

Fences of Silence

**Systematic Repression of
Freedom of the Press, Opinion
and Expression in Sudan**

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About Press Freedom in the Interim Period in Sudan: 5 July, 2005 - July 9, 2011

*To the spirit of my teacher, el Tijani el Tayeb Babikir;
a life-long fighter for freedom, democracy,
peace and the rule of law.*

Abdel Gadir

The Fences of Silence:

"Systematic Practices to Repress Freedom of the Press, Opinion and Expression in Sudan" - a report on press freedom in Sudan in the interim period (5 July, 2005 - July 9, 2011)



Photo: a group of journalists in a protest stand against violations of expression

Prelude

Sudan has experienced a civil war that lasted for more than twenty years between the central government in Northern Sudan and armed southern movements since the days of the Anyanya I, Anyanya II and then the Sudan People's Liberation Movement (SPLM) rebel movements. SPLM, the strongest of the southern movements which reached a peace agreement in 2005 with the central government of the North (which came to power through a military coup in 1989), that came to be known as the Comprehensive Peace Agreement (CPA), which ended the civil war and established a sharing of power between SPLM and the central government of the north.

In the wake of the signing of the Comprehensive Peace Agreement between the North and the South, the Interim National Constitution of the Republic of Sudan (INC) of 2005 was signed and ratified, which included in its Chapter II the Bill of Rights, which guarantees the freedom of expression, freedom of the press and the freedom of publication.

The INC was signed and adopted on July 5, 2005, and a transitional period was established during which governance was shared between the SPLM and the ruling National Congress Party in the north with majority while ensuring poor political participation for other political forces in the north and the south. The transitional period, that began on July 5, 2005 and ended on July 9, 2011, was bound to the provisions of the INC (2005), which provided guarantee of all rights guaranteed by the international laws and treaties. Especially the right to freedom of opinion, expression and the press, but was the Sudanese government committed to guaranteeing those rights? This report aims at answering this fundamental question, in addition to assessing the situation of freedom of expression in the transitional period ruled by a constitution that guaranteed the right to freedoms of the press, opinion and expression.

Background/Executive Summary

The Sudanese government imposes, through the National Intelligence and Security Service, strict control, prior to publishing, on the media in Sudan, in particular, the independent and critical printed press.

In addition to this, it resorts to hidden, unannounced restrictions to control the media and domesticate it, including blocking government ads from newspapers critical of the government, political trials, administrative penalties and prosecution of journalists for malicious and fabricated charges and legal restrictions up to the arrest and torture of journalists. Furthermore, the National Telecommunication Corporation, a government body, obscures many of the Websites within the Sudan, at different periods.

Telecommunication companies in Sudan have often committed violations of privacy, under the supervision of sections of the security services, by tapping on to the beneficiaries of the service, with companies operating in the field of telecommunications recording mobile phone calls between users of the service, which is a violation of privacy. Affected by this procedure are journalists who are subjected to revealing their sources and eavesdropping on their calls.

Claiming conflict with Sudanese social values, the security authorities have confiscated several books and literary works, such as articles covering issues of Darfur, dams, student violence, forced displacement in the north of Sudan, the privatization of the Jazeera agrarian project, corruption, poor service provision, the press and publications law, violations of human rights, health, police use of violence in dispersing demonstrations, issues of education, school curricula and books, internally displaced persons, refugees, the International Criminal Court, prison conditions, the excesses of the Security and Intelligence Services, torture and censorship of newspapers on topics that newspapers are prevented from addressing. The Security service also prevents writings critical of the ruling party (National Congress Party), or those calling for improving conditions of freedom.

Methodology:

Towards the preparation of this report, several field visits were paid to houses of the printed press and printing presses during the time period covered by the report, and numerous interviews were conducted with reporters and editors of daily and weekly papers published in Khartoum.

Visits also included bookshops and book exhibitions, and interviews were conducted with authors and directors of book exhibitions.

Necessity, and scarcity of resources in some cases, dictated resorting to the Internet to get some documents and pictures, and the use of some of the news published in newspapers, and data from local, regional and international organizations.

In an attempt to assess the situation of freedom of expression of the press in the interim period, the report will present accurate information on the status of freedom of opinion and expression and the conditions of press freedom in Sudan during this period, and attempts to provide an objective analysis of the pre-publishing censorship as a mechanism of the government for repression against journalists and activists in the context of a general political reality, and reveal methodic, official government practices to repress freedom of opinion and expression in the Sudan.

NB: names of some journalists interviewed or polled are withheld upon the request of some of them for protection and confidentiality.

Why the transitional period

The time period of this research is the transitional period determined in accordance with the INC from 5 July 2005 through 9 July 2011. This period was chosen and focused on because it was governed by a constitution that guaranteed the right to freedom of opinion and expression and the freedom of the press. A commission was established to assess the peace agreement and to what extent parties of the Agreement were committed to the Agreement. The reason for focusing on the freedom of expression and freedom of the press is that these are the guarantors and guardians of the exercise of other rights and freedoms.

Definition of Freedom of Opinion and Expression:

The freedom of opinion and expression means the right of everyone to express their views and ideas without restriction. The right to expression is one of the major human rights due to its central importance to human life and dignity, and because it forms a fundamental underpinning of all human rights and its role in ensuring the effective protection of rights. The freedom of expression is linked to the freedom of the press and publishing and the right of access to information, the right to knowledge, transparency combating corruption, good governance and democracy. Many describe the freedom of expression as the oxygen of democracy ¹- hence the interest in the freedom of expression and freedom of the press.

1 Article 19 Publications, the global campaign for free expression.

Freedom of Expression in the 2005 INC:

Within the Interim National Constitution of Sudan for the year 2005, are all the rights contained in international treaties and conventions ratified by Sudan.² Besides, the INC specifically ensures the right to freedom of the press, opinion and expression, and guarantees for every citizen an unrestricted right to freedom of expression and to receive and disseminate information, publications and access to the press without prejudice to order, safety and public morality, pursuant to what the law determines. The State shall guarantee freedom of the press and other organs of mass media in accordance to what the law regulates in a democratic society. All media organs are to be bound by professional ethics and not to stir up religious, ethnic, racial or cultural hatred or advocate for violence or war.³

Although the INC expressly guarantees the right to freedom of expression and freedom of the press, reality reveals otherwise. In a precedence that was one of a kind, the Constitutional Court of Sudan granted the Security and Intelligence Service wide powers to impose pre-publishing censorship of newspapers⁴, without regard for the constitutional right guaranteed under Article (39) and international obligations. It is worth mentioning here that the Sudanese laws, including the Press and Publications Law, do not guarantee the right to freedom of opinion and expression and access to information. There are laws in force in the Sudan that do not uphold the right to freedom of opinion and expression, and even impose censorship and other forms of repression against freedom of opinion and expression and the media.

Regional and International Guarantees of Freedom of Opinion and Expression:

The right to freedom of opinion and expression is guaranteed - as is well known - in all international charters and conventions. Article 19 of the Universal Declaration of Human Rights (1948) was the first step on which the international guarantees of the right to freedom of opinion and expression were founded; this was followed by the guarantees provided by the International Covenant on Civil and Political Rights (1966) and the African Charter on Human and Peoples Rights (1981). It is known that Sudan is a party to the International Covenant on Civil and Political Rights since 1986 and the African Charter on Human and Peoples Rights since 1983. Therefore, Sudan is bound under international law to protect the right to freedom of the press and freedom of opinion and expression.

The **Universal Declaration of Human Rights** provides the fundamental guarantees for the right to freedom of the press and freedom of opinion and expression, and ensures everyone has the right to freedom of opinion and expression. This right includes the freedom to embrace opinions without interference, and to impart and receive information and ideas through any media and regardless of frontiers.⁵

The **International Covenant on Civil and Political Rights** also ensures that every human being has the right to hold opinions without interference and to ensure that everyone has the right to freedom of expression. This right includes freedom to seek various forms of information and ideas, receive and impart to others, regardless of frontiers, either in writing or in print, in the form of art or through any other media of his choice such information. The

2 Article 27.3 of the INC (2005).

3 Article 39 of the INC.

4 See addenda, the wording of the Constitutional Court's decision on quashing a lawsuit filed against the security services.

5 Article 19 of the Universal Declaration of Human Rights, 1948.

Covenant indicates that exercising the rights provided for in this Article entails special duties and responsibilities. It may therefore be subject to certain restrictions, but provided that these are specified by law and are necessary for the respect of the rights or reputations of others, and to protect national security, public order, public health or public morals.⁶

At the regional level, the **African Charter on Human and Peoples' Rights** ensures everyone has the right to receive information. And ensures everyone has the right to express and disseminate his opinions within the framework of laws and regulations.⁷

The **Arab Charter on Human Rights** also ensures the right to information and freedom of opinion and expression and the right to seek, receive and impart information and ideas to others by any media and regardless of frontiers. The Charter refers to exercising these rights and freedoms within the framework of the basic components of society and to be subject only to restrictions imposed by respect for the rights or reputations of others or the protection of national security, public order, public health or public morals.⁸

The "**Declaration on Fundamental Principles Concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights, and to Countering Racism, Apartheid and Incitement to War**", issued by the General Conference of the United Nations Educational, Scientific & Cultural Organization, at its twentieth session, on November 28, 1978, includes principles that promote the freedom of expression and press freedom.

The **European Convention on Human Rights** ensures the right to freedom of expression for all, including freedom to hold opinions and to receive and provide information and ideas without interference by public authority and regardless of international borders. This is without prejudice to the right of the state to actively require the licensing for activity of radio, television and film institutions.

The Convention requires duties and responsibilities towards the exercise of freedoms guaranteed thereunder so these may be subject to formalities of procedure, terms and conditions, restrictions, and penalties specified in the law as necessary in a democratic society, in favor of national security, territorial integrity, security of the public, maintaining order and preventing crime, protecting health and morals, respect for the rights of others, preventing disclosure of secrets, or strengthening authority and the impartiality of the judiciary.⁹

With these clear provisions, international human rights and regional instruments have ensured the right to freedom of the press and freedom of opinion and expression. However, we find that governments do not pay due attention to protecting the right to freedom of opinion and freedom of expression, and even embark on violation of this right. The Sudanese government has worked to commit methodic violations of the right to freedom of opinion and expression.

Sudan's International Obligations on Freedom of Expression:

Under its international obligations and its obligations as a state party to the Interna-

6 Article 19 of the International Convention on Civil and Political Rights, 1966.

7 Article 9 of the African Charter on Human and Peoples' Rights, 1981.

8 Article 32 of the Arab Charter on Human Rights, 2004.

9 Article 10 of the European Convention on Human Rights, 1950.

tional Covenant on Civil and Political Rights and the African Charter on Human and Peoples Rights, Sudan is obliged to respect the right to freedom of opinion and expression, and to ensure this right for all citizens pursuant to international law and the Interim National Constitution, as previously noted.

Sudan is bound by what is stated in these international conventions according to the Bill of Rights enshrined in the INC. It is also legally bound, in accordance with Article 19 of the International Covenant on Civil and Political Rights, to the maintenance of freedom of opinion and expression and freedom of information.

It is known that the International Covenant on Civil and Political Rights, allows governments to impose certain restrictions on freedom of expression, if these restrictions are pursuant to the law and necessary: (a) for the respect of the rights or reputations of others, (b) to protect national security, public order, public health or public morals . However, under the “Johannesburg Principles”, in order for such restriction to become legitimate and in the interest of national security: “ the real purpose thereof is to protect the State or its territorial integrity against the use or threat of force, or the state’s ability to respond to such a threat to use force, whether from an external source, as a military threat, or an internal source, as inciting violence to overthrow the government (...) and in particular, the restriction justified on grounds of national security does not become legitimate if the primary purpose thereof is to protect interests unrelated to national security, such as, for example to protect a government from embarrassment or exposure of errors or expose corruption and abuses” .¹⁰

Actions taken by the Sudanese authorities, particularly the National Security Service, are inconsistent with caveats on the limitations contained in the international law of human rights.

