Abdallah 'Ali- was tortured by beating him on the head and forehead. His wounds became infected and his forehead swollen after they beat him with a water-pipe on his forehead. He was released at the same time as us. They told him to go straight to Maleet, where he lives in the district of Tadaamun. He works in Mohammad Hamed's garage there.

Idris Hamed was also with me. He was beaten with a stick until his hand was broken. "

On **19 May 2003**, five men from the Nuba Mountains were arrested and detained by National Security Agency (NSA) officers in Dongola, Northern Sudan. They have been named as: Awad Ibrahim Qamar; Jum'a Omar; Abu Nagi El- Amin; Jum'a Mahmoud; Ramadan Ismail. NSA officers arrested the five men from Mr. Qamar's house and disrupted a meeting that was taking place. The men have reportedly been accused of being traitors and attempting to incite the people of the Nuba against the Sudanese government.

Security officers participated in the torture of Mr. Jum'a using instruments such as a water pipe, an electric wire and a stick. Acid was also thrown onto his body. He was subsequently transferred to the Kidney Unit of Khartoum Hospital on 23 June after his health deteriorated and to the Abdominal Unit on 26 June. Later on the same day, Mr. Jum'a fell into a coma and was taken to Intensive Care.

Mr. Awad Ibrahim Qamar, a graduate and a restaurant employee, was also severely tortured. According to NGO reports Mr. Awad died after 24 hours in custody. Mr. Awad's body was sent to his family and received by the tribal leaders. There was no medical assessment or a post mortem examination.

Shazly Abd Alfattah Ibrahim (m), is a 21 year- old student at AL-Nilein University. He is in his third year of a law degree and lives in the Kalakala district of Southern Khartoum. His political affiliation is with the Democratic Front. He was arrested on Wednesday **28 May 2003** at midnight from east Kalakala Street:

" A police patrol comprised of 6 police officers stopped and searched me. They found some documents belonging to the Democratic Front. I was arrested and taken to a house somewhere in between May Street and East Kalakala Street in a pick- up truck. They held me there from Friday 28 May

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until 31 May. During this period, I was interrogated and subjected to severe torture.

They beat me with electric cables on my legs and other parts of my body and they used a wire to strangle me.

On Saturday 31 May at 9am, I was transferred to a National Security Agency (NSA) building on University Street where I remained until half past one in the afternoon. Then they moved me to the political section of the NSA buildings near Farough cemetery, where I was tortured by 4 security officers. They beat me with sticks on my legs and on the soles of my feet. They bashed my head against the wall until I collapsed, unconscious. Later they moved me, once again, to another building in the 'Amaraat area- only I can't remember what the time was. They kept me there until 2 June, when I was released.

I was specifically instructed not to visit a doctor or to contact any human rights organisations, otherwise I would be arrested again. Upon my release, however, I did go to a doctor who examined me and issued me with an 'Ornake 8' form ".

SOAT has obtained a copy of this medical report which is used for reporting incidences of torture and in this report, Dr. Ahmad Hamad confirms the extent of Shazly's injuries. It states that his right foot was swollen,

that injuries were sustained to his nose and left leg. He sustained severe bruising on his back and forehead, as well as cuts and bruises to his left ear. An x-ray which was carried out on his right leg indicated that there was no fracturing. His condition was considered stable, with no further complications.

Mohamed Ishag Mohamed, convicted of Armed Robbery (Hiraba) under Article 168 of the Penal Code (1991), was sentenced on **31 May 2003** to cross amputation before Kass Court. He is therefore at risk of cross amputation without any right to appeal the decision of the Court.

On **1 June 2003**, 15 year-old Aziza Salih Adam (f) was sentenced to 30 lashes of the whip by the District Court (*Mahkamat Al-Muhafiza*, formerly known as the Public Order Court, *Al-Nizam Al-'Aam*) in Nyala, Western Darfur. Aziza, who works as an assistant to street-vendor selling tea in the Wehda district of Nyala, received this sentence for not wearing socks to cover her feet. The punishment was carried out on the same day as the sentencing. Aziza was arrested from the street where she was working by the Police for

Community Security (Police Amn Al-Mujtama'). According to regulations, all female street-vendors (especially those selling tea and food) must wear socks to cover their feet. In her defence, Aziza explained that she could not afford to purchase socks.

On **4 July 2003**, Sudanese armed forces arrested 45 people of the Ma'alia tribe in Adila province, in southern Darfur state. They were arrested from Adila town and from neighbouring villages. The leader of the team which carried out the arrest, Mohamed Alhassan Ali Alimam, is a high ranking officer (Major) (*Amead in Arabic*). They were transferred to Nyala prison on 6 July 2003. The 45 men were accused of attacking a village belonging to the Reziegat tribe on 1 July 2003 and the killing of at least seven people from the Reziegat tribe. Both tribes are Arab.

The detainees were badly treated during the arrest, and eight of them were subjected to torture by the armed forces. Two of those who were subjected to torture are: Hassan Mohamed Esmaeal and Altayib Yousif Ajeeb. They had solid metal objects inserted into their anus and were beaten by sticks.

On Tuesday, **12 August 2003**, the security forces in Kass town arrested 24 men from the Fur tribe, some of them are currently detained at security forces office in Kass and the others are in Nyala prison. They have reportedly been tortured and five of them are badly injured.

The detainees at security forces office in Kass are as follows:-

1. Abdel Aziz Abdel Kabear
2. Adam Hessain Mohamed Fadil
3. Adam Salih
4. Mohamed Osman Albasha
5. Musa Mohamed
6. Adam Daw Albait tor
7. Ali Musa Bakara
8. Ahmed Abdel rahman Madany
9. Mahdy Yagoub

The detainees at Nyala prison:-

1. Alhady Ishag
2. Abdel Aziz Ahmed Musa
3. Ammar Mohamed Ahmed
4. Ahmed Abdel rahman Shabab
5. Hashim Abu Albasher
6. Ishag Izz Aldean Ibraheam
7. Yahya Abdel Jaleal

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8. Mubarak Yagoub Falih
9. Esmaeal Mohamed Haroun

The following men are seriously injured, they have been send to the hospital on Tuesday, 19 August 2003, following a request by their lawyers to the governor of Darfour to get medical treatment and the doctor confirm the injuries. The request for medical attention was submitted on Thursday, 14 August 2003, they received medical attention and were taken back to the prison on the same day. They have suffered considerable injuries, specifically on their backs and legs, which are consistent with signs of torture.

1. Easa Forry
2. Nour Aldean Jibril
3. Abu Algasim Tilib
4. Mohamed Adam Tor
5. Tigany Abdella Mohamed

The five men are currently at Nyala prison but specify that their torture took place in Kass.

On **22 November 2003**, 7 people were tried for the attack. Abd Allah Agai Akouj, was sentenced to death, the other six were acquitted. Information received confirmed that that Mr. Akouj was severely tortured during his detention.

On **28 July 2003**, Yousif Albashier Musa, 40 years, a journalist, was arrested by the security forces. Below is a statement of his ordeal:

'I had issued a public statement opposing/ I had written an article condemning the declaration made by the Wali of Darfur (state governor); the statement/article was related to the incidents occurring/ security situation in Darfur.

On the 28 July 2003, security force members came to my house; they forced me in to a car, a Land-Cruiser, and took me to security offices in Nyala city. I was brought before a lieutenant called Faisal who interrogated me. He was questioning me on my relations with the British Embassy and the British Ambassador, also, my sources from which I obtained information about the Wali and the situation in Darfur. During the interrogation he was threatening me boasting of their power to do whatever they want to do to me.

Afterwards, they locked me in a room measured one meter by a meter and half. The room was absolutely empty, the floor was dirty and lots of mosquitoes swarming in the room. The light and ventilation in the room was very poor, there was no

lamps or windows to allow some light to enter the room.

I spent thirteen days in this room I was not allowed to meet any of my family or friends. They provided me with two meals per day, one in the morning and one in the evening, consisting only of foul fava beans sandwiches and water in a plastic bottle. I was completely forbidden from taking a bath. I was allowed to go to the toilet only once a day and sometimes twice a day, I noticed that this was subject to the officers moods. I was torture in the cell during the investigation more than once.

On the second day of my arrest they conducted an investigation with me and at 11 pm two persons came to my cell one of them named Ahmed Musa, nicked name 'albahish'. They forced me into a car and headed towards the Security Headquarter of the State. I was taken to an office where I found a brigadier named Saber waiting for me and left me there alone with him. He stood up and swiftly slapped me on my face, and he began shouting verbal abuse at me and slapped me twice on face. He called in one of his officers and asked him to prepare a room for me. They pulled me to the room which full of sticks, irons bars and ropes; they tied my hands behind my back, my legs were tied in front of me. They pulled my trouser down to my knee and unfasten my shirt. They began to hit me with a thick black water hose, beat me around my head and chest and one of them kicks me with his foot on my groin; all of this was accompanied insults and accusations of inciting people in Darfur to rebel against the regime and continued the beatings for more than one hour. Afterwards, they lifted me high and tied me to a metal pole, fixed high up, leaving me dangling from it for a while; then they put an metal bar against my back forcing me to lean backwards against the metal bar into a semicircle. They began to hit me in the bottom of my legs/foot with hose; they continued this for around quarter of an hour.

When they sensed that I was very tired they undid the ropes then they laid me down on my stomach and brought soft drink bottle, they started to force the mouth of the bottle into my rectum until I felt strong urge to vomit. They forced me to sit down with bottle inside my rectum and kept doing this until I lost consciousness. When I regained my consciousness on the following day I discover that the bottle was still on my rectum, the pain was very sharp and severe and I felt completely in shock/numb. The pain was unbearable and I was extremely tired, when I made attempt to pull the bottle out the pain intensified even more, and as the result I suffered from severe bleeding and involuntary urination.

