

To: Members of the African Commission on Human and Peoples' Rights

20 December 2012

Honourable Commissioners,

**Re: Call for Further ACHPR Action on Human Rights in Sudan**

We, the undersigned non-governmental organizations, are writing to urge you to ensure that serious human rights violations committed in Sudan are appropriately addressed by the African Commission on Human and Peoples' Rights (the African Commission).

Since the independence of South Sudan last year, the human rights and humanitarian situation in Sudan has continued to deteriorate, particularly in the conflict-affected areas of Southern Kordofan, Blue Nile and Darfur. The situation is becoming more and more urgent. The declaration of the NGO Forum preceding the 52<sup>nd</sup> ordinary session of the Commission in October 2012 called on the African Commission to condemn the killing of civilians by the Sudanese government in Darfur, the Nuba Mountains area of Southern Kordofan, and Blue Nile.<sup>1</sup>

Sudanese authorities have also cracked down on dissenting voices, opposition groups and protesters in Sudan in recent months. Measures taken by the Sudanese government have included mass arbitrary detentions and torture, pre- and post-print censorship of newspapers, and the harassment of human rights defenders and journalists.

We recall the efforts of the African Commission to address the situation in Sudan, including its October-November 2009 visit to Sudan as well as previous resolutions on Darfur adopted by the African Commission since its 35th Ordinary Session in 2004.

We commend the African Commission for the Provisional Measures it ordered with regards to the situation in Southern Kordofan on 7 November 2011<sup>2</sup>, as well as for its resolution of 2 May 2012, adopted at the height of the border conflict in Heglig, which called for "a solution to conflict between

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<sup>1</sup> Declaration of the NGO Forum to the African Commission, 8 October 2012,

<http://www.acdhrs.org/2012/10/declaration-of-the-ngo-forum-to-the-african-commission/>

<sup>2</sup> Communication 402/11-420/11: Sudanese Civilians in South Kordofan and Blue Nile (represented by Sudan Democracy First Group, Interights, Human Rights Watch, REDRESS and the Enough Project) v Republic of Sudan, Provisional Measures, 7 November 2011 and 12th Extraordinary Session, Algiers, Algeria, 30 July -4 August 2012. See also reference made in Opening Speech by the Chairperson of the African Commission on Human and Peoples' Rights, 51<sup>st</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, 18 April 2012, <http://www.achpr.org/sessions/51st/speeches/atoki-opening-speech/>

Sudan and South Sudan” and “for the full and effective enjoyment of human rights in the two countries.”<sup>3</sup>

The May 2012 resolution further expressed particular concern about the conflicts in Southern Kordofan and Blue Nile states and the humanitarian tragedy these conflicts have caused. Nevertheless, almost six months on, the situation for civilians in these two states, as well as in Darfur state, has only worsened.

### ***Conflict in Southern Kordofan and Blue Nile***

The current conflict between SPLA-North and Sudanese Armed Forces (SAF) in Southern Kordofan and Blue Nile states has been ongoing since mid-2011. The SAF have continued indiscriminate aerial bombardments in civilian areas of both states, in violation of international humanitarian law.

The SAF and government-affiliated militia are responsible for other serious abuses against civilians in both states, such as forced displacement, destruction of grain and water sources that are critical to the survival of the population, arbitrary detention, and sexual violence against women and girls. Such abuses may amount to war crimes and crimes against humanity and are creating a humanitarian crisis.

Sudan has continued to block humanitarian aid groups from accessing areas outside government-controlled towns where civilians are in dire need of food aid. Under the tripartite agreement initiated by the United Nations, African Union and League of Arab States, a memorandum of understanding to deliver humanitarian aid to the two states was signed by Sudan and the SPLM-N in August, but the agreement expired in early November without its measures being implemented. Lack of humanitarian access has also served as a conflict driver.

According to recent reports, 81% of households in the SPLM-N controlled areas of Southern Kordofan survive on one meal a day, while 73% have no income to purchase food.<sup>4</sup> According to the United Nations refugees agency more than 211,000 people had fled from Blue Nile and Southern Kordofan to refugee camps in South Sudan and Ethiopia by the end of September, with the majority seeking refuge in Yida Camp in Unity State, South Sudan.<sup>5</sup>

In October 2012, the UN Office for the Coordination of Humanitarian Affairs (OCHA) estimated over 900,000 people to be either internally displaced or severely affected in the two states of Southern Kordofan and Blue Nile, an increase of over 200,000 people since July.<sup>6</sup> The absence of independent monitoring and adequate access to these areas deprives the international community of information on the ongoing impact of the fighting on the civilian population and their immediate humanitarian needs.