Sudan is also party to the African Charter on Human and Peoples Rights. In October 2002, the African Commission on Human and Peoples’ Rights adopted the Declaration of Principles on Freedom of Expression in Africa, and stated therein were positive obligations on state parties to the African Charter on Human and Peoples with regard to freedom of expression, part of which was that a state may not assume monopoly over television and radio broadcasting systems.¹¹

Five Key Elements of the International Definition of the Freedom of Expression:

- A right of every person without discrimination on the basis of gender, race, nationality, or religion. A right for children and foreigners, minorities, and even prisoners.
- It includes the right to seek, receive and impart news and ideas. In other words it does not cover just the right to expression, but also the right to access to third party data and information owned by public bodies.
- This right applies to various forms of information and ideas. It protects in principle any fact or opinion that can be transmitted, including data that shock or insult, and which is deemed false, misleading or not important. Many of the ideas accepted today were deemed heresy in the past. Freedom of expression loses its importance once it is confined to generally accepted data.
- Freedom of expression is guaranteed regardless of frontiers. Individuals are entitled to seek, receive and broadcast information from and to other countries.

10 ‘An Everyday Battle: Censorship & Harassment of Journalists and Human Rights Defenders in Sudan’, Human Rights Watch, February 2009.

11 Ibid.

- The right to expression can be exercised by whatsoever means. Individuals are entitled to use any means to convey their message, whether modern or traditional, through newspapers, magazines, books, brochures, radio, television, the Internet, and art and popular gatherings.¹²

Restrictions on Freedom of Expression in Sudan - the General Context:

Following the signing of the Comprehensive Peace Agreement, and the issuance of the Interim National Constitution of the Republic of Sudan for the year 2005, which guarantees freedom of expression, independent and semi-independent newspapers started being published, and even papers or opposition parties newspapers critical to the policies of the regime started getting published. Ever since June 1989 and until 2005, newspaper distribution outlets have not witnessed the partisan or critical newspapers, with the exception of one independent newspaper (the *el Ayam*) published in 2000, and another critical paper (the *el Maidan*) which continued to be secretly printed and distributed.

With the emergence of independent, critical and partisan newspapers and journalists proceeding in the exercise of their constitutional right to freedom of expression, criticizing errors and exposing corruption and violations/abuses, the government got tired of such practices and of alternative or critical opinion. It began restricting and narrowing this right, or even often abolishing it all together ignoring the INC and its international obligations to protect the freedom of expression and press freedom.

For purposes of this report, we classify the restrictions imposed on freedom of expression in Sudan to:

- Legal limits;
- Security restrictions; and
- Political and economic constraints.

First; Legal Restrictions:

Although there is a law dedicated to the protection of press-freedoms in Sudan, we find that there are many other laws and regulations that limit the freedom of expression in Sudan, and are incompatible with Sudan's international obligations. These laws are used to restrict freedom of opinion and expression and freedom of the press and to limit the activities of journalists. Also falling in this category are administrative constraints and judicial prosecutions.

Sudanese Penal Code of 1991:

This law criminalizes some of the activities of journalists, and its articles on "publishing false news", "defamation", "photographing military areas", "disturbing public peace" and "sedition" are used, in a manner that is a source of concern, by the authorities to charge journalists and editors and criminalize them in order to intimidate them from criticizing the au-

¹² Article 19 Publications, the Global Campaign for Free Expression.

thorities or expose corruption. For example, the Criminal Court of Khartoum North, headed by Judge Issmat Mohammed Yousuf, ruled on Sunday November 18, 2007, against both Mahjoob Irwah, editor of the *el Sudani* daily, and his deputy, writer Nur el Deen Madani, with two months in prison after they refused to pay a fine of ten thousand Sudanese pounds each (equivalent to 5000 U.S. dollars) for the charge of “defamation”. The National Security Service was the complainant filing the report in the suit. Nur el Deen Madani had criticized the security forces in his daily column, *Kalam el Nas*, upon their arrest of four journalists who were trying to cover a story about the killing of demonstrators at the site of Kajabar dam in the Northern State, where police opened fire on demonstrators.

On November 22, 2007 the same court ruled against Muna Abu el Aza-yim, the editor-in-chief of the “*el Haya wal Nas*” social newspaper, and the journalist Saif el Yazal Babikir sending them to prison after refusing to pay a fine of 15000 Sudanese pounds (SDG) in a lawsuit filed by the Ministry of Education against the newspaper for publishing a story about the spread of AIDS among school pupils – a matter which was deemed by the Ministry of Education, “an insult to the reputation of the pupils”.

On December 26, 2006, Zuhair el Sarraj, a journalist and columnist for the *el Saha-fah* newspaper at the time, was sentenced with a fine of five thousand Sudanese pounds (equivalent to USD 2,500) or imprisonment for one year in case of non-payment. Sentenced in the same case was the journalist Nur el Deen Medani, editor-in-chief of the paper, with a fine of 2 thousand pounds or six months imprisonment in the case of non-payment.

On October 7, 2007, el Tijani el Tayeb, editor of the “*el Maidan*” was summoned before the Press and Publications prosecutor’s office, to investigate a police report filed by the security service. The filed report included a charge against journalist Suhair Abdul Aziz and photographer Mohamed Mahmood, because of a dossier of torture that the newspaper started publishing. The security service considered addressing the issues of torture, “a distortion of the reputation of the Service”.

On Thursday, March 19, 2009, the Khartoum North criminal court ruled on the imprisonment of newspaper journalist el Haj Warrag, of the *Ajras el Hurriyah*, and journalist Adil El-Baz, editor of *el Ahdath* on the backdrop of the publishing suit pertaining to “defamation”; or payment of a fine of 20 million Sudanese pounds. The report against journalists was filed by SPLM leader Lam Akol.

On the morning of Sunday, February 15, 2009, the Criminal Court of Khartoum North, headed by Judge Muddathir el Rasheed ruled against the lawyer Kamal Omer Abdul Salam, a leader of the opposition People’s Congress Party, and a regular writer of the *Rai el Shaab* newspaper, sentencing him to six months imprisonment in a publication suit filed against him by the National Intelligence and Security Service, under Article 159 (defamation). The verdict came as a result of the following: Omer had written an article in 2007, published by the newspaper in which he stated that the Security Service had removed people from Darfur from its staff, and cited a number of cases as evidence. The first defendant in the case was

the editor of the *Rai el Shaab*, for whom the managing director deputized and was acquitted. Kamal spent two months in Omdurman prison before being released.

On June 27, 2010, the police arrested a news photographer who was working for Agence France-Presse, and filed against him a (criminal charge) police report on “filming military locations” after he photographed a number of those detained inside a detention cell in a Khartoum police precinct. However, a judge sitting over the Khartoum Central Court acquitted him of the charge brought against him, deeming police precincts no military areas.

On Sunday, August 8, 2010, Talal Ismael, a journalist with the newspaper *el-Ahram el yoam*, stood before the Press and Publications prosecutor in a criminal case filed against him by a state minister at the Ministry of Labour for “defamation”.

Two journalists with a critical daily (*Ajras el Hurriyah*), el Haj Warrag and Fa-yiz el Sheikh el Silaik faced 15 (penal-code) police reports filed against them because of their writings, and were charged with “defamation”, “publishing false news” and “detracting from the prestige of the state,” which are broad and vague terms and do not have specific definitions under Sudanese law.

The core problem is that Sudanese journalists are being prosecuted under criminal law in cases of defamation, rather than the civil law. As to the Sudanese penal code – being a non-specialised law- it was natural to have in it objective paradoxes when applied to publishing suits, as the law, for example, does not distinguish between or define what constitutes “**news**” and what is “**opinion**”. The authorities, however, in their effort to muzzle journalists, have benefited from these anomalies to expand the legislative prospects of conviction and thus sentence journalists. Although it is one of the axioms of the media to realize that there is a difference, and an essential one, between news and opinion as two forms of the work of journalists. Some of the journalists have been tried on charges of “spreading false news”, while the subject-matter of complaint was “an opinion piece”, and this is a clear violation of the right to freedom of opinion and expression.

National Security Forces Act (2010):

This law gives the National Security & Intelligence Service (NISS) broad powers that are not limited to the areas of surveillance, investigation, inspection, and detention of persons, money, the confiscation of property, and the summoning and interrogation of people, and demanding from them information, data and documents during the performance of the work of the NISS. Article 25 of the Act grants the security service broad powers such as demanding information, data, documents or things of any person viewing these, keeping them or taking action the service deems necessary or required thereon; and summoning and interrogating people and recording their statements; controlling, investigating and inspecting; seizing funds, and arresting and booking individuals. The law also assigns the security service tasks with loose definitions, which include safekeeping the national security of Sudan and protecting its constitution and social fabric and the safety of its citizens from any internal or external threat, gathering information pertaining to the internal and external security

of Sudan, analyzing and evaluating the same, and recommendation to take the necessary preventive measures, searches and investigations necessary to detect any conditions, facts, activity or elements that would prejudice the security of the Sudanese State and its safety; revealing the dangers of subversive activity in the fields of espionage, terrorism, extremism, conspiracy and sabotage; and detection and control of subversive activities of organizations, groups or individuals, or foreign countries, inside Sudan or abroad.¹³ All of these loose tasks, which are not clearly defined in the law, are easily used to intimidate journalists and curb their activities. For example, a unit of the Security raided the office and buildings of the *Rai el Shaab* newspaper of the opposition Popular Congress Party in the evening of Saturday, May 15, 2010, and seized quantities of the paper printed and stopped the printing process. In this, the forces occupied the premises of the newspaper, and broke the doors of the building that houses the offices of the newspaper, and detained four journalists and staff of the newspaper.

The same law grants immunities to the members of and collaborators with the security service from legal accountability.¹⁴

According to these broad powers granted to the National Intelligence and Security Service, the NISS works to prosecute and intimidate journalists with complaints and maliciously filed police reports. For instance, an Intelligence and Security force arrested, on June 13, 2007, four journalists in Dongola in the Northern State who were on their way from Khartoum to the Kajabar dam area north of Dongola, to perform assignment relating to the incident of assassination of four citizens and injuring nine others with police and security fire, after participating in a peaceful march to protest against the building of the dam. The four journalists were detained once their car entered the city of Dongola, where they remained in the Security Service premises until the morning, and an investigation was conducted on the reasons for their travel from Khartoum. Their arrest was then continued to disrupt their movement, and even prevent them from reaching the Kajabar Dam area. They were furthermore forced to close their mobile phones and were prevented from communicating with their papers or any other entity.

The Detained journalists were:

- Al-Fateh Abdullah – *el Sudani* newspaper.
- Qazaffi Abdul Muttalab – *el-Ayyam* newspaper.
- Abu Obeidah Awad – *Rai el Shaab* newspaper.
- Abu el-Gasim Farihna – *Alwan* newspaper.

On **October 5, 2006**, the Security Service arrested the journalist Abu Obaida Abdullah, a reporter with *el Rai el 'Aam* newspaper, without giving any reasonable grounds to arrest.

On **February 7, 2007**, the journalist Adil Sid Ahmed, deputy editor of the *el Wattan* daily was detained from his home due to articles the Security deemed as “inciting to sedition”.

On **October 15, 2007**, security officials arrested the journalist Saad el Deen Hassan, the *el Arabiya* TV correspondent, after covering violent incidents that took place in “Amri” in the Northern State where the police fired on citizens protesting the establishment of “Merowe Dam” killing some of them.

13 The National Security Forces Act, 2010.

14 Article 52 of the Security Act.

On **May 14, 2008**, a security force detained Darfuri journalist el Ghali Yahya Shigaifat, who works for the *Rai el Shaab* newspaper after the Justice and Equality Movement's attack on Omdurman. He was accused of having ties with the Movement.

On the evening of **Wednesday, February 2, 2011**, a force of the security service surrounded the offices of the *el Maidan* newspaper from six p.m. until ten, and arrested all journalists and support staff as they left the offices after ten pm. They were taken away in a degrading manner to the offices of the security service in Khartoum north and were subjected to torture and cruel and degrading treatment.

Detainees were:

- Kamal Karrar - deputy editor of the el Maidan, who was released in the evening of February 12.
- Ibrahim Mirghani - editor of the political department, released in the evening of February 12.
- Khaled Towfeeg - designer with the technical section, released after serving 45 days.
- Fatima el-Basheer - print employee; was released the same day.
- Fat-hiyah Ibrahim - print employee; was released the same day.
- Suleiman Widaah - Managing Director of Dar Al-Tanweer, publisher of the paper; was released the same day.
- Samir Salah el-Deen - trainee journalist, released after 45 days.
- Muhammed Rahamah - archive employee, released after 30 days.
- Abdul Azeem el-Badawi - a newspaper aide, released after 45 days.
- Mu'awyah Abu Hashim - newspaper employee; released after 11 days.
- Muhanned Dirdeeri - trainee journalist, released after 45 days.