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After few hours I asked them to take me to the hospital, they took me to meet a doctor who did not ask me any questions in their presence. He just examined the rectum and gave me a medicine; he made me no effort to keep me in the hospital despite the fact that I was bleeding a lot and was very bad condition. Shortly after they took me away from the doctor's and put me back in my cell. This situation continued for fifty-six days. I was released after they forced me to write a statement pledging that I will never write or do anything against the regime'.

On **9 August 2003**, 12 persons were arrested from Wady Salih and Zalingy provinces in Darfur, western Sudan. They were detained at the military intelligence offices in Zalingy. They did not face any official charges and remain in detention and were denied any visits from their relatives. The detainees, who all share the same cell, have complained about the lack of food and its quality and also about the cell condition. An eyewitness stated that Easa Alnour Salih was tortured and is in an appalling physical condition. He was beaten with sticks and flogged on his back. Additionally, there are concerns that the other prisoners may have been subjected to torture.

On Tuesday, **12 August 2003**, the security forces in Kass town arrested 24 men from the Fur tribe; some of them were detained at the security forces office in Kass and the others in Nyala prison. They have reportedly been tortured and five of them were badly injured.

On the **same day**, 13 members of Ma'alia tribe were arrested by the armed forces in Adila town. Some witnesses claimed that the armed forces treated the detainees cruelly and subjected them to torture. Three of those detained were badly injured. They were denied any visit from their families. The names of 11 of them are as follows: Hamado Karim Gerim, 65 years old, suffered from broken ribs and was tied to his bed despite his injuries, Al Sadig Yak Abd Allah, Ali Al Shique, Issa Mustafa, Abdullah Algaiy Akot, Farah Mo'alia Udd, Al Hamid, James Maddod Jaink, Abd Al Rahman Al Bakar, Al Bakar Mohamed, Mohamed Al Sharif Hamam. On Monday, 18 August 2003, they have received medical treatment at Al Shurta (Police) Hospital.

On **14 October 2003**, Nyala Special court in Darfur sentenced Mohamed Hassan Hamdan, 16 years old nomad belonging to the Ja'afra tribe, to 'cross' amputation (amputation of the right hand and left foot). He was convicted under article 167 of penal code (1991) for Armed Robbery (Hiraba). He was arrested following an armed attack on people travelling on the route between Didan Village and

Gardoud village on 19 December 2002. The armed men, suspected to be highway men, fired shots at some people and stole money and injuring at least one person. On 26 February 2003, Rehaid Albirdy town police, south Nyala, arrested the Mohamed Hassan Hamdan, with 5 other men, on suspicion of participating in the attack. The other five men have been discharge on 14 October 2003, Mohamed was the only one convicted.

On **17 August 2003**, a 38 year-old midwife was subjected to torture for allegedly assisting a mother with the birth of an illegal child:

'The story starts at the end of July 2003 when the police found an illegal new born baby in one of the streets in Ruffan town, one hundred and twenty (120) kilometres from Khartoum. This is the town of my origin and the place where I live and work.

Being a professional midwife at the hospital it appears as if this was a reason for my being accused of assisting the mother with the birth of the illegal child. The day after the child was found, whilst I was carrying on with my daily routines, a security man came to me in the hospital and asked me to go with him to the office of the Director of Security for the town. He did not give me any further details.

I went with him to the office where I found the Director of Security, Town Commissioner, and the Attorney General. When I entered the office the Attorney General started issuing me death threats and threatened to exile me out of the town. He started slapping my face until I fell to the ground, at that point he ordered the police to take me to a prison cell. At the police station the police began immediately to beat me harshly all over my body, especially my chest, back, abdomen, and face. They also began to harass me sexually, as a result my vagina started to bleed. Then they stopped, left the room, and returned later with a heavy-duty black plastic hosepipe. They beat me with this pipe all over my body, as well as pulling my hair, and hitting my head against the wall more than five times.

This severe beating continued for more than two hours from eleven (11) AM to one (1) PM. This severe beating caused me to faint. I was in this horrible situation until four (4) PM, afterwards they took me to the police cell. The Police Officer in charge refused to admit me because of my serious health condition and ordered for me to be taken directly to the hospital.

In the hospital the Doctor gave me some medications, but refused to admit me despite my serious medical state. At that

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time my state was very serious; I was unable to breathe or walk.

The next day I was taken to the magistrate who released me for lack of evidence. Now I am suffering from severe pains all over my body and have difficulty breathing, I cannot eat or talk properly, I suffer from anxiety and insomnia, and I feel a grave lack of personal security and justice'.

On 1 October 2003, a 15 year old girl was allegedly raped by two members of the Popular Defence Force, below is an extract of her statement:

"On **1 October 2003** at 6 am, I was at home when we heard shouting outside our house; it was one of my cousins arguing with members of the national Popular Defence Forces (PDF) for allegedly being dressed indecently. At 9.30 pm they came to our house and began to beat everyone and breaking everything in their way. Then they ordered us to get outside the house where there was a police car waiting outside. They forced father, brother and three of my cousins into the car and left. Then two members of the PDF took me in a cart and stopped near the kiosks in Libya market, west of Omdurman. There they dragged and pulled me off the cart onto the ground. One of them put his hands over my mouth to stop me screaming and raped me and then the other one raped me as well. I tried to cry out for help and they threatened to kill me and all my family. They took me and left me on a dark street and then I made my way home".

On 6 October 2003, 22 people belonging to the Ma'alia tribe were arrested by the armed forces in Adila province, southern Darfur. They were arrested under suspicion of murdering a man belonging to the Reziegat tribe in mid September 2003. They were detainees in Adila police station for 12 days with out any official charges or questioning. During their detention, two of them were subjected to torture by the armed forces; one of them is a minor. They are: Alrehaima Yousif Suliman, 19 yrs, farmer, lives in Abujabra, Mahmoud Abdella Adam, 16 yrs, nomad, lives in Garadaya.

The two men were flogged on their backs and burnt with cigarettes and hot metal poles on their hands, arms and chests, and were beaten with sticks on their arms and legs and all over the body. There were approximately 10 officers who tortured the detainees; one of the officers was named as Madibo. The detainees were tortured to extract a confession for the murder of the man belonging to the Reziegat tribe. The other 20 detainees were also subjected to ill treatment as well and detained in cramped conditions and were not

provided with sufficient amount of food. They were denied any visits by their relatives.

An active member of the SOAT Student Network, Waiel Taha, 23 yrs, and Yousif Fat'h Al Rahman, a fourth year English student at Khartoum University were arrested on **5 January 2004** from outside Khartoum University Student Union Building on Nile Street.¹⁰ They were arrested by force by nine individuals on a Toyota pick-up truck, 2002 model. Yousif was separated from Waiel and taken to the NSA building near Old Khartoum High School. During his detention he was tortured by five NSA officers by being punched on the face, beaten on the sole of the feet and back, kicked, pressing hard on the stomach, forced to drink three litres of water using a bottle inserted to the throat, strangulation, and death threats.

He was hurled into a road, on 6 January 2004, at 3 am near Mahmood Sharief Station in Buri while he was blindfolded and his hands were cuffed.

The following is a statement made by Waiel Taha:

"After I was arrested and taken on a pick-up truck to the Headquarter of the Arm Forces I was kept there briefly, then they changed the vehicle transporting me. I was taken by another pick-up truck to the National Security Agency (NSA) offices near Farouq cemetery. When I arrived there they tied me to a chair, blindfolded me with a shirt and they started beating me up. I was hit on the genitals and one of them hit me with a water hose. One of the officers threatened to rape me, he said "last time we shaved your head and we made you dance like a women this time I will rape you"

The beating and threats continued for two hours, they stopped beating me when they felt that I was tired and exhausted. At around 4 am I was taken to the Crimes against the State Office and remained there until the evening and then my family, lawyers and SOAT staff arrived."

SOAT has been informed that the security officers in Nyala have tortured 6 detainees. The 6 detainees were arrested for more than 3 weeks in the security forces office in Nyala. They claim torture allegedly took place on 14 January 2004; they were beaten with sticks, punched and flogged with water pipes. The detainees have been denied any visits: Abdel Rawwof Mohamed Abdella, Issa Bassi, Alfadil Tambor, Alfadil Nour Aldean, Adam Sharef, Abu Shaiba

On **24 January**, NSA arrested Abdallah Hamed Ismail (m), aged 25, farmer, Mohamed Hamad Adam Muta (m), aged 26,

farmer, and Abdallah Mahmud (m), aged 28, a nomad. The three men named were arrested by members of the internal security service. They were reportedly severely tortured for the next week, to force them to confess to possessing guns and ammunition, an offence that carries the death penalty. Abdallah Hamed Ismail, Mohamed Hamad Adam Muta and Abdallah Mahmud, all from the Ma'aliya ethnic group, were reportedly arrested at Adila market, in Southern Darfur State in western Sudan, at 4pm and taken to the internal security detention centre in east Adila market. At 5pm they were transferred to the military camp in Adila. At 1am on 25 January six internal security agents reportedly stripped the men and beat them on their backs and shoulders with whips, and then tied them up. They then allegedly poured boiling water on the men's backs and burnt them with hot metal objects. This torture reportedly continued over a period of seven days. The three men asked to be taken to hospital, but were refused. On 2 February they were transferred to the police station in Adila and charged with possessing guns and ammunition. On 5 February the police sent the detainees to Adila hospital for treatment. Medical reports from the hospital are said to confirm the reports of torture.

On **25 January 2004**, 10 armed security officers from Nyala arrested Mr. Ibraheam Musa Ahmed, 39 yrs, an engineer living in Nyala Hey Alwadi. Mr. Ahmed was arrested at the national congress party centre at 3pm for being an alleged member of the SLA. SOAT has been informed that the security forces tortured him during his arrest by kicking him and beating him with the butt of a gun. As of the 26 January 2004. Mr. Ahmed has not been officially charged and is currently detained at the security office; he has been denied any visits from relatives.

On **12 February 2004**, 28 people from the Fur tribe, were arrested and detained in Shala Prison. They were severely tortured whilst under detention.