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<sup>3</sup> African Commission on Human and Peoples’ Rights, Resolution on the Situation Between Sudan and South Sudan, 2 May 2012, <http://www.achpr.org/sessions/51st/resolutions/219/>

<sup>4</sup> OCHA Humanitarian Bulletin: Sudan, 15-21 October 2012, <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Sudan%20Weekly%20Humanitarian%20Bulletin%20Issue%2041%20%2815-21%20Oct%202012%29.pdf>

<sup>5</sup> OCHA Sudan Humanitarian Update Third Quarter Report 2012, <http://www.unocha.org/sudan/quarterly-updates> (October 2012)

<sup>6</sup> *Ibid*

## ***Violence in Darfur***

Armed conflict between government and armed-opposition forces and militia groups continues. Darfur remains heavily militarized and under a state of emergency. On 2 November 2012, 13 civilians were killed in an attack on Sigili village in North Darfur.<sup>7</sup> In early August 2012, a militia attacked Kassab IDP camp, looting homes and markets, committing several extrajudicial killings and forcing the entire population of the camp – some 25,000 people, according to UN statements – to flee.<sup>8</sup>

UNAMID peacekeepers have repeatedly come under attack. On 17 October 2012, a UNAMID peacekeeper was killed and three others were injured in an ambush by unidentified assailants on their convoy in North Darfur. In a similar incident two weeks earlier in West Darfur, four peacekeepers were killed and eight injured.

The government of Sudan continues to restrict the movement of the AU/UN peacekeeping mission and NGOs, preventing monitoring in large parts of the region. Although the government and one rebel group, the Liberation and Justice Movement, have begun to implement some parts of the Doha Document for Peace in Darfur, such as establishing the Darfur Regional Authority, the government has done little to address human rights violations, including cases of arbitrary arrest and sexual and gender based violence.

In August, government forces violently dispersed student-led protests in Nyala, South Darfur, reportedly killing at least twelve protesters, ten of whom under the age of eighteen.<sup>9</sup> Excessive force, mass arbitrary detentions, ill-treatment and torture have also been used to crackdown on protests. Dozens of students in Nyala were arrested, accused of planning the July demonstrations. Family members were also targeted when students could not be located.

## ***Repression of dissenting voices and crackdown on protests***

Sudan increased its repression of critical voices in the wake of fighting with South Sudan in April and May 2012. The National Intelligence and Security Service (NISS) have censored media articles and harassed and threatened journalists and political opposition members. Under the 2010 National Security Act, the NISS has broad powers to search, seize, arrest, and detain individuals for up to four and a half months without judicial review, in violation of international standards. The government has continued its crackdown on NGOs' freedom of association and continued to impose constraints on receiving foreign funding. In addition, the government has carried out acts of intimidation and reprisals against human rights defenders (HRDs) and civil society organisations cooperating with regional and international human rights mechanisms.

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<sup>7</sup> Human Rights Watch, 7 November 2012, "Sudan: North Darfur Attack Kills 13 Civilians," <http://www.hrw.org/news/2012/11/07/sudan-north-darfur-attack-kills-13-civilians>

<sup>8</sup> OCHA Sudan Humanitarian Update Third Quarter Report 2012

<sup>9</sup> African Centre for Justice and Peace Studies, "Twelve dead, including ten children, and over eighty injured following police and NISS excessive use of force in Nyala," 2 August 2012; Human Rights Watch, "Sudan: Police Fatally Shoot Darfur Protesters: Investigate and Prosecute Authorities Responsible," 3 August 2012, <http://www.hrw.org/news/2012/08/03/sudan-police-fatally-shoot-darfur-protesters>

Across Sudan the government has continued to deploy security forces to violently disperse peaceful protesters. A wave of protests spread throughout Sudan in June to August 2012. The protests were initially staged in response to economic austerity measures but soon transformed into calls for regime change, peace and justice. Hundreds were arrested and detained in relation to the protests, many for weeks or months without being charged with any criminal offense. The African Centre for Justice and Peace Studies documented over 300 cases of arbitrary arrest and detention from mid-June to the end of July.<sup>10</sup> Those detained included protesters, members of political opposition parties, human rights defenders and representatives from independent civil society groups.

Many women and representatives from women's rights groups in Sudan were detained for prolonged periods of time. A number of women human rights defenders were tortured and subjected to sexual violence, such as being forced to undergo virginity tests, and detainees were subjected to ill-treatment and torture. While the government announced the release of all detainees in August, Sudanese monitors reported at the time that dozens of individuals remained in detention on the basis of their real or perceived opposition to the ruling party. At present, all detainees arrested in conjunction with the demonstrations are believed to have been released. However, other activists remain detained, such as Jalila Koko Khamis, a female activist from the Nuba Mountains, who was arrested in March 2012 and is facing charges that may carry the death penalty.