Despite of the length of time spent in jail by some of these journalists, no charges were levelled against them, nor were they even told the reasons for their arrest, and all were subjected to torture and cruel treatment.

These journalists were arrested in the context of the attack on civil liberties that followed the youth protest movement calling for the peaceful overthrow of the regime in January and February 2011.

On **Monday, January 31, 2011**, the security service prevented the printing of *Ajras el Hurriyah*, while banning the same day the distribution of the el Sahafah newspaper after press workers had finished its printing.

On **Tuesday, February 1, 2011**, the Security Service seized *el Maidan* newspaper in the printing press and prevented its distribution exacting a heavy material loss for the paper due to this disruption.

El Tijani el Tayeb Babiker, editor of the critical *el Maidan* tri-weekly also faced charges related to "spreading false news" brought against him by the security service, when the paper published news on "camps for training terrorists in Blue Nile". Ironically, the Security Service later admitted the existence of these camps; but did not apologize to the newspaper for the police reports the service filed against the paper.

Beside the arrests and other forms of abuse, which is pursuant to the Security Act, the security forces also uses the criminal law to bring charges against reporters in order to incriminate and strike fear in them, in order to arrive in the end at preventing them from addressing topics considered by the security as “red lines”, which must not be dealt with. Between April and August 2011, ten journalists were faced with a number of criminal police reports and charges of “defamation” and “publishing false news” after they wrote about the incident of the rape of plastic artist Safiyah Is-hag.¹⁵ These journalists were¹⁶: Faisal Mohamed Salih, Omar el Garrai, Fa-yiz el Sheikh el Silaik, Amal Habbani, Fatima Ghazali¹⁷, Saad el Deen Ibrahim, Rasha Awad, Mohammed Latif, Abdullah el Sheikh and Nahid Mohammed el Hassan. The security service also filed criminal police reports pertaining to “diminishing the prestige of the state” and “spreading false news” against Fayez el Sheikh el Silaik, editor of the critical newspaper “Ajras el Hurriyah”, and el Haj Warrag, a columnist with the newspaper. On May 9, 2010, el Silaik stood before the Khartoum North ICC to face these charges.

On **Thursday, March 12, 2009**, the State Security Prosecution in Khartoum arrested citizen Musa Rahoamah, 29 years old, for printing a book on Darfur entitled “Darfur on the agenda of the national forces” by virtue of a complaint issued by the Security and Intelligence Service against the man, claiming that the book includes false information on Darfur with the intent of “threatening the public peace” and “diminishing the prestige of the state”.

In 2010 alone, the Security Service served as the plaintiff in five penal-code complaints against the Ajras el Hurriyah newspaper and Fa-yiz el Shiekh el Silaik, Gamar Dlman, Sahal Adam, and Amal Habbani, all being journalists with the now - defunct critical daily newspaper.

Emergency Law in Force in the Darfur Region:

After the declaration of a state of emergency, the law gives the competent authority broad powers with no limits, to enter any buildings or inspect or search persons; to impose control on any property or facilities; remove and seize, according to the needs of emergency, land, property or shops, goods, money or objects, and to seize money, shops, goods and things that are suspected as the subject of a violation of the law, pending investigation or trial; and to prohibit or regulate the movement of persons or their activities or the movement of objects or means of transport and communication in any region or time; to regulate the production of goods or performance of services or goods or things or storage; and to fix prices and dealing systems; and assign people to any service required by the needs of the emergency with the preservation of the right to pay; and arrest persons suspected of involvement in a crime related to the declaration of emergency. The law also grants to implementers any other powers the President of the Republic deems necessary!¹⁸

This faulty law is valid in large parts of Sudan such as Darfur! It is used extensively to curb the activities of journalists and intimidate them. It also empowers the authorities to limit the right of journalists to obtain information and restrict freedom of movement for journal-

15 Safiyah Is-hag Mohamed, a plastic artists and civil liberty activist within the Girifna protest movement was arrested in February 2011, following youth demonstrations calling for the overthrow of the regime. She appeared on a video clip on YouTube talking about being raped in the security service detention in Khartoum north. Clip is available at: <http://www.youtube.com/watch?v=Mb2960uQfg4>

16 Ajras el Hurriyah, at: http://www.ajrasalhurriya.net/ar/news_view_20405.html

17 <http://www.indexoncensorship.org/2011/07/new-media-crackdown-prior-to-south-sudan-split>

18 Emergency law

ists, as journalists working in areas where the emergency law is applied have to work under license from the authorities, and these authorities, alone, are competent to grant permission for journalists to work or to stop them from doing so.

Press & Publications Law (2009):

On June 10, 2009, the National Assembly (parliament) approved the Press and Publications Law of 2009¹⁹ after the passage of four years of the transitional period set by the Constitution, in which laws were supposed to be harmonized with the Interim Constitution, which guarantees the right to freedom of expression and freedom of the press. A majority, represented by the ruling National Congress Party, passed the Law. This took place in spite of the objections brought forward by opposition MPs in parliament.

The new law contradicts international standards of freedom of expression and with Sudan's obligations under international law, as well as contradicting the Interim Constitution of the Republic of Sudan for the year 2005.

Analyzing the content of the press law of 2009, we find that the law restricts ownership of newspapers, and places certain restrictions on the publication of newspapers. newspapers are required to be published either by a company registered in accordance with the provisions of the Companies Ordinance (1925), any legally registered political organization, any social body, scientific institution or governmental unit for the development of scientific or specialist activity.²⁰

This restriction imposed on the right to issue newspapers is inconsistent with the right to freedom of the press, expression and opinion, as well as contradicting with the right to receive information and the right to knowledge.

For the issuance of any newspaper, a newsletter or any publication, the law requires obtaining an approval of such from Council of the Press and Publications, the payment of a fee to allow the publishing thereof, and the renewal of such approval every year after the payment of fees.²¹

The law requires prior authorization for the publication of newspapers, and no party whatsoever is able to publish a newspaper or publication without such authorization, which also requires the deposit of money in return.²²

Many concerned international organizations have produced statements and conventions condemning the licensing system for print media. For instance, a declaration issued jointly by the International Rapporteur on Freedom of Expression, the Organization for Security and Co-operation in Europe (OSCE) and the Organization of American States stated that, 'imposing special registration requirements on the print media is unnecessary and may be abused and should be avoided. Registration systems which allow for discretion to refuse registration, which impose substantive conditions on the print media or which are overseen

19 See addendum: Press & Publications Act, 2009.

20 Article 22 of the Press & Publications Act, 2009.

21 Article 23 of the Press & Publications Act, 2009.

22 Article 24 of the same legislation.

by bodies which are not independent of government are particularly problematical’.

It has become part of international norms on freedom of expression that ‘any registration system for the print media shall not impose substantive restrictions on the right to freedom of expression’.²³

Based on this international norm, the United Nations Commission for Human Rights, which monitors implementation of the International Covenant on Civil and Political Rights, stated in a ruling in 2000 that the ‘licensing system for print media is not in line with the right to freedom of expression protected by the International Covenant, which was signed and ratified by Sudan. Many national courts, even within the African continent, have ruled against the licensing system for print media, for the same reasons’.²⁴

The Press Code requires financial insurance prior to publication,²⁵ a matter which is deemed an unjustified restriction for freedom of the press and expression. The law also requires specific conditions for the practice of the profession of the press, and requires a journalist prior to the practice of the profession to be registered in the register of journalists.²⁶ This record is entered after passing an exam which, in the past, was prepared by the Council of the Press and Publications but is prepared by the Journalists Union at the moment. This requirement for registration of journalists in order to practice the profession developed by the law is restrictive of the right to freedom of opinion and expression. The Law permits pre-emptive ban on publishing,²⁷ which is regarded as an unjustified restriction to the freedom of the press and freedom of opinion and expression.

This Law grants the Council of the Press and Publications broad powers, including granting licenses for newspapers, and the powers of the Press Council extend up to the closure of newspapers to prevent them from publishing.²⁸ The law does not include clear mechanisms to protect journalists and to provide immunity appropriate for them to perform their duty. All of these restrictions and requirements constitute serious violations of the freedom of expression.

The Law as a whole does not recognize a mechanism to ensure the freedom of information, in a general climate which is hostile to freedom of information.

The law contradicts with Sudan’s international obligations to ensure the right of expression to all Sudanese citizens, and contradicts with the Interim Constitution of the Republic of Sudan for the year 2005, and contradicts with all international charters and conventions ratified by the Republic of Sudan, such as the International Convention on Civil and Political Rights, the African Charter on Human and Peoples’ Rights, and Article 19 of the Universal Declaration of Human Rights, and it also opens the door to government control of newspapers and the organs of the media.

It should be noted here that there are multiple mechanisms of accountability and punishment of journalists, as the state does not resort only to normal or administrative judiciary but engulfs the freedom of the press with a fencing of penal institutions. Journalists are

23 The Declaration on Freedom of Expression, which was adopted by the African Commission on Human and Peoples’ Rights in 2002.

24 Article 19 organization, comments on draft bills for media and freedom to access to information legislation in Sudan, July 2007.

25 Article 24.b of the Press & Publication Act.

26 Article 25.1 of the same legislation.

27 Articles 27.2 and 28. (c), (d) and (e) of the same legislation.

28 Articles 7 and 8 of the Press & Publications Act, 2009.

punished according to the Press and Publications Act, the Sudanese Penal Code, Criminal Procedure Code and the National Security Act, along with many regulations such as: the Journalists Accountability Regulations, Regulations of the Complaints Commission and the Committee on Journalists Accountability at the Press Council.

Security Restrictions:

In accordance with the vast powers granted to the Security Service under the National Security Act for the year 2010, the service prosecutes journalists with malicious police reports and fabrication of charges and politicized trials. All of these violations are based essentially on the National Security Act and the Emergency Law in force in the Darfur region, which are both used as tools to intimidate journalists and scale down their activities, and thus limit freedom of opinion and expression. Journalists are often arrested according to the National Security Act and accused of charges pertaining to national security and the undermining of the constitutional regime, spying for foreign countries and the like. Security prosecutions against journalists impose a climate of fear that prevails among journalists, a matter which impedes the exercise of the right to freedom of opinion and expression.

For instance, the security service arrested on May 15, 2010 the journalist Abu Zar Ali el Ameen, deputy editor of the *Rai el Shaab* newspaper, the organ of the opposition People's Congress Party, and four of his colleagues: Ashraf Abdul Aziz, Ramdan Mahjoub, Naji Dahab and Abu Bakre el Sammani, because of an article published by the newspaper on July 9 entitled 'Ali Osman and not el Basheer wins the elections'. The state security prosecutor's office deemed the content of the article a violation of the law stirring up sedition and therefore one of the crimes against the state. Police reports were filed against the four journalists and they were brought before the court. The prosecution demanded the court try the accused pursuant to articles (21, 24, 25.50, 53, 63.64, 66, 69) of the Criminal Code that relate to "undermining the constitutional order", "call to oppose the public authority with violence", "publishing false news" and "breach of public peace", and articles (23.24, 26, 35) of the Press and Publications Act.

Abu Zar and his comrades were arrested and tortured at the hands of members of the Security Service inside formal offices of the security service. On July 15, 2010, the Khartoum North ICC, headed by Justice Mudathir el Rasheed issued a judgment against Abu Zar Ali el Ameen with five years of imprisonment, and against each of el Tahir Abu Jowhara and Ashraf Abdul Aziz, journalists of the *Rai el Shaab* newspaper, with two years of imprisonment, and released Raman Mahjoub.

On November 3, 2010, the National Intelligence and Security service arrested Jaafar el Sabki Ibrahim, a reporter with *el Sahafah* daily. Sabki was arrested at the newspaper's offices and was taken to an unknown destination. Only after 15 days, members of his family were allowed to visit him in Cooper prison. Up to the time of this report being ready for publication, Sabki lies in the Central Cooper Prison without a warrant or any charges levelled at him.

Detention of journalists without a judicial warrant violates the most basic citizenship rights guaranteed under the Interim Constitution of the Republic of Sudan and the international law, but we find this practice prevail in a climate hostile to the freedom of the press and in the absence of accountability and transparency in state organs.