Violation of Article 6

Article 6

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

Arbitrary arrests

On **22 March 2003**, Yassir Mohamed Al Hassan Osman was arrested from the Faculty of Medicine at Khartoum University

where he works. Yassir was being held incommunicado, and security officers told his family that they were not allowed to visit him because he was under interrogation.

On **23 March 2003** at 7pm, 12 armed security personnel from the National Security Agency arrested Mohamed Al Wasila Abbas, a 37 year old graduate of Khartoum University. Mohamed was arrested from his house in Arkawiet, Khartoum where the security officers searched his house and those of his neighbours. Mohamed was then arrested along with his relative, Rashid, who lives in the same house, and a neighbour named Ali. No reasons were given for the arrests. Rashid and Ali were released on the same day.

On **24 April 2003**, the National Security Agency arrested Lenin Al Taieb Yousef, a teacher at the Sudan Private School in Al Khalakla Al Guba, Khartoum. Lenin was previously arrested in 1996 and imprisoned for five months. Previous to that, he was also arrested in 1991 and 1993, (he was a student leader at the time). It is also known that the security forces had arrested three of his brothers on 28 November 2002, Kadr, Hisham and Al Shafih Al Taieb Yousef. They were subject to torture and ill treatment, especially on the night of their arrest and detention at the National Security Agency's building (next to Faroq cemetery). Al Shafih Al Taieb Yousef was released on 5 May 2003, from Kober prison. He arrived at his family home in the evening in Al Khalakla, Khartoum. He claims that when his brother Lenin arrived at the prison, he was subjected to beatings but was generally in better health than from previously.

Arbitrary arrests in Darfur

In early **April 2003** the security services arrested the following persons in Alhania: Abd Al Rahman Ahmed (m), trader, Zaghawa tribe, Mohamed Hashim Abd Al Rahman (m), trader, Zaghawa tribe, Mohamed Seid Ahmed (m), an employee with the Department of Zaka and Granait, Seid Bashara (m), trader, Zaghawa tribe.

The following persons were arrested in Khartoum on Tuesday, **8 April 2003**. They are as follows: Abu Bakr Hamed Noor, Engineer, Youseif Mohamed Saleh, engineer.

On **8 April 2003**, in Kubkabia, south of the town of Al Fashir, northern Darfur the following persons were arrested by security forces arrested the following persons: Adam Mohamed Ahmed Mohamed Girba (m), trader from Fur tribe, Mohamed Karama, trader (m), Fur tribe, Khalil Mohamedin, farmer (m), Fur tribe, Mohamed Ibrahim Tyrab (m), farmer,

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Fur tribe, Omer Hussain Ali, teacher (m), Zaghawa tribe, Adam Haroon Noor, teacher (m), Zaghawa tribe, Youseif Hussam (m), 50yr, trader, Zaghawa tribe.

On **23 April 2003**, the Sudanese authority arbitrarily arrested 7 villagers of Mulli, 8 miles south of Al Jenaina, from the Massalit tribe. They were reportedly taken to the security forces office in Nyala, where they remain in custody. Their names are: Al Tahir Abd Al Rahman, Mahmoud Abd Al Rahman, Abd Al Majid Abd Allah, Wad Alumda, Abd Al Latif Mohamed Adam, A'abid Aldeen Abd Al Rahman, and Mugiba Adam Mousa

On early **July 2003**, the security services in Nyala arrested Dr Mohamed Easa Alhaj, Mohamed Omer Bahr Aldean, Fadoul Nourain, and Abdel Aziz Ahmed. They were transferred to Kober prison in Khartoum in 7 August 2003 without any announcement to their relatives. They were not officially charged.

12 persons who were arrested on **9 August 2003** from Wady Salih and Zalingy provinces in Darfour, western Sudan were under arrest without any official charges. They are being detained at the military intelligence offices in Zalingy. There are fears that they are seriously injured and wounded as a result of torture.

The detainees from Arola and Fafo, Wady Salih province are as the follows:

1. Zakarea Mohamed Ahmed Ali, 27 yrs, farmer, from Arola
2. Ibraheam Omer Altahir, 25yrs, farmer, from Arola
3. Altigany Yagoub Omer, 25yrs, farmer, from Arola
4. Ahmed Yousif Ateam, 26yrs, farmer, from Arola
5. Easa Alnour Salih, 35yrs, Omda (community leader), lives in Farfo (was arrested on 30 August 2003)

The detainees from Zalingy are as follows:

1. Nasr el Dean Tambor
2. Abdel Mawla Adam Abdel Mawla
3. Samear Ibraheah Shanoda, student at Zalingy University
4. Adam Khawaja
5. Ahmed Arbab Jouma
6. Musa Abdel Rahman
7. Aboud Mendy

The prisoners have not faced an official charge and remain in detention and are being denied any visits from their relatives. The detainees, who all share the same cell, have complained

about the lack of food and its quality and also about the cell condition. An eyewitness stated that Mr. Easa Alnour Salih was tortured and is in an appalling physical condition. He was beaten with sticks and flogged on his back. Additionally, there are concerns that the other prisoners may have been subjected to torture.

On **2 January 2004**, the security forces in Zalingy, Darfur, arrested 4 men from the Fur ethnic group; they were arrested from the local market in Zalingy at 11am. They are currently being detained at the security forces offices in Zalingy. Their names are as follows: Adeab Abd El Rahman Yousif, 30 yrs, teacher, Saead Imam Alhaj, 35 yrs, teacher, Ibrahim Osman, 36 yrs, merchant, Arbab Abd El Mowla, 34 yrs, teacher

On the **5 - 7 January 2004**, the security forces in Nyala arrested three men belonging to Zaghawa tribe. They are: Yousif Idris, merchant, 33 yrs, arrested on 5 January, Salim Idris, merchant, 35 yrs arrested on 6 January (they are brothers), Suleiman, merchant, 40 yrs, arrested on 7 January. The three men were detained at the security office in Nyala and had no official charges made against them.

Moreover, the security arrested arbitrarily many people in Darfur on suspicion of supporting the SLA.

On **5 January 2003**, the security forces in Nyala arrested 2 men belonging to the Zaghawa tribe under suspicion of supporting the Sudan Liberation Army (SLA), one of the main armed rebel groups in Darfur. The arrest took place at the Export Development Bank, Nyala branch. Their names are as follows: Omer Abdel Shaf'ih Rajab, 40 yrs, manager of Export Development Bank Nyala branch, Osman, 47 yrs, gate keeper in the bank mentioned above.

On **13 August 2003**, the security forces in Al Fashir, Southern Darfur state, arrested three men. They are currently being detained at the security forces office at Al Fashir. They were arrested on suspicion of supporting the Sudan Liberation Army (SLA), a rebel group fighting against the government forces in Darfur regions. The three men are from Zaghawa tribe. The arrests took place in Al Fashir and are being denied any visits. They are: Mohamed Abaker Salih, teacher, 37yrs, live in Al Fashir, Abdel Rahman Zakaria Nasour, teacher, 39 yrs, live in Al Fashir, Yaseen, teacher, works for the Adult Education Administration in Al Fashir

On **29 August 2003**, the military intelligence and security forces in Zalingy, western Darfur, arrested Mr. Adam Khawaja, 40 yrs, a merchant and member of the Fur tribe without any

official charges. He was detained at the Zalingy security forces' detention facilities under the suspicion that he was supporting the SLA. He was denied visits from his family and lawyers.

On **6 September 2003**, the advisor to the Defence Minister and the Prime Minister, Colonel Tabib Al Tayeb Ibrahim Mohamed Khair, announced the release of 54 people detained in prisons, who were arrested and detained by state apparatus without charge for their alleged support for the Sudan Liberation Army (SLA) in Darfur (15 in Khartoum, 30 in north Darfour, 6 in south Darfur and 3 from other regions). 17 political prisoners in Nyala prison, Darfur, were released on the 8 and 9 September 2003. The order for the release follows the signing of a ceasefire agreement in Abachi, Chad, between the GoS and the SLA/M. All of those who were released were detained under the Emergency Laws for 3 months.

On Thursday, **11 September 2003**, 56 prisoners were released from Shala prison, south west Al Fashir, Darfur, as well as the order for the release for a further 8 prisoners from Kabkabia prison, (175 Kilometres from Al Fashir city). The 64 prisoners were detained amongst allegation of supporting the SLA. Their release follows the signing of a ceasefire agreement between the SLA and the GoS under the auspices of the Chad government.

On **27 December 2003**, Mr. Jammaly Hassan Jalal Aldean, 39 yrs, an Al Fashir human rights Advocate from the Zaghawa tribe, was arrested by security forces from Al Fashir, Northern Darfur. He was detained at the security forces office without officially being charged. He was arrested at his office under the suspicion of supporting the Sudan Liberation Army (SLA). It is alleged he was kicked and punched by the security officers during the first days of his detention, in part because he is joining the Popular National Congress (PNC). Initially Mr. Jammaly was denied visiting rights but subsequently he has been allowed to receive visits from his relatives.

On Friday, **31 January 2004**, the National Security Agency (NSA) arrested six persons belonging to the Fur tribe in Khartoum and Zalingy, their details are as follows:

Dafa'allah Abdullah Suleiman, employee at the Agricultural bank in Khartoum, arrested in Khartoum, Abubakr Sharaf Al Din, high ranking Police Officer, arrested in Khartoum, Ahmed Hassan, employee at Bank of Khartoum, arrested in Zalingy, Ahmed Al Tahir Ahmed Shata, arrested in Zalingy, Tariq Abu Al Gasim Saif Aldin, graduate from the University of Sudan, arrested in Khartoum, Mohamed Abu Al Gasim Saif Aldin, final year student at the University of Sudan, arrested in Khartoum.

The latter two, Tariq and Mohamed Abu Al Gasim Saif Aldin, who are brothers, were released on 3 February 2004. They were questioned about their sister, Eman, recent wedding to the rebel leader of the Sudan Liberation Army (SLA), Abd Al Wahid Mohamed Ahmed Al Nur. The other detainees were suspected of supporting the SLA.

Violation of Articles 7 and 26

Article 7

1. Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defence, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal.