### ***Citizenship***

In early 2012, following the secession of South Sudan from Sudan in July 2011, the Sudanese government announced that southerners should either return to South Sudan or that they would be treated as foreigners and should adjust their legal status by 8 April. In its May 2012 resolution, the Commission expressed concern about the threat posed by the armed conflict to the right of asylum and nationality of persons from South Sudan living in Sudan and vice-versa. The Commission should monitor the implementation of the agreement reached between Sudan and South Sudan on 27 September 2012 to allow nationals of the other state freedom of residence, movement, to undertake economic activity and to acquire and dispose of property, and ensure that no forced expulsions occur.<sup>11</sup>

### ***Freedom of religion***

NGOs have documented an increase in hostile political rhetoric targeting southerners and non-Muslims after South Sudan's secession. In a speech on 7 July 2012, President Omar al-Bashir stated that the next constitution of Sudan would be "100% Islamic" and told non-Muslims that "nothing will preserve your rights except for Islamic sharia because it is just."<sup>12</sup> On 21 April 2012, a church compound in the al-Jereif neighbourhood of Khartoum used by various nationalities including Ethiopians, Eritreans and South Sudanese, was attacked and set on fire by followers of a radical local Imam, while police stood by. Non-Muslim communities have complained of other church demolitions. At the same time, national groups have reported an increase in Shari'a law cases that contravene human rights norms, including the

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<sup>10</sup> African Centre for Justice and Peace Studies, Sudan Human Rights Monitor, June-July 2012

<sup>11</sup> Framework Agreement on the Status of Nationals of the Other State and Related Matters between The Republic of Sudan and The Republic of South Sudan, Addis Ababa, 27 September 2012

<sup>12</sup> Reuters, "Al Bashir: Sudan statute to be 100% Islamic," 8 July 2012, <http://gulfnews.com/news/region/sudan/al-bashir-sudan-statute-to-be-100-islamic-1.1046029>

prohibition of torture or cruel, inhumane or degrading treatment or punishment, such as the imposition of death sentences by stoning and convictions for apostasy. Some of these *hudud* punishments, such as stoning, disproportionately target women and are illuminative of a gender bias in Sudanese law. Likewise, Sudanese authorities have also continued to apply public order laws in a way that discriminates disproportionately against women and girls and non-Muslims.

Honourable Commissioners,

As highlighted above, an urgent response is required to resolve the humanitarian and human rights crisis in Sudan. We, the undersigned NGOs, urge the African Commission to take all actions within its power to promote and protect human rights in Sudan.

We therefore call on the African Commission to:

- Urge the Government of Sudan to immediately cease indiscriminate aerial bombardments and other violations of international human rights and humanitarian law in Southern Kordofan and Blue Nile states and to grant immediate and unfettered access to humanitarian agencies in the conflict-affected areas, in compliance with its obligations under the African Charter of Human and Peoples' Rights and other international law, including applicable humanitarian law, and guiding principles of emergency humanitarian assistance;
- Treat the situation in Blue Nile and Southern Kordofan states as a matter of urgency under Article 58 (3) of the African Charter, pursuant to Rule 79 of the Commission's Rules of Procedure given that "serious or massive human rights violations" are involved and present "the danger of irreparable harm or requires urgent action to avoid irreparable damage;"
- Carry out an urgent protection mission in line with Rule 81 of the Rules of Procedure to assess the human rights and humanitarian situation in Southern Kordofan and Blue Nile states, and to report back at the next ordinary session of the Commission in April 2013;
- Declare that Sudan has violated its obligation under Rule 98 to "adopt Provisional Measures to prevent irreparable harm to the victim[s]" as requested by the African Commission;
- Take action pursuant to Rules 80 and 98(3) of the Rules of Procedure, and inform the relevant organs of the African Union, including the Assembly of Heads of State and Government of the African Union, the Peace and Security Council, and the African Union Commission, about the Communications and Sudan's failure to comply with the request for Provisional Measures, recommending that those bodies take urgent action to prevent further irreparable harm being done to victims. This information should be included in the Commission's activity report to be presented at the AU Heads of State Summit in January 2013;
- Reiterate its grave concern over the human rights and humanitarian situation in Southern Kordofan, Blue Nile and Darfur, and condemn government violent suppression of peaceful

protests and arbitrary arrests and detention of protesters, as well as the increasing repression of critics of the government, and to issue a public statement to this end;

- Coordinate with other AU bodies such as the Peace and Security Council to ensure that respect for international human rights and humanitarian law form a central part of their considerations on the situation in Sudan.

We remain at your disposal for any further information the African Commission may require.

Yours sincerely,

African Centre for Justice and Peace Studies  
African Women's Development and Communications Network (FEMNET)  
Amnesty International  
Arry Organization for Human Rights & Development  
Cairo Institute for Human Rights Studies  
East and Horn of Africa Human Rights Defenders Project  
Human Rights Concern Eritrea  
Human Rights Watch  
International Federation for Human Rights (FIDH)  
International Refugee Rights Initiative  
Investors against Genocide  
League for Human Rights in the Great Lakes Region (LDGL)  
Massachusetts Coalition to Save Darfur  
Minority Rights Group International  
Tanzania Human Rights Defenders Coalition