Political and Economic Constraints:

These are restrictions overlapping each other. They include, for example, political campaigns against newspapers and discrediting and tarnishing the reputation of journalists. Organized campaigns have been waged against critical newspapers and journalists, and independent journalist's organizations. Harassment of the human rights of journalists is usual, and some of them are now living in exile after suffering campaigns of threats following the issuance of the ICC decision to arrest President Omar el-Basheer on March 4, 2009. The withholding of information on government performance also represents one of the political constraints that hinder the freedom of the press in Sudan.

The economic constraints imposed on newspapers and the media are manifest in the policy of the unequal distribution of advertisements among newspapers, and exorbitant fines imposed on newspapers in some cases, in addition to the financial deposit when submitting the request for permission to publish, and the exorbitant prices of print inputs (paper, inks, machines and equipment and the like). These high costs make the managements of newspapers focus first on the matters of issuance of the newspaper and covering the printing expenses, which does not include salaries of journalists in most cases. This creates allegations of bribes being received by some journalists to influence their integrity, impartiality and professionalism.

Unequal Distribution of Advertisements:

Sudan government uses advertising as a means to influence the freedom of the press and freedom of opinion and expression. Pouring advertising on loyal newspapers serves as one of the mechanisms of placing economic pressure on some and not others. Government deprives those papers that criticize the government's performance and uncover corruption and abuses of human rights of such support through government-distributed ads. Thus it uses advertising as a mechanism to fight against critical newspapers and press institutions. The government usually protects itself and companies close to the government from critical newspapers and news organizations, and pours advertising on the newspapers loyal to government while depriving critical ones of advertisements as a means to fight them. The critical *el Maidan*, for example, ran no governmental advertisements for a full year. This policy of unequal distribution of advertisements, in addition to the high costs of newspaper and print production, along with control over the printing market has made some newspapers unable to meet their financial obligations to their journalists and staff and to cover the costs of publishing – a matter which seriously threatens the continuity of critical and independent newspapers, whereas the survival and continuation of pro-government newspapers is ensured.

To analyze the policy of unequal distribution of advertising I conducted an independent study on advertisements in a Sudanese newspaper that will be published later.

Patterns of Violations of Freedom of the Press, Opinion and Expression in the Sudan:

Throughout the period covered by this report, the government of Sudan committed serious violations of freedom of opinion and expression, and resorted to the imposition of many forms of repression against the freedom of the press and the right of expression. Part of this is blatant and overt; such as closure of newspapers and the prohibition of radio stations, blocking Websites, and security control and censorship of newspapers and publications, confiscation and destruction of newspapers from printing presses, and the harassment, detention and torture of male and female journalists. What is hidden includes politicized trials and legal prosecutions, malicious police reports and fabricated accusations/charges, threatening messages and administrative sanctions through which papers are stopped, hard-line licensing system, the withholding of advertising and policies of intimidation, persuasion and bribery.

We have noted the international community's attitude of "tolerance", and a policy of "turning a blind eye" in dealing with perpetrators of violations and the oppressors of freedom of opinion and expression in Sudan. The Sudanese government has accordingly not experienced any embarrassment in its imposition of more repression against the press and journalists, and committing further violations of the freedom of opinion and expression, in a systematic, thoughtful and codified manner.

Following are examples of some patterns of methodical violations of freedom of opinion and expression in the Sudan.

1.Pre-Publishing Security Control/Pre-Censorship:

The Sudanese government has resorted to illegal and prior security censorship and repressive restrictions to gag the freedom of opinion and expression and freedom of the press, as part of an integrated and systematic policy pursued by the state to fight the newspapers. Within the context of objective analysis of imposing pre-publishing security control on the press and the media, we find that this control is a systematic and planned practice followed by the Sudan government to muzzle journalists, and to suppress the freedom of opinion and expression. Such censorship is not associated with a particular period or a specific reason, as the state organs promote. This affirms that actors in the government, who take the formal decision of the State, do not believe in the freedom of opinion and expression, which is a matter deeply rooted in the understanding and practice of the Islamist group in control of the government and decision-making positions, and who pursue these practices with full awareness and planning. The government does not abide by its international commitments and obligations to protect the freedom of opinion and expression and intentionally violates the Constitution. This has confirmed for all observers and human rights rapporteurs,

throughout their terms in office, that the violations committed by the Sudan government to suppress freedom of opinion and expression and the freedom of the press are 'typical, methodical violations'.

Direct censorship of newspapers and the media imposed by the Security Service underwent various stages and forms of hardening and relaxation. Following is a brief overview of the most important features of these fluctuations:

Since the signing of the Comprehensive Peace Agreement in 2005, newspapers underwent various forms of security control/censorship at different periods. However, the National Intelligence and Security services always imposed direct, strict and tough, pre-publishing control on all of the media in Sudan from February 2008 to September 2009, when President Omar el-Bashir ordered the security and intelligence officers not to exercise control/censorship over newspapers.

The security agencies resumed the imposing of censorship on newspapers again in May 19, 2010 which continued until August 7, 2010, when the Director-General of the National Intelligence and Security Services declared the end of censorship on newspapers, insisting on his 'right!' to return to the imposition of control/censorship.

The Director of the Information Department at the National Security Service and Intelligence Service told SMC, a Website close to the security services, that the Service has 'recently observed the commitment of many newspapers with the directives and procedures instituted by the Service, as well as the cooperation with the staff of the Service facilitating their tasks – a matter which prompted the Director-General to take a decision to end the censorship of newspapers, in keeping in line with the climate of press freedom prevailing in the country and in support thereof'. The Director-General thanked newspaper editors for their good cooperation and hoped that the spirit of responsibility would prevail and that self-censorship would shape the handling of the press, paying consideration to the necessities of preserving the national security of the country and its unity, as well as activating the mechanisms of the legal work of the Council of the Press and Publications through the mechanism of the Charter of the press on the professional honour of the Union of Journalists and the newspapers' boards of directors'.

At the same time, the Director of Department of Information at the Security Service affirmed that 'the Service will retain its constitutional right to the return of censorship in full or in part whenever necessity calls', emphasising that 'the Service is keen on political and media freedoms, as long as there is agreement not to prejudice the parameters of the nation and the unity of its territory'.

Forms of Newspaper and Media Censorship

Direct Censorship:

This is done by the appearance of national security officers, every day (between seven and nine) in the evening, at the newspaper offices, who ask the editor-in-chief, editors, or their representatives to provide them with the paper's materials in full before the paper goes to the printers. The officers then read the paper in full, and pull out press materials intended for publication, and order them replaced with alternative material. Security officers often refuse to approve such alternative materials (**TRANSLATOR:** *Security Agents asks for replacement then sometimes officers will not approve these alternate material. This can result in the paper not being published when the volume of rejected material is huge.*), and work to disrupt the newspapers and prevent them from publishing.

If the security officers do not review the newspaper as a whole, they will not allow it to go to the printing press, as there are other security personnel present at the printing press, who ask for the permission to print. If there is no permission to print, the newspaper will not be able to get published the next day.

Security officers require newspaper editors, or their representatives, to sign a pledge not to publish any material, especially on Websites where some newspapers traditionally used to publish material censored out of the paper copy. It becomes imperative upon editors-in-chief or deputies thereof to sign such pledge every evening.

Indirect Control/Censorship:

This is done by controlling the editors, as shown in the tone of the statement of the security official cited above, through the advertising market, penetrating the press circles and publishing bans. Bans on publishing as a type of control is practiced by many actors: the Security and Intelligence Service, the Press Council, courts of law and prosecutor's offices. For instance, in June 2010, the Press and Publications Council declared a ban on publishing about the case of the arrested *Rai el Shaab* newspaper journalists. The Council conveyed, in a circular signed by the head of the State Security Prosecutor's office, Yasser Ahmed Mohammed, a ban on publishing about the case against Abu Zar Ali el Ameen, et al. The justification of the ban was that publishing on the case would 'affect the course of the investigation'.

Distance Censorship (what journalists dub 'remote-control censorship'):

In this form of censorship, a security officer telephones newspaper editors, and orders them not to address specific issues – a matter which has become known in press norms as 'red lines'. Zuhair el Sarraj, a journalist at the *el Sudani*, stated that his daily column in the newspaper is subjected to censoring and deletions by Dhia el Deen Bilal, editor of the news-

paper. The editor even removed the column five times in a period of five months, and then Zuhair was fired. Zuhair wrote, 'during the five months Dhia assumed editorship, he removed my column five times'. Zuhair said the editor-in-chief of the newspaper used to specify caveats and 'red lines', which he was asked not to meddle in. These included criticism of the government!²⁹ This is a serious indicator proving that editors and publishers control the opinion of writers and journalists, and a number of journalists accuse their superiors of loyalty to the security service!

Self-Censorship:

Under relentless restrictions and the threats they are exposed to, journalists turn to self control: not to deal with 'sensitive' topics, commit themselves not to surpass the 'red lines'; even not to expose corruption and abuses, and not to criticise negative policies. Of their own will, journalists refrain from exercising their right to express their opinion under the yoke of restrictions imposed on them.

Disabling Newspapers through Security Pre-publishing Censorship:

In 2008, the burden of censorship on the press, particularly on the printed media, intensified. The year witnessed the launching of some critical opposition papers, and the intensity of censorship/oversight increased and many of the newspapers were stopped, and newly launched critical newspapers were targeted. For instance, on the morning of Tuesday, July 28, 2008, the *el Maidan* and *Ajras el Hurriyah* were not issued because of the procedures of pre-publishing censorship imposed by the Security and Intelligence Service on the Sudanese press. Security delegates removed on Monday, July 27, 2008 ten articles from *el Maidan* and nine from *Ajras el Hurriyah*, in addition to interfering with the editorial of the two newspapers, resulting in the removal of a number of significant paragraphs of articles leading to the articles losing their meaning and significance. This intervention by the delegates of the Security service and the deletion of this large amount of material intended for publication, rendered the two newspapers incapable of getting published next day.

Stage of Taming the Editors:

After the Security Service managed to successfully try all these unreasonable methods to tame the press, the Service decided to take even a further step by sending written orders to newspaper editors that they have to hand over copies of their newspapers to the headquarters of the Service without the need for security staff to come to newspaper premises. But this led to the aggravation of the crisis between the editors and security officers in the beginning of November 2008, as some editors rejected this as an insult to them. As we previously mentioned, the security officers in the past used to visit the newspapers at night and read the articles to be published the next day, and issue instructions for the editors to cancel 'sensitive' and the critical articles - all of a political and claims nature.

Against the backdrop of such notification the papers of *el Maidan*, *Ajras el Hurriyah*,

²⁹ An article by journalist Zuhair el Sarraj, on sudaneseonline.com and sudanile.com, dated 2 April, 2011.

the *Khartoum Monitor* and *Rai el Shaaab* decided to withhold publication on Tuesday (November 11, 2008) in protest against the pre-publication censorship imposed by the Security and Intelligence Service. The security services have previously prevented the *Ajras el Hurriyah* newspaper from publishing for three days, in addition to demanding the paper's officials to appear before the security services for investigation.

The newspapers of *Ajras el Hurriyah*, *Rai el Shaab*, *el Maidan*, the *Citizen* and the *Khartoum Monitor* announced their stopping publication in protest against the repressive practices of security against newspapers and journalists. Those that actually carried out this action were *el Maidan*, *Rai el Shaab*, *Ajras el Hurriyah* and the *Khartoum Monitor*. The latter issued a statement addressed to the Sudanese people that said, that many of the daily or weekly Sudanese newspapers published in Arabic or English continued to be subject to a fierce campaign by the National Intelligence and Security Service through the imposition and practise of daily control/censorship on all that is written in the papers in terms of news, columns and articles. Pre-publishing censorship extends to removing the news, the withholding of the columns, the removal of entire pages, as well as preventing printing of papers, the confiscation of the newspaper, and burning them after printing! There are no reasons or justifications, or even clear criteria on the part of the Government or the Security and Intelligence Service, which carries out these acts that hinder the work of journalists and constitute a clear violation of the Interim Constitution (2005) and the peace agreements signed, whether with the SPLM or other opposition forces. So, in protest at what harassment the press is subjected to, which impedes media performance, and expose papers to a lot of material losses, the newspapers *Ajras el Hurriyah*, *Rai el Shaab*, *el Maidan*, the *Khartoum Monitor* and the *Citizen*, as well as many journalists, writers, and civil society organizations, entered into a sit-in for three days and a hunger strike for one day which reflected the values of solidarity, unity and steadfastness of journalists with various newspapers.