2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

Article 26

States parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

Independence and Quality of the Judiciary¹¹

Article 99 in the current Sudanese Constitution, adopted in 1998, clearly stipulates the principle of independence of the Judiciary: "*Judicial competence in the Republic of Sudan shall vest in an independent authority to be known as the Judiciary, to assume judicial power in adjudication of disputes and judgments on the same with the constitution and the law.*" Similarly, Article 101 states "*Judges are independent in the performances of their duties and have full judicial competence with respect to their functions; and they shall not be influenced in their judgments.*"

Despite these provisions, the Sudanese Judiciary still lacks independence from the executive power, and whatever

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changes and reforms claimed to have been made by the Government of Sudan have not been reflected in reality; there appears to be a huge disparity between declared government policy and practice. Some of the main infringements and violations of the principle of judicial independence can be summarized in the following points:

- Impunity and political appointments to the judiciary, often of unqualified judges, continues to be common practice. These practices contravene articles 10 and 13 of the UN Basic Principles on the Independence of the Judiciary. These provide that the selection and promotion of judges should be based on "objective factors", in particular the ability, and integrity and experience of judges. Discrimination on the grounds of "political or other opinions" is expressly forbidden. This is one of the main factors that contributes to the poor quality and incompetence of the judiciary, and is one of the most severe problems facing the administration of justice in Sudan.
- Continuous government interference in the process of justice, for example the amendment made by the head of state to the labour law in 2000. The change was made in response to a constitutional case raised by civil society groups concerning the unconstitutionality of a decree issued by the governor of Khartoum State (Wali) forbidding women from certain types of work. Another example is the interference of the head of state in the case of Dr. Hassan El Turabi. Although the court ruled that his house arrest was illegal, this decision was overruled by a presidential decree.
- There remains widespread suspicion, mistrust and lack of confidence in government institutions and the administration of justice. In addition, the lack of access to justice and legal services suffered by many Sudanese remains unchanged.
- Continuation of the Special Courts established in the early 1990s. Provision for these courts was made by section 10 of the Criminal Procedures Code 1991 and section 6 of the Judiciary Act 1986, and was designated by the Chief Justice of the High Court. These Special Courts have no fixed rules of procedures: "the powers of each" are provided for in the "order of its establishment" (Article 8 of the Code of Criminal Procedure). These Courts infringe on the principles of fair trial and that of the Constitution. Their establishment contravenes paragraph 5 of the UN Basic Principles on the Independence of the Judiciary, which provides that everyone has the right to trial by ordinary courts or tribunal using established legal procedure.
- The Special Court system in Darfur, consisting of eight courts in North and South Darfur, was established by the Governor of Darfur on 1 May 2001, according to the Order No. 31/2001. The Minister of Justice claimed these courts were needed to deal with the conflict in the region because of the impracticality of convening a regular court of justice in a war zone. The courts are composed of three judges: one civilian and two military. Defendants tried by the special courts were reportedly given legal representation and the right to appeal. Legal representation does not mean that the accused is represented by a lawyer, but that they have the right to consult with a lawyer. However, on 6 January 2003, the Special Rapporteur on the Situation of Human Rights in the Sudan reported to the UN Commission on Human Rights how the system was being abused, for "*the lawyer indicates to the accused what he should say, in order to make the procedure very fast so that the trial can reach a conclusion as fast as possible [and] to avoid procedural complexities which may occur leading the trial to last for many years.*" Moreover, many cases have been reported where an accused did not have access to a lawyer¹² have been reported even if he risks the death penalty. The accused also reportedly had the right to withdraw their confessions. However, those confessions would be considered as evidence if corroborated by other evidence.
- Due to pressure by the international community and non-governmental organizations (NGO's), Specialised Criminal Courts were introduced by warrant of the Chief Justice on 6 April 2003 to replace the Special Courts abolished by Presidential Decree on 31 March 2003. These courts follow the same special procedure as the Special Courts. Although, the Specialised Criminal Courts are headed by a civilian judge and do allow legal representation, they only allow one week for an appeal (the normal Sudanese procedure allows for two weeks). They also follow special procedures in terms of evidence; footprints can be accepted as evidence for conviction without other corroborating evidence, and the evidence of co-offenders is taken as acceptable evidence without other corroborating evidence. In addition, the Court does not consider the remittance of the penalty where the offender has retracted their confession (when there is no other evidence) before the execution of the penalty. Confessions may be extracted as a result of torture and used as evidence leading to death sentences, regardless of any retraction of the confession during the trial.
- Continuation of the lack of judicial supervision: Before the 1991 Criminal Procedure Act, an independent magistrate supervised pre-trial proceedings. With the introduction of the

Criminal Procedure Act 1991 the powers of pre-trial supervision were shifted from the courts to the Prosecutor General's office under article 19. This means that the issuance of search warrants and warrants of arrest are given by the General Prosecutor's office. In addition, section 20 provides that the Attorney General may give the jurisdiction of investigating criminal attorney "to any person or committee" that he believes would maintain justice, which is in contravention of article 9 (3) of the International Covenant on Civil and Political Rights (ICCPR).

- Continuation of the so-called specialized system of adjunction, like Sudatel

- After lengthy discussion with the Sudanese Ministry of Justice, SOAT believes that the political will to reform the judiciary exists, and that there is a determination on the part of the Ministry of Justice and the Human Rights Advisory Council to revise the administration of the justice system. However, simultaneously, influential cadres and individuals from varying ranks within the government and the ruling party have blocked attempts at reform, particularly with regard to ending the culture of impunity which has prevailed in the country since 1989.

- One of the most prescient problems which will likely act as an obstacle to reform, and certainly to the practical implementation of reform, is the severe lack of coordination between various agencies within the justice system: internally between different levels of the central justice system; between regional and central agencies; and between the central administration of justice and law enforcement personnel. The absence of any standardisation of law enforcement policy or practice and the standing of law enforcement personnel in relation to the central structures of justice is particularly problematic. Security forces personnel are able to act largely on their own volition, paying scant regard to instructions from the Ministry of Justice or from regional justice agencies. This compounds the problems associated with the lack of accountability of security personnel and facilitates the continuation of the impunity, which they presently enjoy.

Violation of Article 9

Article 9

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.*

Harassment of Human Rights Defenders¹³

The period covered by this report had seen a relative period of stability in Sudan for human rights defenders, lawyers and civil society groups; they have been able to operate more openly in the public sphere and are rapidly expanding their activities. This is partly as a result of an increased willingness on the part of the Government to engage with civil society and partly thanks to the determination of human right defenders, who have been instrumental in forcing the concerns of human rights violation into the public sphere and bringing them to the attention of the government and the international community.

However, there remains some level of harassment and targeting of these groups that are of serious concern. Even with the various relative freedoms available to these groups and individuals there is continued reporting of harassment, targeting and arbitrary detention, as well as the confiscation of documents and essential equipment and other violations. In addition, this year has seen an upsurge in the targeting of prominent human rights defenders and lawyers, who are related or are operating in Darfur, which is running parallel with the escalation of fighting and deterioration of the situation in the region.

Typical methods of harassment include monitoring by security and intelligence apparatus, arbitrary arrest, incommunicado detention, daily reporting to the security services offices and breaking up or cancelling meetings and conferences, especially those that are related to Darfur or/and the peace process. These types of harassment only contribute to halting freedom of expression in Sudan and poses a serious disruption to the progress of a more open civil society.

At 9pm on **3 March 2003**, security forces arrested Adam Abdel Hamied Adam, a trainee advocate and a member of the Abdelmajeed Imam Cultural Centre, and Mona Zahir Alsadati, a journalist. The two were arrested from outside the building of the Abdelmajeed Imam Cultural Centre in Khartoum North. After two hours, Mona was released and she was asked to report the next day to security offices and Adam remained in detention.

When Mona's family enquired as to the reason for the arrest they were told that the Abdelmajeed Imam Cultural Centre was thought to be a "suspicious" place, where it is undesirable for women to go. They stated that the security forces intended to protect Sudanese women from such places, and that the Centre is under surveillance by the Security of the Community Police and Anti-Drug Squads.

On **2 July 2003**, the National Security Agency arrested the lawyer Ghazi Suleiman, Chairperson of the *Sudan Human Rights Group* and a founder of the *Democratic Forces Front*, the political group otherwise known as GAD. Mr. Suliman was interrogated on the subject of a press conference that was scheduled to be held at his office later that day to officially announce the signing of the Khartoum Declaration. Others arrested with Ghazi Suliman include Al-Haj Waraq, Bahir Adam Rahma, Abdel Bani Ali Ahmed, Maki Ali Balayel, Gabriel Matour and Abdel Rahman Al-Ghali.

On **15 November 2003**, the security forces in Nyala arrested Mr. Ibrahim Yousif Ishag, 40 years old, a lawyer resident in Hey Alnahda, Nyala, from the Fur tribe. He was arrested from his office in Nyala with two other journalists: Gasim Taha, a correspondent for Al Sahafa newspaper and Mouhanad Hussain, a correspondent for Akhbar Alyom newspapers.¹⁴ The three men were detained at the security forces office in Nyala and released on the same day at 8pm. The security forces ordered them to return to their offices in the next day. On 16 November 2003 at 9 am, Mr. Ibrahim went to the security forces office and was not released.

On Sunday **21 December 2003**, the National Security Agency arrested the following nine members of the General Trade Union Council. Their names are as follows: Mahjoub Ahmed Alzubair, Minallah Addalwahab, Nasr Mohamed Nasr, Sidiq Yahya, Hadalrayed Abdalmahi Mohamed Attia (f), Ali Khalifa Mahadi, Mohamed Suliman Mohamed, Mohamed Mahmood, Akasha Babikr Mohamed

They were arrested at 1.45pm at Mr. Mahjoub Ahmed Alzubair house, in Shambat, Khartoum North, during a peaceful meeting, and were taken to the NSA offices near Farouqh cemetery. They were released on the same day but were ordered to report back to the NSA offices for two consecutive days.

On **28 December 2003**, the National Security Agency (NSA) arrested Madawi Ibrahim Adam, a human rights activist, Chairperson of the Sudan Development Organisation (SUDO), a locally registered NGO, and Consultant Engineer with Lamda Engineering Company. He was transferred to Kober prison on the 3 January 2004. He has been charged under articles 50, 51 and 56 of the Penal Code (1991), which carries the death penalty.

On **1 February 2004**, Salih Mahmoud Osman, a human rights defender and member of SOAT's lawyer's network, was arrested at his home in Wad-Madani. At the time of his arrest

he was suffering from jaundice. It was not known why Mr. Salih was being detained and he was not charged at the time of both his arrest and detention.

Audio-video Media

The Government controls the official media in Sudan. The main media outlets are "state owned", they include: Sudan News Agency "SUNA", Radio Omdurman and the National Television Corporation and other broadcasting authorities at the national and the regional levels.

There is a noticeable absence of alternative voices in the official media, however, it has been observed that there is a small space to manoeuvre in the radio broadcasting arena. Otherwise, state owned media is predominantly used as a "propaganda" tool rather than an informative medium.

Radio and television, at the regional level, have the same policy of an attuned "one voice" and the non-existence of any alternative views. The different ethnic, religious, cultural diversities of Sudan are not represented or given a chance to share or express any information, views or concerns they have.

The Printed Media "Press"

The press is working under political, legal and administrative restrictions, which are in opposition to the fundamental principals of freedom of expression, journalism, and flow of information. In theory, these rights should be guaranteed under article 19 of the Human Rights Declaration (1948), article 19 of the ICCPR, ratified by Sudan in March 1986, and also in article 9 of the African Charter on Human and Peoples' Rights, which Sudan is a party to.

Until mid-August 2003, newspapers in Sudan were suffering from direct censorship, which was exercised and imposed directly by the NSA. Some of the methods used to control the media have been through confiscation of newspapers by the security forces without any explanation or legal justification. This was usually done prior to distribution causing the newspaper considerable financial loss. This is an exercise of absolute abuse of power and acts of the individual security officers are not subjected to any judicial supervision or review.

On 12 August 2003, President Omer al-Bashir issued a Decree 'officially' lifting the censorship on newspapers operating under the jurisdiction of the NSA. This move was welcomed by many. However, the Decree transferred the

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power of censorship to the National Press Council, which has got no such powers in its mandate. This exercise became a moot point as the NSA continued its activities against the press in less than three weeks of the issuing of the decree. It dictated its restrictions and powers on the media again through instructions and orders of what is allowed to be published and what information can be released.

There are some issues that have been classified as "prohibited" and treated as "Red Lines", such as the situation in Darfur, Female Genital Mutilation (FGM), criticism of government senior officials, and reporting on the peace process.

In further steps, the security forces, in close collaboration with the "Crimes against State" prosecutor, Mr Mohamed Farid, have started implementing a new policy of harassing the media and "the press", by introducing a new suspension policy for long periods under the excuse of "until the investigations are finished".

Prosecutor Mohamed Farid started suspending papers after receiving "complaints" from the Security against newspapers and journalists. It is often observed that the Attorney General uses some articles of the Penal Code Procedural Act 1991, Articles 130/1-3, which are not relevant to media. The cases are raised by the security forces and looked at by the "Crimes against State" Prosecutor, who has close ties and links with security forces.

The aim of such a policy is to let the papers run economical and financial losses so that they are not able to publish. In such an oppressive legal and political atmosphere newspapers find themselves in a position of practicing "self censorship", which is more dangerous than the one being applied by the State so as to escape from severe punishment.

Many journalists find themselves detained, summoned and harassed by the NSA, including local correspondents in the region of Darfur state, as their reporting on issues fall under the so called "red lines" or are "sensitive" issues, deemed by the security forces.

Cases of Detention and Harassment of Journalists

Edward Ladu Terso, a journalist working with Khartoum Monitor, was detained on **11 March 2003** and sent to Kober Prison without charge. He was conditionally released on 29 March 2003 under the order that he had to stop criticizing the

government. Edward was interrogated few days earlier following an article he wrote about the history of Islam in Sudan.

Hayder al-Mukashfi, a journalist with Al-Ayam daily has been harassed many times. He was summoned by the security forces on **22 March 2003** because of his articles. Later in December 2003, Hayder was investigated by the Crimes against State Prosecutor on the basis of complaints by the security against both Al-Ayam daily and some of its writers.

Yousif al-Bashir Musa, a local correspondent from Nyala, Darfur, who works for Al-Sahafa daily, was detained in Nyala on **4 May 2003**. He was tortured. A doctor confirmed the torture. Yousif was released on 20 May but re-arrested on **28 July 2003** following some articles he wrote for his paper in Khartoum. He was released on 21 August 2003.

Nhial Bol, the managing editor of Khartoum Monitor, was summoned on **6 May** and questioned on some articles published by the paper in April. The articles were written by Christian citizens discussing the relationship between Islam and Christianity in the country. Bol has suffered many detentions and arrests. He also had an assassination attempt on his life. Eventually Nhial Bol was forced to flee the country to Kenya.

Faisal el-Bagir, a freelance journalist, member of SOAT and the correspondent of Reporters without Borders in Sudan, has suffered many detentions and interrogations by the security forces. On his arrival back to Sudan from Athens after attending a conference on Designs for Democratic Media in Iraq, Faisal was detained at Khartoum airport by security on **8 June**. His luggage was searched and his passport was confiscated. He had been ordered to report to the Security office at Khartoum, where he was interrogated for several hours on his journalistic activities. Faisal was detained again on **26 July** on his arrival from Dhaka, after attending a meeting on the exploitation of children to be used as Camel Jockeys.

On **16 August 2003**, Faisal was summoned by the political section of the security forces on the same day as a published statement by SOAT was released in some local newspapers. He was interrogated and questioned on his activities and on SOAT.

On the **7 October 2003**, Faisal el-Bagir was summoned by the security forces and detained for six hours without charge. Again on the 11 October Faisal was summoned by the press

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section of the security, following a press release published and signed by more than 250 journalists defending freedom of expression in the country. Faisal was detained once more on 10 January 2004.

Murtada al-Ghali, a prominent journalist and SOAT staff member in Sudan, was summoned on the **11 October 2003**, following the journalist's press release on freedom of expression. The NSA ordered Al Ayam newspaper to cancel Dr. al-Ghali's column. In December, he was under investigation by the Crimes against the State prosecutor, on some articles he wrote in Al Ayam daily. No valid charges were found against him.

Tag alsir Mekki, a writer with Al-Ayam daily, was also investigated on **11 November 2003** by the Crimes Against State prosecutor Mohamed Farid along with al-Mukashfi, and Murtada al-ghali, and the chief editor of al-ayam, Mahgoub Mohamed Salih on the base of a complaint from the security forces against the paper.

Moawia Omer Hussain, a journalist with Al-Osbowe, was investigated by the Crimes Against State Prosecutor also on **11 November 2003** along with the chief editor, Dr. Mohieldin Titawi, following a complaint by the police traffic administrative. Moawia was accused of criticizing the traffic police.

Two local correspondents from Nyala, Gasim Taha of the daily Al-Sahafa and Mohanad Hussain of Akhbar Al-Youm were detained by the security forces in Nyala on **15 November**. They were released on the same day, but ordered to report to the security office for more than a week. The reason behind their arrested and detention was sending information to their papers on the situation in Darfour - on 13 November 2003 they went to the Singita and Oda villages, west of Kass town, Southern Darfur. The visit was arranged following an attack on the two villages belonging to the Fur tribe by the Arab militia, 'Janjaweed'. The journalists sought to report the attack, which included filming and photographing the villages and the burnt houses and the destroyed farms.

Islam Salih, the correspondent of Al-Jazeera TV station, was targeted by the security forces and detained on **17 December 2003** for four hours, including his cameraman Hamid Tirab. Islam was detained again the next day and released on the 24 December. However, the office was closed indefinitely, and was told would only open on condition that he stopped working on Sudanese issues. On 22 March 2003 Islam Salih and his cameraman Mohamed Al-Hassan were hit by several

police officers while covering a student demonstration against the war in Iraq in Khartoum.

Mahgoub Mohamed Salih, the editor of Al-Ayam and a well respected journalist, has also been targeted by security forces aiming to close his paper. The security forces animosity towards these two papers lies in their uncompromising position towards freedom of expression and their uncooperativeness towards security institutions in implementing restrictive orders. Mahgoub Mohamed Salih was detained on **14 January 2004** and remained under arrest for more than 24 hours. He was released on the evening of the 15 January after paying 10,000.000 Sudanese Dinar (\$28,000) which is being claimed by the "Tax Office" as VAT tax. Being put under arrest until paying of the amount is clear harassment.

Confiscation and suspension of newspapers

On the **10 May 2003** the Khartoum Monitor was suspended for two months by a court decision of Judge Mohamed sir al-khatim. When the paper had ended this sixty days punishment, a day later, on 11 July, the same court and judge ordered the cancellation of the paper's license. Early on 9 March the security forces seized all copies of the Khartoum Monitor without a judicial order.

On **19 June 2003**, the Security Director Salah Mohamed Abdullah decided not to allow Al-Sabahia, a new newspaper, to be published. The decision was enforced without any justification or explanation. The paper, which was owned by Mahgoub Orwa and Sid Ahmed Khalifa, was not allowed to be published although it had gone through all the correct legal and administrative procedures, including the license and gaining permission of the National Press Council, the authorized body to give licensees for publishing newspapers in the country. This was a clear interference by the security forces and a violation of laws. The paper failed to appear for good due to the security veto.

On **28 June 2003**, the daily Al-Sahafa was confiscated by the security forces. The next day the paper failed to appear in the market because it published news and articles deemed unsuitable by the security forces.

On **29 July 2003**, Al-Sahafa daily was confiscated by the security forces for publishing on the same day news sent by its local correspondent in Nyala Yousif al-Bashir telling a story of a car accident of National Service Students.