Journalists affirmed that the continued censorship in all forms on newspapers obscures the information and facts from all citizens and challenges the seriousness and credibility of the government, as it daily stresses the determination of the National Congress Party to hold on to power, Its lack of respect for freedom of the press and expression, its violation of human rights, and its unwillingness to make any real transition to democracy in Sudan, makes it a threat to the stability and unity of the country. The serious decline in public freedoms, freedom of the press, and the methodology of the security services contribute to the destruction of the social fabric and threatens the national unity, and it portends an escalating civil war that leads to a deepening of the Sudanese crisis. The key to correct the course of political and legislative life in Sudan remains in the amendment of all laws relating to rights and freedoms to be in line with the Constitution, particularly the security and the press laws.³⁰

The temporary non-issue of the newspapers (*el Maidan*, *Ajras el Hurriyah*, *Rai el Shaaab* and the *Khartoum Monitor*) mentioned above, and the journalists sit-in, left a deep impact on the march of press freedoms in Sudan. Several international forces have supported the position of journalists and demanded the Sudanese government to lift restrictions on freedom of expression. The sit-in led the Sudanese journalists network also to organize

30 A statement issued by stopping papers, the Sudan-for-all Website, dated 11 November 2008.

a sit-in protest in front of the parliament against the security intervention, the suppression of journalists and press institutions and the violation of their right to expression.

As the security pre-publishing censorship intensified, journalists attempted to draw the attention of the Press & Publications Council (an appointed council working on the licensing of newspapers and having legal obligations to protect the freedom of the press) to these grave violations of press freedom and freedom of expression. *El Maidan* newspaper presented a written protest note to the head of the Council against the security control measures on the newspapers on November 11, 2008 in which it placed on the Council the responsibility for standing up against the censorship practiced by the security services. The memo condemned the Security Service exercising censorship against newspapers in the presence of the Council.

The memo states, 'the security pre-publishing, post-publishing, direct or indirect control/censorship meets opposition in principle from the press community, and we honestly look forward to your council to side with us in standing up firmly against it'. The protest memo continues, 'as the Press Council is assumed to defend the freedom of the press and expression, and to seek to develop the profession, to which the security censorship is the largest stumbling block to its stability and growth, we urge your council to stand against the security control, and to advise the Presidency of the State, to whom the Security Service and the Press Council report, to listen to the voice of reason and wisdom and immediately lift the security controls on the press'.

On Monday, November 17, 2008, journalists acted in defence of their freedom and their right to expression, when more than one hundred and fifty (150) male and female journalists launched a peaceful sit-in in front of the Sudanese Parliament upon call from the Sudanese Journalists Network. Journalists presented slogans denouncing censorship and described it as 'a violation of the Constitution', and demanded the rights of journalists to publish and to practice freedom guaranteed by Article (39) of the Interim Constitution, emanating from the Comprehensive Peace Agreement signed in 2005.

Police arrested sixty-three (63) journalists who had gathered outside Parliament to denounce censorship and protest the suppression of freedom of opinion and expression. Security forces stationed in front of Parliament refused to allow journalists to enter the parliament building, which prompted some lawmakers to address the assembly and to receive the memo in front of the Parliament. There, they were addressed by Yasser Arman of the SPLM block in parliament, Farog Abu Eissa, representative of the National Democratic Alliance MPs, a representative of east Sudan block, and a representative of the Darfur MPs. Following these speeches and the delivery of the memo, police in vehicles poured in and arrested (25) female journalists and (38) male journalists. These were detained in the Omdurman South Police Precinct for nine hours but were later released on personal guaranty.

Among the most prominent journalists who were arrested were Dr. Mortadha el Ghali,

the editor of *Ajras el Hurriyah* and a media lecturer at Sudanese universities, Faisal Mohamed Salih, a journalist and a media lecturer at universities, and journalist el Haj Warrag chief of the editorial board of *Ajras el Hurriyah*. They were released hours after the arrest.

Following the release of journalists the Sudanese Journalists Network held a press conference at the daily *el Sahafah* newspaper, explaining the details of what happened. More than nine newspapers declared a strike and ceased publication on the morning of Tuesday (November 18, 2008) in protest against the censorship and exposing male and female journalists to arrest and treatment that is unworthy of their dignity and the obstruction to their right of expression.

Tuesday, November 18, 2008, witnessed the largest protest stoppage against pre-publishing censorship, as nine political newspapers (daily, weekly, in Arabic or English) announced their stopping publishing in protest against the censorship and the oppressive security practices, and condemning the arrest and detention of 63 journalists in front of the parliament due to their protesting against censorship imposed on newspapers, calling for a new law that guarantees the freedom of opinion and expression.

The nine newspapers announcing their stopping of publication in protest against censorship were *el Maidan*, *Ajras el Hurriyah*, *Rai el Shaab*, *el Sudani*, *el Sahafah*, *el Ahdath*, *el Akhbar*, *the Khartoum Monitor* and *el Ay-yam*.

Early 2009 witnessed a fierce attack on press freedom in Sudan, and harsh intensity in the suppression of freedom of the press and expression, especially as the pre-publication censorship imposed by the National Security and Intelligence Service on the Sudanese press has been sustained without interruption since February 2008, with its intensity and ferocity increasing by the day – a censorship targeted at disabling the press and preventing it from publishing. For example, Tuesday, February 10, 2009 saw the disruption of the *el Maidan* newspaper from getting published because of the pre-publishing censorship procedures of the security. Censors deleted the paper's editorial as well as four news items. These were political news reported by many other newspapers. In addition, censors removed the main headline of the first page as well the whole of the political comment in its entirety, which tackled the conflict in Darfur and its current implications and the best way-forward to resolve this issue. All of that was on the first page. The attack extended to six other pages, by totally removing four articles or deleting a number of important and influential paragraphs in many of the materials ready for publication causing the material to lose its meaning and significance.

The total material deleted from this issue of *el Maidan* was 16 pieces, which rendered the paper unfit to publish. The newspaper management complained of security officer's prejudice against it and it sent on February 11 an open letter of protest to the Director of the Intelligence and Security Services, expressing its rejection of security control, and clearly indicating the prejudice of the security delegate in charge of the exercise of censorship over the newspaper. The letter states, 'We would like to notify you that the delegate you charged with effecting pre-publishing censorship on the newspaper has repeatedly shown bias against us

in a very obvious manner, so much so that we do not know on what standards the publishing of articles is allowed. That is because the censoring agent arbitrarily deletes many articles from *el Maidan*, claiming that publishing such issues is prohibited, while the same material is published in other newspapers. We have proof of that’.

Pre-publication censorship imposed by the Security Service on newspapers continued, and even severely increased in intensity with the brouhaha following the ICC’s decision against Sudan.

Officials of state agencies started issuing threats in the official media, and sending signals to journalists to refrain from indulging in the issue of the ICC, neither negatively nor positively. And integrated with the formal approach of the State, security officers monitoring newspapers ordered editors of several newspapers to stop writing on the subject of the ICC.³¹ Within one week, more than 20 articles had been omitted from the newspapers of *el Maidan* and *Ajras el Hurriyah* on the subject of court.

In this charged atmosphere of tension and threats, and specifically on February 25, 2009, the bank accounts of the Khartoum Centre for Human Rights and Environmental Development were frozen.

On February 26, 2009 the General Manager of Security and National Intelligence, Gen. Salah Abdallah “Gosh”, presented a stern warning for supporters of the ICC. He said that anyone who tries to use his hands to give effect to their plans, ‘we will cut off his hand, his head and limbs, because this is a cause of no compromise’.³²

On March 4, 2009, the ICC issued its decision to arrest President Omar el-Basheer, and since that date security intensified their grip on pre-publishing censorship to everything published in the Khartoum newspapers, especially what was written about the ICC, and even the security and police services through their leaders announced that all who talk about the ICC or supported its request were to be expelled from Sudan and deemed deprived of nationality, if they were Sudanese nationals.

The first reaction to the decision of the ICC to arrest Sudanese President Omar el Basheer, was the expelling of ten international humanitarian organizations and the closure of three national organizations and the confiscation of their property, including the closure of Khartoum Centre for Human Rights & Environmental Development on the fourth of March; just a quarter of an hour following the announcement of the Court decision. Newspapers were prevented from publishing opinion on the expulsion of the international organizations and the closure of national NGOs.

The closing down of the Khartoum Centre for Human Rights & Environmental Development left its impact on the path of freedom of expression and the press and human rights in Sudan, as the Centre strived to train and qualify journalists on skills of journalism and human rights and the freedom of expression and the press, and hosted the Journalists for

31 Private interviews with editorial managers of papers issued in Khartoum, who asked to remain anonymous. Interviews were conducted in March, 2009.

32 Gosh’s statement published in *el Sahafah* and the *Sudanile.com*, dated 6 March 2009.

Human Rights Network (JHR), which engages in monitoring and documenting violations of the right of expression and human rights, and the Centre also worked to provide legal aid to journalists persecuted by the authorities.

By closing down the Khartoum Centre for Human Rights & Environmental Development the Sudanese government meant to strike the first line of defence against human-rights defenders. It similarly wanted to cripple the human rights movement, and the defenders of freedom of expression in Sudan. The targeting and harassment of activists and the leadership of the Centre resulted in forcing the leadership to unwillingly leave the country on 17 and 18 February, at the height of a security crackdown and the tightening of summonses, investigations and security arrests, which reached the stage of physical and psychological torture.

On Tuesday, March 17, 2009, the *el Maidan* was not published and this interruption was caused directly by procedures of pre-publishing censorship exercised by the security officers on the newspaper.

On Thursday, March 19, 2009, the national Security and Intelligence Service prevented *Ajras el Hurriyah* newspaper from getting published because the paper wrote about the trial of the news columnist el Haj Warrag. This was also due to news coverage of a press conference of the Presidential adviser, Mustafa Osman Ismael, when he called the people of Sudan 'beggars'. Security sent five of its officers to the printing press where they carried out the "stop printing" instructions, without judicial authorization.

On Friday, March 20, 2009, the security services once again prevented *Ajras el Hurriyah* from getting published, for the second day in a row. This prohibition came as a result of news reported by the newspaper about a hire-purchase company owner becoming subject to fraud from a ruling political organization.

On the morning of Tuesday, April 14, 2009, the *el Maidan* newspaper was not published. According to a statement by the paper, it was due to 'outright intervention of the security censorship resulting in the deletion of a large amount of materials, which led to disabling the newspaper publication'. The newspaper said in a statement that it had become the target of control, and that 'these security pre-publishing censorship processes had become targeted at the *el Maidan* newspaper for quite some time and in an abusive manner, involving clear prejudice and in clear violation of our right to freedom of expression and publication guaranteed by the Interim Constitution and all international covenants and instruments'.

This is the third time in which the *el Maidan* newspaper is disabled from publication because of pre-publication censorship and the abusive procedures of the security and intelligence men towards the paper. According to the newspaper's statement, the security censor deleted 17 articles out of that single issue, a matter which rendered the paper unfit to publish.

On Saturday, April 25, 2009, the National Intelligence and Security Services (NISS) prevented *Ajras el Hurriyah* newspaper from getting published. Dr. Mortadha el Ghali, editor of the newspaper, and journalists and administrators of the newspaper, told news agencies

that the security service was targeting the paper in a clear manner, working to disable it by all means, including deletion of material intended for publication.

On Tuesday, May 5, 2009, *el Maidan* was disabled from publication for the third time since the beginning of 2009, also because of the pre-publication censorship procedures effected by the Security and Intelligence Service on the Sudanese press. The security censors deleted 13 of the material prepared for publication. The newspaper said in its statement that, 'this disruption coincided with the celebrations of World Day for Freedom of the press and was a clear expression of the Sudanese government's and its intelligence service's lack of respect for the freedom of the press and expression. The security censor tampered with nine pages out of sixteen of the issue that contained a special supplement on the occasion of the first of May (International Labour Day). A statement issued on Tuesday, May 5 stated that 'on the face of such arbitrary actions and strict control, we have no choice but forgo publication of the paper this morning'.

On Wednesday, May 6, 2009, *Ajras el Hurriyah* was not published. What contributed to that directly were officers of the Security and Intelligence engaged in the oversight function on the newspaper. They had deleted from the issue in question more than 15 items, which led the paper to miss publication. Dr. Mortadha el Ghali, editor of the paper told the Committee to Protect Journalists (CPJ), 'It's the ninth time in which the paper is disabled since January 2009'.