On **2 September 2003**, the daily Al Alwan was suspended indefinitely by the Crimes against States Prosecutor, Mohamed Farid. The paper was charged under articles 66-69 of the Penal Code and article 25 of the Press Act 1999 and reformed in 2000. On the 13 September, the Khartoum Monitor was suspended indefinitely by the Crimes Against state Prosecutor under the same title of "until the investigations are finished". At this juncture, the American Embassy in Khartoum issued a statement on 15 September urging the government to respect freedom of expression in the country and to allow the two papers (Alwan and Monitor) to reappear.

On **30 September 2003**, the Crimes against State prosecutor, Mohamed Farid, suspended Al Azmina, an Omdurman-based daily paper indefinitely until "up to the end of the investigations" carried by him.

On the same day, **30 September 2003**, the National Press Council (NPC) ordered the suspension of Al Sahafa daily for three days, when the paper published an advertisement for French airlines in which the word "WINE" appears. The NPC considers this advert as an slur to public decency

On **16 November 2003**, the Crimes Against State Prosecutor, Mohamed Farid, ordered the indefinite suspension of the daily Al Ayam starting from 17 November, to last "up to the end of the investigation".

On the **19 November 2003**, the American Embassy again issued a press release remonstrating against the suspension of newspapers, and calling for the suspension of Al Ayam to be lifted.

On the **24 November 2003**, the Khartoum Monitor failed to appear in the market due to an indefinite suspension order, which was issued on the eve of the holy month Eid of Ramadan. The paper continues to remain closed and under indefinite suspension.

On **1 March 2004**, Al Ayam resumed published following the failure of the different mediations between the paper and the security.

Violation of Articles 10 and 11

Article 10

1. Every individual shall have the right to free association provided that he abides by the law.

2. Subject to the obligation of solidarity provided for in Article 29 no one may be compelled to join an association.

Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Repression of students' demonstrations

Students remain the prime target of the NSA, and are the most politically active group in the population that continue to be subjected to torture on a systematic pattern within the proscribed timescale for this report, March 2003 to March 2004.¹⁵ There are a plethora of dangers facing an individual becoming a student in higher education. These dangers range from conflict with and between student political bodies, educational establishment authorities, police and other security services, and government dictums. The examples described in this section indicate that a student involved in one of these power relationships can and does result in violent conflict. This violence could involve clashes during protests resulting in physical damage; including bruised and broken bodies and physical and psychological torture during detainment by the security agencies, including punching and kicking to the body, utilisation of torture instruments such as hose pipes, and the issuance of death threats. Students are historically seen as in the vanguard of uprisings against authoritarian regimes - October 1964 - March-April 1985 - and consequently reaction by authorities to their disturbances is often harsh.

FIDH and SOAT consider the continued persecution of students as part of a systematic attempt by the Government of Sudan to silence opposition and prevent individuals from expressing their political opinions and personal beliefs.

The police and the NSA arrested students from the University of Bakhat al Rodah, Al Duwaim, on **17 March 2003**, after protesting against the Dean of the University's decision to refuse the establishment of a student union. The police used rocks and pebbles, water hose, electric batons and tear gas in their clash (es) with the students. Three students were injured whilst demonstrating outside the main university building when the police and the NSA began shooting at the students. The government officers proceeded to enter the female student halls of residence where they inflicted a variety of

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injuries by beating the female students inside the bedrooms and bathrooms. The police arrested approximately 45 students and transported them by police vans (dafarat) to the Security Offices. All those arrested were detained in one room; the police closed all the windows and switched off the only fan in the room. The students remained under these conditions for more than three hours and then released. Upon their return to the university halls of residence the students were ordered to evacuate their rooms immediately. The university did not want responsibility for the students' security in the event of further clashes with the police and security forces. Also, the students found that some of their belongings were missing, especially money. Some of the students were subject to verbal abuse and attempted attack(s) by security and police officers.

The names of some of the students that were arrested by the police are as follows: Marowa Hassan Ahmed (21); Eynas Abdoon; Shaza Kamal; Hajeer Al-Daw; Imjad Taha Hussain (suffered internal bleeding due to police and NSA attacks); Um-Kalthoum; Nada Sayeed (suffers from a nervous break down); Mashaeer; Manal; Hadia; Eman; Wahdan; and Aisha are all fourth year Department of Education students. Faiza Al-Taieb Omer (23, fell unconscious due to tear gas attack) is a third year Department of Education student. Naeyma; Shaza and Limia Osman (subjected to physical assault on her stomach and legs during her transportation to hospital) are all second year Department of Education students.

Hakma Hassan Nasser; Nafisa Darar; and Hiba Ali are all fourth year of Economics students. Asia is a third year Department of Economics student. Shahrazad and Salma are second year Department of Economics students. Mashaeer (24, member of the Democratic Union) is a fifth year Department of Agriculture student. Hind Al-Giley is a fourth year Department of Agriculture student. Maey Hassan Al-Taieb (subjected to physical assault) is a Department of Agriculture student as well as Hala Bashir Kogali (suffered burns to the face, hands, and feet).

Other students arrested by the security forces in Al-Duwaim include: Al-Bager Abu Al-Kassim Mohamed, third year Department of Agriculture student arrested for his 'admiration for democracy', 2 am until 11am **18 March 2003**. Imad Al-Din Abd-Allah, third year Department of Agriculture student was arrested, 2 am until 11pm 18 March 2003. Omer Mohamed Ibrahim, fifth year Department of Education student was arrested, 5pm 17 March until 2pm 18 March 2003. His clothes were removed and his hands and feet electrocuted. Hamadi Youseef, fifth year Department of Agriculture student was arrested in part for supporting the Umma party, 2 am

until 11am 18 March. He was physically assaulted during his transportation. Mohamed Ahmed Rahma, fifth year Department of Agriculture student was arrested in part for supporting the Umma party, 2 am until 11am 18 March. He was physically assaulted during his transportation. Khalil, second year Department of Economics student, was arrested in part for supporting the Umma party, 5pm 17 March until 2pm 18 March 2003. He was physically assaulted during his transportation.

On **9 April 2003**, Parthel Maus and Molawal Gidboat, both third year law students at Al Nilein University, Khartoum, were arrested by the NSA for their involvement in the organisation and campaigning of recent Student Union elections. They were arrested at 4.30 pm outside the university by a number of security officers. Molawal Gidboat was released the same day at 6.30 while Parthel Maus remained in detention until end of May 2004.

On **31 July 2003**, the police arrested sixty-two students during a demonstration demanding student union elections at the University of Juba, Khartoum. At least fifteen had been injured. The students were charged with carrying out "subversive acts" after what police described as a "riot" in which they held lecturers and other students hostage at the University of Juba in Khartoum campus in the suburb of Kadaru, 20 kilometers (12 miles) north of the city centre.

On **17 September 2003**, Mohamed Saeif Al Dawla Ahmed Hassan was arrested by the security forces in Atbara, northern Sudan, for allegedly opposing the new academic system. The arrest took place at 11 am at the entrance of the Faculty of Education, Wadi Al Nile University in Atbara. He was taken to the NSA office and denied visits by friends. The NSA also arrested three other students from the Faculty of Education; Mohamed Babikr Awad a second year student was arrested, 24 August 2003, subjected to torture and released, 26 August 2003. Hassan Al Shaiqie a third year student was arrested, 24 August 2003, subjected to torture and released on the same day. Badr Al Deen Awad Babikr a final year student was arrested, 24 August 2003 and released, 28 August 2003.

On Saturday **28 September 2003**, the NSA arrested Osman Ahmed Fagharay, 54 years old, from the Beja tribe. Mr. Fagharay is diabetic and did not have his medication with him. He was arrested following his participation in a symposium at Alnilain University, which was organised by the Beja Students Association. He criticised the health, economic and food security policies in the Red Sea province and demanded action by the government.

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This is the testimony of a female student about events dated of **2 January 2004**:

'After participating in a cultural event by the Students Union, Khartoum University we began to walk back to our hostel, which is not far away. It was ten (10) PM when we arrived at the hostel, we were astonished to hear the Mushrefat (supervisor) verbally abusing us, calling us bad names, for example; "You drunkards, girls without families!"

Later on the girls organised a speech gathering to oppose the bad conduct of the supervisors, which had been frequent in the last days.

After this gathering we went to our rooms and go to sleep when we heard loud voices; "tahleel - takbeer." The Almusrefat raided our rooms and began to severely beat us with iron bars, knives, and sticks. Those that managed to get away had stones thrown at them.

One Almusrefat called Fatima Nasr threw a stone at my face resulting in a deep cut above my right eyelid. She also hit me with a stick on my head, which started to bleed. Many of my fellow students were beaten with sticks, stones, and hose pipes. Many of us needed medical attention but the hostel guards refused to let us go to the hospital. We succeeded in going to the hospital by using force after intervention of members of the Students Union. Whilst we were leaving the supervisors continued to beat us and call us names.

In hospital I received suitable treatment, my wounds have healed but I still suffer from headaches and painful bruising. I feel tense, fearful, and I don't sleep well'.

On **5 January 2004**, Waiel Taha, active member of the SOAT Student Network, 23 yrs and Yousif Fat'h Al Rahman, a fourth year student English student at Khartoum University, were arrested from outside Khartoum University Student Union Building on Nile Street.¹⁶ Their arrests followed disturbances, 3 and 4 January 2004, at Khartoum University between female students and the guards, where the guards beat up the students using metal wires and water hoses at the student's halls of residence. This led to the injury of a number of students, which has resulted in the students pressing charges against the university guards.

Waiel Taha was released on bail on the early hours of the morning on 7 January 2004. He was charged by the Chief Prosecutor for the Crime against the State under article 144 (Intimidation) and 182 (Criminal Mischief) of the Penal Code

(1991). He was ordered to report back to the Crimes against the State office, 8 January 2004, at 8 am and was made to wait until 10.30 am to meet the Chief Prosecutor. When he met the Chief Prosecutor he was ordered to return on Sunday, 11 January 2004.

Women association

At 10:30 am on Monday **2 June 2003**, five officers from the Sudanese National Security Agency (NSA) arrested 38 women from the *Nuba Mountain Women's Association* and 3 men who accompanied them as they were departing for a women's conference for peace and development in Kawda town, Nuba Mountain. They were interrogated regarding their movements, the intentions of their trip and any relations they may have had with the SPLA.

Eight conference delegates were then transported to the NSA offices in Omdurman (near Omdurman Traffic Police Station) where they were forced to sign a declaration promising that they would not leave Khartoum without the permission of the NSA. A number of personal items were confiscated from the group- including mobile phones, computer equipment, documents and diaries containing private details of contacts. In addition to this, a sum of approximately 8 million Sudanese pounds was confiscated and the delegates were made to sit on the floor for an hour in the hot sun. The following people were released at 9pm on Monday 2 June but ordered to report to the NSA offices in Omdurman on a daily basis, from 8am in the morning until 8pm in the evening; They are: Huda Dawood (f), Huwaida Bashir Kumi (f), Ja'fariya Bashina (f), E'timaad Faqih Ali (f), Samir Abdallah (m)

Zeinab Balnadiya (f), President of the Ruayya Association, Jumm'a Durman (f), Camilla (f) were taken to the Khartoum NSA offices until they were finally released at 2am on the morning of 3 June 2003. They were also ordered to remain in Khartoum and to report to the NSA offices daily as described. The remaining members of the *Nuba Mountain Women's Association* were released from the NSA offices in Kalakala at 2am on the morning of 3 June 2003. The offices of the Ruayya Women's Organisation in Al- 'Awda has since been closed down by the NSA.

Violation of Article 13

Article 13

1. Every citizen shall have the right to participate freely in the government of his country, either directly or through freely

chosen representatives in accordance with the provisions of the law.

2. Every citizen shall have the right of equal access to the public service of his country.

3. Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

Harassment of members of opposition parties

Arbitrary arrests and harassment of political activists by the security forces continued all over the country. There has been a mixed commitment by the Sudanese government to detaining people without charge. Positive steps were taken, for example when there were mass releases of political prisoners in Khartoum and Darfur, following an agreement between the SLA and the GoS in Abache, Chad in September 2003. Over 100 political activists were released in Khartoum and in Darfur. The GoS claimed that there were no more political prisoners in jails. The Islamist leader of the Popular National Congress (PNC), Dr. Hassan Al Turabi was released on 13 August 2003. This was a huge step towards allowing freedom of expression and for a more open political participation in Sudan.

In spite of this progress, the situation has almost reversed; members of the PNC and other political parties continue to face harassment and arbitrary arrests. There is a strong correlation linked to the conflict in Darfur; when the peace talks in Chad collapsed in December 2003 almost instantly the situation took a turn for the worst with increased attacks on persons associated with the region and leading to a very volatile political and security climate in the region.¹⁷

On Wednesday **28 May 2003**, Adam Mousa Madibbu, a senior official within the political bureau of the Umma Party, was interrogated at the political section of the National Security Agency (NSA) offices and imprisoned for one day. Following his arrest, Adam was transferred to Kober Prison where he claims he saw at least 33 other prisoners in his surrounding section, including Abdel- Rahman Dosa. Abdel- Rahman is also a member of the Umma Party's politburo with similar tribal connections and has been held in custody for 34 days.

After more than two years in detention, Dr. Hassan Al Turabi, Islamic leader and Secretary-General of the Popular National Congress (PNC), was released on **13 August 2003**. Prior to his release, his house arrest had been extended for a further six months from 15 August 2003. Dr. Hassan Al Turabi had been

under continual house arrest since June 2001. He was initially arrested and charged under four articles of Sudan's 1991 Penal Code: Article 24, Criminal conspiracy; Articles 50 and 51, Waging war against the state; and Articles 63, *Calling for opposition to public authority by use of violence or criminal force.*

On Tuesday **9 September 2003**, a National Security Agency officer at Khartoum Airport disallowed Mr. Omer Al Shaique Hudra, 66, a well-known leader in the opposition National Democratic Front (NDF), from boarding his plane to Paris. Mr. Hudra had both his exit visa and entry visa into France stamped in his passport.

On **18 December 2003** at 4.30 am the NSA arrested the following persons: Alkhair Algadi'el, PNC Secretary for Union Relations, Altigany Sinain, PNC member, Mohamed Hafiz Abdallah, PNC member, Dawood Atiah, Umma Party member, Isamel Abashar Arabi, Umma Party member, Ismael Abshar Mohamed, Umma Party member.

Violation of Article 18

Article 18

- 1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.*
- 2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.*
- 3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.*
- 4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.*

Women rights

Women remain to be one of the more vulnerable groups in Sudan, especially in conflict areas. Women face harassment in all levels in Sudan and face considerable exclusion in health, educational, economic and political spheres.

In theory, Sudanese law does not differentiate between the sexes and the current Constitution states that '*there shall be no discrimination by reasons of race, sex or religious creed*'. Despite this, women do not share equal rights in public life and they continue to be subjected to compulsory dress codes

in the name of Islam. In addition to this, development indicators such as literacy, economic activity, political participation and gender-based violence have shown that Sudanese women still bear 'the short end of the stick' in relation to their male counterparts. Women in Sudan not only face exclusion and discrimination because of their sex but also of their religion and race and their fight for equality and more fairness in the judicial system continues to be violated

Women are excluded from the judicial bench, a process that had started in June 1989. In addition, the roles of women have been marginalised to cases that are not central to the criminal justice system or "Shari'a". An example of this is that none of the female members of the High Court have jurisdiction over regular appeals from the criminal justice system. Finally, there are a very limited number of women who serve in the High Court, and there are no woman members of the Constitutional Court.

Women and young girls have also been subjected to further discrimination with regards to punishments for adultery and crimes related to alcohol, where many were arrested and imprisoned for brewing alcohol.

In Nyala on **17 May 2003**, a 14-year girl from the Wihida Neighbourhood of Nyala in Darfur, western Sudan, was convicted of adultery under article 146 of the Penal code and sentenced to 100 lashes of the whip. The child, who cannot be named because of her age, was arrested from her home by the People's Police Force (alshorta alsha'abiya), an unconventional police force set up by the ruling party to "guard the public decency and morality of the nation".

Charges of adultery were brought against the young girl because it became obvious that she was pregnant, although unmarried. At the time of the conviction she was nine months pregnant, this is sufficient proof to convict her of adultery. Mr. Alsir Sabeel Nour Aldeen, a 25 year-old businessman who was initially charged in connection with this incident, was found not guilty due to a lack of evidence against him. He was subsequently freed. The un-named girl was tried in front of the criminal court in Nyala under article 146 of Sudan's 1991 Penal Code, which states:

"Whoever commits the offence of adultery (Zina) shall be punished as follows:

- a) Execution by stoning if the offender is married (muhsan)*
- b) One hundred lashes of the whip if the offender is unmarried (non-muhsan)."*

Violation of Article 23

Article 23

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States.

2. For the purpose of strengthening peace, solidarity and friendly relations, States parties to the present Charter shall ensure that: (a) any individual enjoying the right of asylum under 12 of the present Charter shall not engage in subversive activities against his country of origin or any other State party to the present Charter; (b) their territories shall not be used as bases for subversive or terrorist activities against the people of any other State party to the present Charter.

The crisis in Darfur

Over the course of the last year, the escalating violence has disproportionately affected "African" tribes in the Darfour area such as Fur, Zaghawa and Massalit. These tribes have complained for some time about indiscriminate attacks by nomadic groups, mainly based around access to resources and grazing rights. In the last year however, the crisis has taken on a far more overtly political and pernicious tone, with insecurity increasing as one side have found governmental support for their efforts to drive the indigenous tribes from their lands.

On 3 September 2003 in Abachi, Chad, an agreement between the Sudan Liberation Army (SLA) and the Government of Sudan (GoS) looked set to improve the situation. The agreement documented the need for ceasefire, the release of prisoners of war involved in events in Darfur and the cessation of all operations that contributed to the deterioration of security in the region. As a result, around 100 political prisoners were released in Khartoum and Darfur; a move that SOAT welcomed and encouraged.

However, while these initial steps seemed promising, the situation in Darfur subsequently took a turn for the worse and continued to deteriorate with the collapse of the peace talks between the SLA and the GoS in N'djamena, Chad. The fighting resumed even with the extension of the ceasefire agreement. The conflict now continues with pitched battles ensuing between the government and government-sponsored militias on side and rebel groups such as the SLA and JEM on the other.

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To quell the armed political groups, the GoS launched a military campaign using its own forces and armed proxy militia, the Janjaweed (armed men on horses). The Janjaweed, supported by GoS, launched a terror campaign against those who are suspected of supporting the SLA or JEM - alleged to be African tribes - such as the Fur and Zaghawa, as well as Arab tribes that are not cooperating such as the Dorok.

The move to attack non-combatants escalated the crisis exponentially. According to UN estimates (IRIN, 8 December 2003), the crisis now affects more than one million persons, with 3,000 reported killed, 670,000 internally displaced, with approximately 100,000 living as refugees in neighbouring Chad. There have been numerous reported cases of well-coordinated attacks on towns and villages and areas thought to be rebel strongholds by well-armed government militia & government forces.

Where the ground based attacks are concerned, there has been a sustained campaign which targets civilians and civilian infrastructure. Typically raids take place in the early hours of the morning, often burning entire villages to the ground. In addition, cattle are killed or looted, crops destroyed and the inhabitants forced to flee for their lives. The stated aim of such action according to local inhabitants is to destroy the livelihood of those living in the area and to make difficult the survival of those who become refugees.

Indiscriminate aerial bombardment of towns and villages by government Antonov aircraft also augment such attacks. These bombings take place in areas where the opposition to the government and militia are thought to be strongest, although there is no effort to distinguish civilian from non-civilian targets. As Amnesty International has pointed out, the bombings usually consist of shrapnel filled boxes being ejected from the back of planes. In addition helicopter gunships also shell villages and their inhabitants. Taken together such bombardments can be extremely destructive, levying high and indiscriminate amounts of damage.