On May 19, 2009 (70) journalists and press people staged a sit-around inside the headquarters of the National Assembly (parliament) in Omdurman, protesting a draft Press & Publications Law, which was due to be passed in that day's session. At the same meeting - which was scheduled to pass the draft press law, about 168 members of parliament withdrew from the meeting in solidarity with the journalists; and held a press conference to clarify their position on the law. Passing the bill in that session was postponed. It was passed later on June 10, 2009.

On Tuesday, May 26, 2009, *el Akhbar* was not published, which, according to sources in the paper,³³ was caused by a large number of articles readied for publication was deleted by pre-publishing censorship.

On June 10, 2009 *Ajras el Hurriyah* was not published, because of the security pre-publishing censorship procedures, which repeatedly disable paper publishing.

On Saturday, June 27, 2009, *Ajras el Hurriyah* was not published, because of the security pre-publishing censorship procedures, much of the material was removed rendering the paper unfit to publish.

On Wednesday, September 9, 2009 *el Sudani* daily newspaper was not published, because of the pre-publication censorship procedures imposed by the National Intelligence & Security Service on Sudanese newspapers.

33 A private interview conducted in Khartoum, May 2009.

President admits Censorship Practices Exist:

On September 27, 2009, President Omar al-Bashir declared ending the censorship of newspapers - a statement, which was considered an actual recognition that there was strict control/censorship exercised over the media with his knowledge and blessing, contrary to the bodies that were exercising such censorship, who had been denying the censorship of the press and the media!

The joy of Sudanese journalists was short-lived. For on Wednesday, May 19, 2010, the National Security and Intelligence Service resumed censorship prior to publication of newspapers and the media. It began its series of disabling newspapers anew.

And on the evening of Wednesday, May 19, 2010 the Security and Intelligence Services confiscated many of the articles of the *Ajras el Hurriyah* newspaper, which prevented its publication the next day. The same procedure was exercised on the *Sahafah* and *el Sudani* papers on the same day and both went out of distribution.

The acting editor of the *Ajras el Hurriyah*, Faiz el Sheikh el Silaik stated that, 'The return of censorship is confirmation that the elections brought about the fourth edition of the "INGHAZ" (NAME THE REGIME THAT ASSUMED POWER THROUGH A COUP D'ÉTAT IN 1989 CAME TO BE KNOWN WITH. ARABIC FOR "SALVATION", OPPONENTS USE THE WORD WITH VERSION 2, VERSION 3, ETC TO SAY NOTHING IS CHANGING), and that this regime does not come to terms with freedoms, and the evidence of this lies in summoning and interrogating journalists. He added that 'this is the fiercest attack on the Sudanese press in recent history, since the earlier attack on press freedoms was a pre-publishing censorship, but what goes on now is more virulent as censorship is imposed accompanied by trials, arrests and summonses that the Press Council, and the press prosecutor's office subject journalists to. He said that this censorship does not include all newspapers, but was aimed at specific papers, including the *Ajras el Hurriyah*.³⁴

The press materials deleted by the security censors dealt with the news of arrests of politicians and journalists at the start of the week, along with articles critical of the attack on the freedoms, and news about the head of the Justice and Equality Movement, Dr. Khalil Ibrahim.

On Thursday, June 3, 2010, *Ajras el Hurriyah* did not make it to the printers due to the pre-publication censorship.

Ajras el Hurriyah newspaper was unable to get published for three consecutive days (Thursday, Friday and Saturday), and on Sunday, June 6, 2010, chairman of the board of *Ajras el Hurriyah* declared suspending the publication of the paper indefinitely in protest against censorship.

On Sunday, June 6, 2010, *el Maidan* newspaper did not publish for the second time in a week, and the delegates of the security service who exercised control over the news-

34 A private interview with Fa-yiz el Sheikh el Silaik, on 20 May 2010.

papers seized the Sunday issue of the *el Maidan* assumed to be issued next day from the printing press, on the grounds that it contained prohibited press materials, such as the issue of a physician's strike and issues of torture. The *el Maidan* had initiated publishing a taboo dossier in the Sudanese press, namely the issue of torture in Sudan, which it tackled with documentation and statements from victims.

On Tuesday, June 8, 2010, *el Maidan* was not published for the second time within one week, also because of the confiscation of the paper from the printing press by the Security Service, which ordered the printers' workers to hand over copies of *el Maidan* before its printing – which the service then confiscated.

Tuesday, June 15, 2010, *el Maidan* was not published for the fifth time, and the security service delegate ordered it not to be printed at all. That instruction was circulated to all printing presses, and the *el Maidan* was banned from publishing without any court order for two months.

On Friday, June 4, 2010, *Ajras el Hurriyah* did not publish, and its absence continued for three consecutive days (Friday, Saturday and Sunday) because of security pre-publishing censorship. On Sunday, June 6, 2010, the chair of the Board of Directors of the newspaper suspended, at a press conference, publication of the paper for an indefinite period in protest against the censorship. The newspaper resumed publication after seven days in protest against the security interventions and pre-publication censorship.

On Sunday, June 6, 2010, *el Maidan* did not publish, when delegates of the Security Service seized the issue of *el Maidan*, which was assumed to be issued on Sunday, from the printing press on the grounds that it contained press materials whose publishing was prohibited, such as the strike by doctors, and a dossier on cases of torture, which documented the repressive security practices.

On Tuesday, June 8, 2010, *el Maidan* was not published, also because of the confiscation of the issue from the printing press by the Security Service, who ordered the workers to hand over its copies before printing.

On Thursday, June 10, 2010, *el Maidan* was absent at the newspaper distribution outlets for the third time in only one week, as it had not been issued on Sunday and Tuesday, and thus the paper had been absent from its readers for the entire week, as it is issued only three times a week. All the three times, security officers went to the printing press and confiscated copies of the *el Maidan* before printing. The Security Services had by then reinstated security pre-publishing censorship on *el Maidan*. In a statement, the newspaper stated its refusal of the imposition of censorship and ceased publication as a paper edition, and continued publishing in the electronic copy only.

The statement from the *el Maidan* newspaper on June 12, 2010 reads, 'security control to the newspapers has been resumed in order to prevent papers from coverage of news

34 A private interview with Fa-yiz el Sheikh el Silaik, on 20 May 2010.

of the mass movement or exposing the crimes of the regime and criticism of its policies'. 'Our position was, and still is declared: the rejection of security control on the *el Maidan* is caused because it is unconstitutional, as long as the Interim Constitution of Sudan (2005) guarantees the freedom of the press and expression in clear and explicit texts'. 'Because of our rejection of the directives of the security censor to delete some articles, the Security Services prevented the printing of the last three issues of the newspaper (No. 2226, 2227 and 2228) which was supposed to be issued on Sunday, June 6, Tuesday, June 8 and Thursday, June 10'.

The statement goes on to read, 'as we condemn and deplore such censorship, we stress the stated position not to allow security personnel access to press materials to be published from within the premises of the newspaper as long as we are practicing a right guaranteed by the Constitution, and we have raised a complaint with the National Press & Publications Council and other relevant actors without receiving a response as usual'.

President Re-imposes Censorship under the Pretext of Protecting the Constitution:

On Tuesday, July 6, 2010, the President of the Republic officially re-imposed security pre-publishing censorship on all newspapers, and said in remarks to the press: 'the re-imposing of censorship is in order to protect the Constitution'³⁵ .

Censorship continued to range between being imposed and lifted, according to authoritarian and security mood and according to the overall political climate. The Security Services have resumed censorship officially at the beginning of the year 2011, when delegates of the Security Services showed up Sunday, January 30, 2011, at the printing press that prints the *Ajras el Huriyah* newspaper asking the printers' workers to give them a copy for review before printing – a matter which confirmed the coming back of the Security Services to exercise pre-publishing censorship on the paper.

After security agents allowed the printing of the paper following their reading it, they came back and again ordered it not delivered to the distribution company, and then they confiscated it from the printing press.

Fa-yiz el Sheikh el Silaik, acting editor of the *Ajras el Hurriyah*, said in an interview, 'The confiscation of the paper reflects the panic and fear in which the Sudanese government lives because of the winds of change that pervades the region, and these totalitarian regimes see their first enemy in the press'.³⁶

2. Attacks on Journalists while doing their Job:

Given the methodical actions of repression of the freedom of the press and of opinion and expression it becomes clear that next to security pre-publishing censorship, the pattern most frequently used by the government for the suppression of journalists and restrictions on their freedom and their right to expression, is the assault on journalists and media assistants

35 Statement by the President of the Republic, quoted by the *el Akhbar*, on 6 July 2010.

36 A private interview with Fa-yiz el Sheikh, on 31 January 2011.

while doing their work, and to block the work of journalists and the media in the coverage of events. The Sudanese government, with the aim of covering up the human rights violations it commits, systematically follows this pattern of violations. For instance, the Security Service arrested on August 30, 2008, *Al-Jazeera* cameraman Ibrahim Mahmoud during his coverage of demonstrations against rising prices in central Khartoum. His camera was confiscated and he was forced to delete images that documented the attacks, atrocities and gross violations committed by the police and security forces against demonstrators.

On July 29, 2009, police detained correspondents of Reuters News Service, *el Hurrah* TV channel and *el Maidan* and *Ajras el Hurriyah* newspapers during their coverage of the trial of the journalist Lubna Hussein following the police clash with activists and journalists gathered in front of the court, whom the police dispersed by force following the adjournment of the trial.

It is noteworthy that Lubna - a journalist working with the United Nations Mission in Sudan - has been referred to court on charges of "wearing apparel harassing the general feeling", or in other words, wearing "indecent clothes". The penalty for this crime is 40 lashes in public in accordance with the provisions of Article (152) of the Sudanese Penal Code of 1991. The charges were considered retaliation against the journalist due to her writings critical of the Sudanese regime.

The morning of Monday, December 7, 2009, police fired tear gas and exercised an infringement and violence with clubs, whips and rifle butts to disperse citizens who gathered in front of the Parliament to exercise their legitimate rights guaranteed by the Interim Constitution of 2005 and international conventions, and to express their aspirations for democratic transformation. Hundreds of citizens were arrested, and put in the police detention cells, and were subjected to insults and humiliation and physical and moral violence in a brutal manner, confirming the state's determination to proceed in the path of suppression of freedoms and human rights violations.

Among those arrested were dozens of journalists, activists (males and females) of the freedom of the press and expression, and they were prevented from exercising their right as citizens and professionals. Most of the foreign channels were denied news coverage, and tapes were confiscated, which is the behaviour of the Sudanese Security Services in order to cover up human rights violations, as we mentioned. Among the journalists who were arrested and brutally beaten were:

1. Buttrus Yagoob, *Ajras el Hurriyah* newspaper;
2. Atem Simon, *al-Akhbar*;
3. Gamar Dalman, *Ajras el hurriyah*;
4. Hanadi Osman, *el Rai el Aam*;
5. Durrah Gambu, *el Ahdath*;
6. Hamza Baloal, *el Ahdath*;
7. *South Sudan TV* covering team; and
8. *Al Jazeera* channel covering team.

The perpetrators of these violations have remained immune to justice!

On Monday December 14, 2009 - in the wake of dispersing a peaceful demonstration of the opposition forces alliance, police arrested 118 citizens and abused them during detention. Among those arrested was a large number of reporters and journalists and activists (both male and female) of the freedom of expression, who were arrested while doing their professional duty in the coverage of events, and among journalists detained were:

1. Lucia John Abuei, *el shuroog* channel.
2. Hashim Hassan Rahamtallah, the *Soat el ummah* newspaper.
3. Adam Mohammed Bashre, *Soat el ummah*.
4. Lailah el Sadig, *Soat el ummah*.
5. Sarah Abdul Hameed, *Soat el ummah*.
6. Mohammed Ali Fazari, *Soat el ummah*.
7. Ridha Zakariya, *Soat el ummah*.
8. El Fadhil el Sidiq, *Soat el ummah*.
9. Rashan O'Shi, *el Tay-yar* newspaper.
10. *Al-Arabiya* TV channel covering team.

The police on the same day surrounded the office of the *Soat el ummah* newspaper, near the site of the demonstrations, and arrested a number of the paper's journalists. The police also beat a number of reporters of news agencies and confiscated their recording devices and their personal cameras. This was done despite the fact that the right to peaceful assembly is a right enshrined in the Interim Constitution of the Sudan to the Republic of Sudan for the year 2005. As well as being guaranteed by all international charters and conventions.