Where human rights are concerned, emerging reports show that human rights abuses are rife in the region. The overwhelming majority of the atrocities committed stem from Janjaweed and GoS sponsored action. Civilians, primarily due to the indiscriminate way in which GoS action is pursued, inevitably make up the overwhelming majority of the casualties. There have also been some reports of abuses lead by the SLA and JEM, but these are relatively few relative to those sponsored by the GoS and militia at the time of writing

All of these problems have compounded an already difficult humanitarian situation. There is clear evidence that the GoS is imposing severe restrictions on humanitarian relief organisations and that IDP's and refugees are being placed in an extremely vulnerable and dangerous situation. The states of Darfur are naturally geographically remote which make the reporting of human rights violations difficult. This situation and the dearth of information is however being compounded by GoS attempts to place reporting restrictions and restrictions on the media in the area.

The government, which views the insurgency as a security threat, has called on Darfur's tribes to "defend" their homes and property, and support the government's attempt to fight the rebels. This stands at odds however with the ingoing terror campaigns and the large humanitarian toll being exacted on the inhabitants of the region.

On 8 May 2004, a report was published by the United Nations High Commissioner for Human Rights following a mission in Darfur. It qualified the crimes as war crimes and crimes against humanity. The report stated :

"The current conflict in Darfur was initiated by the rebel forces, primarily constituted from the Zaghawa, Fur and Masaalit tribes. Rebel forces appear to have violated human rights and humanitarian law. Notwithstanding that fact, the mission identified disturbing patterns of massive human rights violations in Darfur perpetrated by the Government of Sudan and its proxy militia, many of which may constitute war crimes and/or crimes against humanity.

According to information collected, it is clear that there is a reign of terror in Darfur the following elements of which should be highlighted : (a) Repeated attacks on civilians by Government of Sudan military and its proxy militia forces; (b) The use of indiscriminate aerial bombardments and ground attacks on unarmed civilians; (c) The use of disproportionate force by the Government of Sudan and Janjaweed forces; (d) That the Janjaweed have operated with total impunity and in close coordination with the forces of the Government of Sudan; (e) That the attacks appear to have been largely ethnically based with the groups targeted being essentially the following tribes reportedly of African origin: Zaghawas, Masaalit, and Furs. Men and young boys appear to have been particularly targeted in ground attacks; (f) The pattern of attacks on civilians includes killing, rape, pillage, including of livestock, and destruction of property, including water sources; and (g) That there has been massive, often forced, displacement of much of the population in Darfur."

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1. See, *infra*, under " Violation of Article 7: Independence and Quality of the Judiciary ".
2. See Press release of 29 March 2004, " UN rapporteurs gravely concerned by reports of ethnic cleansing in Sudan ", on <http://www0.un.org/apps/news/story.asp?NewsID=10234&Cr=Sudan&Cr1=>
3. See *infra*, under " Violation of Article 4 and 5: Killings in Darfur ".
4. See *infra*, under " Violation of Article 4 and 5: Torture, cruel, inhuman and degrading punishment and treatment - Cases of violations ".
5. See *infra*, under " Violation of Article 6: Arbitrary arrests in Darfur ".
6. See, *infra*, under " Violation of Articles 10 and 11: Repression of students' demonstrations ".
7. See, *infra*, under " Violation of Article 7: Independence and Quality of the Judiciary ".
8. See, *infra*, more information on their case under Section " Torture, cruel, inhuman and degrading punishment and treatment. "
9. See, *supra*, the case of 168 members of the Fur tribe who have been later executed, under " Violation of Articles 4 and 5: Killings in Darfur ". See also, *supra*, the cases of Dirdima Bushra Hatala, Adam Yaseen Mohamed, Abdel Kareem Ahmed Hido, Saad Ahmed Mohamed, Burma Abdel Rahman Masar, Abd Allah Agai Akouj and Sanousi Alhaj Ismael, allegedly tortured, under " Violation of Articles 4 and 5: Death sentences ". See also, *infra*, the cases of brothers Kadr, Hisham, Al Shafih and Lenin Al Taieb Yousef, and Easa Alman Alih under " Violation of Article 6: Arbitrary arrests ". See also, *infra*, the case of *Yousif al-Bashir Musa* under " Violation of Article 9: Cases of detention and harassment of journalists ".
10. See, *infra*, more information on their case under " Violation of Articles 10 and 11: Repression of students' demonstrations. "
11. See, *infra*, the situation of women in the judiciary under " Violation of Article 18: Women rights ".
12. See, *supra*, the cases of Sanousi Alhaj Ismael and of Masar Ahmed Ishag, Jali Adam Ahmed and Musa Hamid Ahmed, under " Violation of Articles 4 and 5: Death sentences ".
13. See, *supra*, the case of Mr. Jammaly Hassan Jalal Aldean, Al Fashir human rights advocate from the Zaghawa tribe, under " Violation of Article 6: Arbitrary arrests in Darfur ".
14. See, *infra*, more information on their case under Section: " Cases of detention and harassment of journalists ".
15. See, *supra*, the case of Waiel Taha and Yousif Fat'h under " Violation of Articles 4 and 5: Torture, cruel, inhuman and degrading punishment and treatment. "
16. See, *supra*, more information on their cases under " Violation of Articles 4 and 5: Torture, cruel, inhuman and degrading punishment and treatment - Cases of violations".
17. See, *supra*, the arrest of Ghazi Suleiman, a founder of the Democratic Forces Front, the political group otherwise known as GAD, under " Violation of Article 9: Harassment of human rights defenders ".

Recommendations

The FIDH and SOAT recommend that the African Commission of Human and Peoples' Rights urge both parties of the conflict in Darfur to ensure unrestricted and secure access for humanitarian and human rights agencies working in Darfur region.

Moreover, the FIDH and SOAT recommend that the African Commission of Human and Peoples' Rights urge the Government of Sudan to :

- Ensure the security of all people in the territory of Sudan;
- Take immediate measures to provide the necessary protection to the civilians in Darfur against attacks and abuses by its forces and the forces of other militias allied to it;
- Immediately refrain from supporting and providing supplies and training to all irregular armed militias particularly the so-called "Arab militia" and the Janjaweed;
- End all acts of torture and ill treatment, particularly the lashing and amputation;
- Immediately engage impartial and exhaustive investigations on all allegations of torture, ill treatment and other international crimes in order to identify their authors, to prosecute them and to judge them in conformity with international human rights standards, and in particular in Darfur for crimes committed by alleged government-aligned militias;
- Ensure that the victims of such violations obtain redress and have an enforceable right to fair and adequate compensation;
- Ensure that confessions obtained by force cannot be used as evidence in trial proceeding;
- Ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Abolish the death penalty in Sudan;
- Free immediately and unconditionally all person who has been arbitrary arrested or detained;
- Treat with dignity all persons deprived of their liberty;
- Respect the right to a fair trial, particularly respect the right of all detainees to have access to lawyers, to receive visits from family members and to legal appeal in accordance with international human rights standards;
- Enable the independence of the judiciary, in particular ensure that the process of judicial appointment at all levels is transparent;
- Respect the provisions of the Declaration of human rights defenders, adopted by the General Assembly of the United Nations on 9 December 1998;
- Allow the media pluralism in accordance with international human rights instruments, stopping any kind of harassment directed against the independent press;
- Reform the Press Act 2000 with a view to safeguard the development of the media and press taken into account the expected changes in the country after the peace agreement is signed.
- Respect the right to peaceful assembly;
- Rebuild the Press National Council so that it becomes more representative of the media rather than representing the State.
- Ratify the Additional Protocol of the ACHPR which creates the African Court of Human and Peoples' Rights and make a declaration under Article 34(6) of the Additional Protocol of the ACHPR on the establishment of the African Court of Human and Peoples' Rights;
- Ratify international and regional instruments relating to the discrimination against women, and particularly the Additional Protocol of the ACHPR on the rights of women in Africa and the Convention on the Elimination of All Forms of Discrimination against Women and its optional protocol.

Finally, the FIDH and SOAT recommend that the African Commission of Human and Peoples' Rights urge the Sudan liberation Army (SLA) and the Justice and Equality Movement (JEM) to immediately stop the use of civilian premises for military purposes, as well as the use of weapons that threat civilians, such as landmines.

The **International Federation for Human Rights (FIDH)** is an international non-governmental organization for the defence of human rights as enshrined in the Universal Declaration of Human Rights of 1948. Created in 1922, the FIDH brings together 142 human rights organisations from 100 countries. FIDH has undertaken over a thousand missions of investigation, trial observations, and training in more than one hundred countries. It provides them with an unparalleled network of expertise and solidarity, as well as guidance to the procedures of international organisations. The FIDH works to:

- a) Mobilise the international community
- b) Prevent violations, and support civil society.
- c) Observe and alert.
- d) Inform, denounce, and protect.

The FIDH is historically the first international human rights organisation with a universal mandate to defend all human rights. FIDH enjoys observer status with the United Nations Economic and Social Council, (UNESCO), the Council of Europe's Permanent Committee, the International Labour Organization (ILO), and consultative status with the Africa Commission for Human and Peoples' Rights. FIDH is represented at the United Nations and the European Union through its permanent delegations in Geneva and Brussels.

FIDH facilitates each year the access and use of existing international mechanisms to more than 200 representatives of its member organisations and supports their activities on a daily basis. FIDH also aims to protect human rights defenders.



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Sudan Organisation Against Torture (SOAT), corresponding member of the FIDH, is an independent non-governmental human rights organisation established in 1993 working in Sudan and UK and has members worldwide. SOAT primary objective is preventing torture and challenging impunity.

SOAT works to:

- a) Rehabilitate Sudanese survivors of torture;
- b) Provide legal assistance to survivors and individuals threatened with inhumane and degrading punishments;
- c) Human rights education;
- d) Researches, documents and campaigns against human rights abuses in Sudan on a national and international level.

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