Despite demands presented by many local and international organizations active in the field of freedom of expression to reveal the identity of the policemen who assaulted the female journalist Lucia John, and to bring them to trial and not to cover up this crime, nothing happened.

On December 14, 2010, the Sudanese security forces attacked the correspondent of the British "BBC" radio, James Copnall, while covering a protest organized by the initiative "No to Oppression of Women" and the arrests that followed. They confiscated his recording and beat him. Security also deleted images from cameras of several journalists who were waiting in front of the police station to receive the released protesters.

On Sunday, January 30, 2011, security arrested 8 journalists treating them abusively, during their coverage of the demonstrations organized by youth groups in Khartoum and Omdurman calling for the overthrow of the regime. The detained journalists were:

1. Hamza Baloal, *el Ahdath* newspaper, and correspondent to the Qatari *el Sharg* newspaper.
 2. Rashid Abdul Wahab, a journalist with *Ajras el Hurriyah* newspaper.
-

3. Ali Haj el Ameen, *Ajras el Hurriyah*.
4. Sarah Taj el Sir, *el Sahafah*.
5. Ahmed sir el khatim, *Akhbar el-Youm*
6. Mohamed Marzoog, a photographer with *el akhbar*.
7. Mohammed Aamir, cameraman for *el Ikhlass* TV channel.

The same day journalist Fatima Ghazali received beating and was detained for a period of time.

The journalist Rashid Abdul Wahab was subjected to beatings and torture and humiliation at the hands of security officers during his detention. All journalists were released after more than nine hours spent in security detention cells without charge and without explaining the reasons for detention which was carried out while they were doing their job covering demonstrations.

On the other hand, the situation of press freedom in South Sudan was no better than in the north. The security forces in Southern Sudan arrested in May 2010 ten journalists and media assistants who worked for the Southern Sudan Radio and Television, they were:

1. Buthaynah Mohamed Saleh Kamel - programs Department, radio
2. Lily Wilson - News Department, TV.
3. Gabreal Loro - News Department, radio.
4. Idrees Mohammed Adam - programs Department, radio.
5. Joseph Agrab - the news section, radio.
6. Raul Paulino - News Department, TV.
7. Henry Jah John.
8. Victor Levy.
9. Charles Joseph - Electrical Technician.
10. Samuel - a driver.³⁷

The journalists and media assistants were arrested because of their implementation of a strike in protest over unpaid wages.

Detention of journalists in the course of their work is a methodical practice followed by the Sudanese security services in order to cover up the violations committed against the right of citizens and the journalists themselves, and this pattern of violations is likely to frighten them and enhance the policy of blacking out news and information.

Suspending/Stopping Newspapers by National Intelligence & Security Services, and without a warrant:

The Security and Intelligence Service expose Sudanese newspapers to many pressures and repressive practices, such as shutting down newspapers or suspending them. This is done without obtaining a court order. For example, Intelligence and Security Services closed on May 15, 2008, *Alwan* newspaper following its publishing of news about the

³⁷ A memo from the Sudan journalists network to the government of the south, on 7 June 2010.

disappearance of a military fighter plane in the wake of the attack of Justice and Equality Movement on Omdurman in May 10, 2008. (TRANSLATOR: WHEN THE DARFURI JEM REBELS ATTACKED THE CAPITAL CITY. ELWAN TOLD OF A FIGHTER DISAPPEARING. NSIS CONSIDERS ANY COVERAGE OF MILITARY ACTIVITY A RED LINE.) Security considered such news publishing “harmful to national security.”

On April 26, 2009 Director-General of the National Intelligence and Security General Salah Abdallah “Gosh” issued a directive to stop the newspaper *el Wifag* for a week, as well as stopping its editor from writing for a similar period. *El Wifag*, a newspaper seen by many as being close to the ruling National Congress Party, was stopped on the background of a provocative editorial the paper’s editor published on April 25, 2009, in which he raised hatred against Yassir Arman, the SPLM leader.

On the evening of Saturday, May 15, 2010, a unit of the National Intelligence and Security Service broke into the headquarters of the *Rai el Shaab* newspaper, organ of opposition Popular Congress Party headed by Hassan al-Turabi, and confiscated its property, seized quantities of the printed issue on Sunday 16 May from the printing press on Saturday evening before its arrival to distribution outlets on Sunday morning. On the morning of Sunday another force of the Security Services arrested four journalists and newspaper managers and prevented the rest of the journalists from entering the newspaper offices in the morning of the next day.

On Sunday, May 16, 2010, the Director-General of the Security Service, Lt. Gen. Mohamed Atta al-Mawla Abbas issued a decision to seize the property of *el Nadwah* Press & Media company Limited to stop the newspaper. Also, he decided to close down *Rai el shaab* paper, which the company owns. He said in a press statement that the decision is based on the provisions of Article 25 (d) of the National Security Act for the year 2010 re with Article 26 (a) and (b) of the Press and Press Publications Law for the year 2009.

On Tuesday, July 6, 2010, the Security and Intelligence Services closed down *el Hurrah*, *Akhbar el Yoam* and *el ahdath* newspapers as a punitive measure due to the publication of news that security said is in the list of contraband coverage. On the same day, the security services confiscated *el Tay-yar* newspaper from the printing press after the completion of the print.

On the same day (6 July), the Security and Intelligence Service stopped the *el Intibahah* newspaper and prevented it from publishing for good. The services confiscated the issue printed on Tuesday. This was done without obtaining a warrant or giving an explanation of the reasons.

The administration of *el Intibaha* newspaper said in a statement that it “received a telephone call from the Department of Information with the National Security and Intelligence Services stating the order to indefinitely suspend publication of the paper.” The Department of Information National Security and Intelligence Services and the Information Ministry stated

to newspapers issued on July 7, 2010, that the paper violated the Constitution and the law, and called and raised sectarian strife and regional hatred and encourage separatist calls. Also, it abused some of the heads of neighbouring countries and intervened in the powers of the President of the Republic.

4. National Intelligence & Security Services Orders to the Printing Houses not to Print Newspapers:

The Sudanese security services do not adopt a single pattern of violations of the right of expression and freedom of the press, but invent each time a new and different style. Security men go to printers and many times command personnel not to print newspapers. For example, critical weekly *el Maidan* was absent from distribution outlets from the sixth of June 2010 to mid-July 2010. Its management said in a statement that the director of the printing press that prints its newspaper had said that he received instructions from the Security Services not to print *el Maidan* for good. Those instructions were verbal orders and not written. Neither were they supported by a court order.

The critical *ajras el hurriyah* daily newspaper was the subject of the same incident, and was prevented from printing several times without a court order during the months of June and July of 2010.

In some cases, security prevents printing presses from printing some newspapers as a punitive measure, which is another procedure not based on a court order. For example, the Security and Intelligence Service issued an order on Tuesday, July 6, 2010, not to print four papers: *el Hurrah*, *akhbar el yoam*, *el Tay-yar* and *el ahdath*.

5. Confiscation of Newspapers after Printing:

On the morning of Tuesday, August 28, 2007, security and intelligence confiscated *el Maidan*, a critical weekly newspaper, and went beyond this limit by burning all the copies confiscated!

El Maidan, which was founded in 1954, is the mouthpiece of the Communist Party of Sudan, and the first public issue of the newspaper appeared on 25 April, 2007, three years after the Interim Constitution entered into force, and after 17 years of continued secret issuance. It remained susceptible to continuous stoppages and suspension because of the criticism it launches against the government. It was suspended and prevented from publishing more than 15 times in the period covered by the report. Material losses incurred by the newspaper from January to May 2011 amounted to over 17 million Sudanese pounds through seizure after the printing and prevention of distribution by the security services.



Photo: el Mайдan newspaper confiscated and burned in 2007.

In July 2010, the security services confiscated el Tay-yar newspaper after printing,

A force of the Information Division of the Security Service was consistently present at the printing press that prints *Ajras el Hurriyah* and seized the paper to prevent it from distribution. In 2011 only, the Security and the National Intelligence Service suspended the “*Ajras el Hurriyah*” nine times on: 20 January, 31 January, 8 March, 6 April, 7 April, 10 June, 21 June and 26 June. Every time the Security Services confiscated the newspaper they gave no reasons, and the seizure was done without legal justification and constitutional support. The Security and Intelligence Service prevents newspapers from distribution, seize papers at printers and confiscate them after printing in order to inflict the heaviest damage on newspapers, and to eventually force them to go out of business. It is worth to note that the volume of losses incurred by the *Ajras el Hurriyah* in 2011 alone reached 88 million Sudanese pounds.

6. Administrative Sanctions and Suspension of Papers by the Press Council:

The Press and Publications Council is a government body and, according to a Press and Publications Law of 2009, reports directly to the Presidency of the Republic, which “inform the council of the state’s public policy established in its strategies with respect to the press”. The council is appointed by the President of the Republic. The Council shall, by law, “oversee the overall performance of the press institutions and corporate and publishing houses and printing presses and service centres, news agencies and advertising agencies, and to review their professional performance”.

The Council shall also, according to the (flawed) law, exercise wide powers that amount to stopping papers as well as issuing licenses to publish newspapers. By its compo-

sition, the Council is a non-neutral as it consists of 21 members, six of whom are appointed by the President, and this opens the door to government control over the Council and its decisions. we also find that the Press and Publications Law of 2009 gives the Council broad powers which the Council uses for the suppression of freedom of the press and freedom of opinion and expression. Since its composition, the council has stopped many newspapers, and, for example, has issued suspension warrants for *el Hurrah* and *el Ahram el Yoam* newspapers on May 6, 2010. Although that order was not implemented, that type of command is one of the barriers to freedom of expression in Sudan.

On Thursday, July 8, 2010, the National Press and Publications Council issued a decision to indefinitely suspend the issuance of the *el Haqiqah* newspaper. On Friday, July 8, 2011, and a few hours before the declaration of the independence of the State of South Sudan, National Press Council issued a decision to close down six daily papers in English and Arabic. The newspapers were: the Khartoum Monitor, the Sudan Tribune, the Advocate, the Juba Post, the Democrat and the Arabic-speaking critic of wide fame *ajras elhurriyah*.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

المجلس القومي للصحافة والمطبوعات الصحفية The National Council for Press & Journalistic Publication

Date: _____

2011/07/08

No _____

م.ق.ص.ج.ن 66 / 6-11/7

لإدارة/ شركة مميزات جديدة للإنتاج الإعلامي المحدودة

لمبة الأستاذ صلاح أحمد محمد الحاج، المؤقر:

السَّلَامُ عَلَيْكُمْ وَرَحْمَةُ اللَّهِ وَبَرَكَاتُهُ

الموضوع: تعليق صدور صحيفة أجراس الحرية

أشير إلى الموضوع أعلاه وإلى المادة 28 من قانون الصحافة والمطبوعات الصحفية لسنة 2009 المتعلقة بالشروط الواجب توافرها في الناشر، والتي تقرأ: (يكون الناشر سوداني الجنسية شخصاً طبيعياً أو تبارياً ويجب أن يتمتع بالكفاءة والخبرة اللازمين).

وإلى توجيهات رئاسة الجمهورية ورئاسة مجلس الوزراء الخاصة بأوضاع الإخوة من جنوب السودان سقطت الجنسية عنهم اعتباراً من التاسع من يوليو 2011.

أرجو أن أثقل لكم قرار المجلس القومي للصحافة والمطبوعات الصحفية بتعليق صدور صحيفة "أجراس حرية" ابتداء من يوم السبت 2011/7/9.

وأنتهز هذه الساحة لأعرب لكم عن خالص التقدير والاحترام.

محمد
العبيد أحمد مروح

الأمين العام



بكرة إلى:

رئيس المجلس

المستشارة القانونية

المطبعة

دار التوزيع

الملف

In the name of Allah, the Merciful, the Compassionate
The National Council for Press & Journalistic Publication

Date: 08.07.2011
Ref: NCPJC/7/11/6/66

To: the Masarat Jadeedah Company for Media Production Ltd.
Attention: Ustaz Salah Ahmed Mohamed el Haj

Sub: suspension of publication of Ajras el Hurriyah newspaper

We refer to the above cited subject and to Article 28 of the Press & Journalistic Publications Act of 2009, related to terms and conditions required of publishers which states, 'a publisher is to be a Sudanese national, a natural or legal person and shall have to possess required efficiency and experience'.

And to the directives of the Presidency of the Republic, the Council of Ministers pertaining to the status of brothers from south Sudan and their deprivation of their Sudanese nationality effective the ninth of July 2011.

We would like to convey to you the decision of the National Council for Press & Press Publications to suspend the publication of Ajras el Hurriyah newspaper as from Saturday 9.7.2011.

We grasp this opportunity to express to you gratitude and respect.

Signed
El Obaid Ahmed Murawih
Secretary general

cc: chair of Council;
legal advisor;
printers;
distributor;
file.

Circular seal of the general secretariat, the National Council for Press & Press Publications, dated (in hand) 8.7.2011

The Secretary-General of the Press & Publications Council said in a statement to the SMC site, which is close to the security services, that newspapers have been suspended “from the ninth of July against the backdrop of the presence of citizens of the State of South Sudan as owners and publishers of these newspapers, pursuant to Article (28) of the Press and Publications Act for the year 2009”³⁸.

Within the powers entrusted to it pursuant to the press and publications act, the Press Council has the power to question reporters, and to summon and rebuke them, and even has the power to arrest journalists and prevent them from writing for newspapers. For example, National Council for Press and Publications has summoned the journalists Faiz el Sheikh el Silaik and Omar el Imam, editors of the newspapers *ajras el hurriyah*, *Rai el shaab*, respectively, on Monday, March 15, 2010. It accused them of insulting the President and breaching the press law.

El Silaik said that investigators asked him how the newspaper could criticize the President, and asked him to give them evidence confirming that el Basheer committed the killing of ten thousand people in Darfur.³⁹

The authorities also summoned the editor of *Rai elshaab* for the same charge and questioned him on two articles, one which says that el Basheer should hand himself over to the ICC, which accused him last year of committing war crimes in Darfur.⁴⁰

On April 14, 2010, the Press Council summoned el Haj Warrag to face charges of “waging war against the state”⁴¹. The unlimited powers and authority granted to the Council is an obstacle to press freedom and freedom of opinion and expression in the Sudan.

Also, in the context of administrative sanctions, the Press and Publications Prosecution of the Ministry of Justice issued in December 2007 an order banning publication of police reports during investigation.



7. Detention and Torture of Journalists:

Arrest and torture of journalists is one of the methods pursued by the government to intimidate them and prevent them from writings critical of the government and its ruling party. This mechanism integrates with other mechanisms and approaches to curtail the role of independent and critical journalism.

Photo: journalist Abu Zar Ali el Ameen with apparent effects of torture, 2010, (Sudaneseonline.com)

38 Statement by the secretary general of the Press& Publications’ Council given to SMC Site.

39 eljazeera.net, available at: <http://www.aljazeera.net/NR/exeres/B94D9D96-4DB3-4027-9B73-0BE2ADA7D-2BF.htm>

40 Ibid.

41 Committee to Protect Journalists, available at: <http://cpj.org/ar/2010/04/014562.php>

In the time period covered by this report over a hundred journalists have been arrested, some were subjected to torture and cruel treatment, while others remained in custody for long periods without charge and others were sentenced to prison and were criminalized because of their opinions.

The case of arrest and torture of journalist Abu Zar el Ameen and his sentence of imprisonment for five years, remains one of the cases that need further documentation and research. Noteworthy is that in the first session of the trial in the Khartoum North court, headed by Justice Mudathir el Rasheed, the investigating officer in the police report, Advisor Khalid Ballah of the State Security Prosecution admitted that 'Abu Zar Ali el Ameen was subject to beatings by the force that arrested him. He was told of that but he did not fill out Form 8, and said that the article published by the newspaper and written by the defendant Abu Zar included phrases calling for sedition. In addition to that, what was stated in the article threatens the relationship of Sudan with both Yemen and Saudi Arabia'.⁴²

The arrest of the journalist Jaafar el Sabki, who remained in prison without charge until the issuance of this report, is the most famous case of arrest and torture suffered by journalists. But there are dozens of cases mentioned in different parts of this report that bear testament to the targeting of journalists for their views.

Update: El Sabki was released early of 2012 and fled from the country. He now lives as a refugee somewhere out of Sudan)

For example, on April 8, 2011, the of journalist Hassan Is-hag was arrested and tortured by members of the Security Services when he went on a mission for his newspaper covering a symposium hosted by the Sudanese Congress Party in Khartoum North. Before the beginning of the symposium, security arrested most of the audience including journalists who were doing their jobs. Hassan was arrested and placed in detention in a security office in Khartoum North where he was beaten and received cruel treatment by his captors. He was then transferred to the police station of Khartoum North, where he spent the whole night in isolation without his family or his newspaper being notified. In the morning a police report was recorded against him, and he was then released on personal guarantee.

8. Harassment and Intimidation of Journalists:

There are many forms of harassment of journalists in this climate of anti-freedom of the press and journalism, specifically critical journalists. This harassment starts by withholding information and evolves to reach detention of journalists and restrictions on their movement. Usually journalists are prevented from entering government institutions and prevented from entering courts of law, and some government ministries and institutions impose on the news reporters news pieces prepared in advance and prevent journalists from verifying these by themselves.

For example, the month of November of 2007, saw Security repeatedly summoning three journalists active in the field of human rights; namely: Sabah Mohamed Adam, Limia

42 El Sudani newspaper, Thursday 10 June, 2010.

el Jayli Faisal al-Bagir. They had to remain for several hours in the Khartoum North security offices without investigation and were asked to come back again the next day.

On June 29, 2009, the Public Funds Prosecution in Kosti summoned the journalist Rashid Oshi, correspondent of el Sudani daily. The summoning was on the background of receiving a document related to the case of 'Revolving Medication', subject to investigation by the Minister of Health in the state. The journalist had not published any information when the authorities summoned him.

On Thursday, June 25, 2009, security authorities in Juba arrested the journalist Isaac Wa-ne, while covering the Legislative Assembly in the south. Wa-ne told the Sudan Tribune's website: that he authorities detained him for five days following news and articles on the situation in the South and the collapse of the Nile Commercial Bank.

On Thursday, June 4, 2009, the military intelligence in Juba arrested journalist Adil Badr for the second time, and detained him for five days without investigation and without charging him. He was released after five days, and after his release he said that he 'was not subjected to ill-treatment, and that the authority that arrested him did not interrogate him. He was released after the intervention by officials from the Government of the South'.⁴³

In mid-July 2010, the National Intelligence and Security Service distributed among journalists a form requesting personal data, which included 26 questions seeking detailed knowledge of their political views and knowledge of their friends and their addresses, their bank accounts and plans of their homes and detailed description of residential space distribution within these homes. Critical newspapers were told to hand over the completed forms no later than August 5.

43 Private interview with Adil Badre, dated 10 June 2009.

In the name of Allah, the Merciful, the Compassionate

Allah says: 'Help you one another in Al-Birr and At-Taqwa (virtue, righteousness and piety); but do not help one another in sin and transgression'.

Basic Information Form

1.Name
2.Place & date of birth
3.Education:
 Primary
 Intermediate
 Secondary
 University
 Specialisation
 Place of work
 Previous job
 Social status
 Father's occupation
 Place of residence
 Type of house lease-hold rented other
 Point of origin
 Tribe
 Political affiliation
 Have you been trained militarily? When? Where?
 Did you have a previous affiliation/loyalty?

Photo: the first page of the form distributed to journalists and forced to fill out and deliver to security (2010)

Security personnel told newspaper editors that journalists who did not complete the questionnaire in detail would be arrested.

A large number of journalists refused to hand over the form, and most of the naysayers are of the opinion that the goal is to gather information on the movement of journalists to facilitate access to them so as to arrest them.

When a number of the *Ajras el Hurriyah* journalists refused to fill out and deliver the questionnaire, they were summoned to security offices and forced to give their personal information.⁴⁴

9. Political Trials:

The year 2007 witnessed the beginning of the application of the practice of political trials and fabrication of charges against journalists. The first trial was against Mr. Tijani el Tayeb Babikir, editor of the weekly and critical newspaper (*el Maidan*) on charges of defamation of the security services.

The Sudanese penal code, the security law and the press law were used in abundance in the period covered by this report to suppress journalists and bring them to political trials on basis of malicious police reports aimed at the repression and intimidation of journalists, especially critical journalists. For example, on May 9, 2010, the editor of the *ajras el hurriyah*, Fa-yiz el Sheikh el Silaik and journalist el Haj Warrag stood before the Khartoum North Criminal Court on charges of 'detracting from the prestige of the state', and 'publishing false news', according to the Penal Code and the Press and Publications Law in a police report the Security & Intelligence Service filed against them.

On June 15, 2010, the Khartoum North criminal court resumed considering the police report filed against the acting editor of *Ajras el Hurriyah* Fa-yiz el Sheikh el Silaik and columnist Al-Haj Warrag by the Security and Intelligence Service, on charges of detracting from the prestige of the state, instigating hatred and the dissemination of false news.

On Sunday, May 29, 2011, Dr. Omar Al Garrai, author of an article in the daily critical paper *ajras el hurriyah*, Mr. Abdullah Al-Sheikh, editor of the paper, and columnist for *el akhbar* newspaper and human rights activist, Mr. Faisal Mohamed Salih appeared before the prosecutor relevant to issues of the Press and Publication.

On the same day, but in different police reports, Osman Ahmed Osman, editor of the English-language Citizen newspaper, author Nahid Mohammed el Hassan of the critical *Ajras el Hurriyah* daily newspaper, Abdullah el Sheikh, editor of the *Ajras el Hurriyah*, and el Ay-yam newspaper stood before the court. The plaintiff in all these police reports was the National Security and Intelligence Service, for articles and opinion columns dealing with the Safiyah rape case. The Security Service had launched a campaign of legal harassment and malicious police reports against all journalists and opinion writers who tackled the issue.

44 Private interviews with Gamar Dalman, Zuhail el Tayeb and Fa-yiz el Silaik, documented by the international Committee to Protect Journalists.

On Tuesday, July 5, 2011, the publishing-crimes Court in the criminal court complex in Khartoum North, headed by Judge Mudathir el Rasheed, issued a decision against the journalist Fatima Ghazali of a fine of two thousand Sudanese pounds (equivalent to 670 U.S. dollars) and, in the case of non-payment, a one-month imprisonment. The same court, in the same session issued a decision against Saad el Deen Ibrahim, editor of the paper for which Ghazali works, sentencing him with payment of a fine of 5 thousand Sudanese pounds (equivalent to 1670 U.S. dollars).

Fatima Ghazali refused to pay the fine and was locked up in the court's detention cells after the sentencing and then moved to Omdurman prison to serve her prison sentence. While the editor was released because the fine will be paid according to civil proceedings, as the judge decided.

The sentencing was pursuant to Article 66 of the Penal Code pertaining to malicious publishing, and Articles 26 and 28 of the Press and Publications Law.

10. Imprisonment of Journalists:

The government authorities, the police, security or even influential individuals in the ruling party use imprisonment of journalists without court orders or fair trials. Such imprisonment of journalists is made by way of requital against them because of their criticism and to intimidate others and force them to silence. For example, On February 19, 2008, four editors of daily newspapers were arrested. They were: Kamal Hassan Bakheet, editor of el Rai el Aam, Sid Ahmed Khaleefa, editor of el Wattan, Adil El-Baz, editor of el Ahdath, and Mustafa Abu el Azay-yim editor of Akhir Lahzah and journalists Mohammed Ahmed Abdul el Muttayab managing editor of el Wifag, Hafiz el Khair of el Rai el Aam and Mai Ali from akhir lahzah.

The five newspapers had published a news story that the paper said included a decision of President Omar el Basheer (number 46) to promote a number of police officers. 25 officers were promoted to the rank of Police Major-General, and 45 officers to the rank of Police Brigadier General. The news piece included names of others who were retired in accordance with the decision. But the Police Press Office denied the validity of the information contained in the news, before charging some newspapers as 'being used to publish false news and information affecting the public peace and the performance of some employees of the police and making newspapers lose credibility in their handling'.

The journalists were imprisoned in one of the police detention cells where they spent the night. They were released later the next day without charges brought against them.

11. Ban on Radio Stations:

The beginning of August 2010 witnessed the start of bans on radio and restraining them, as the Sudanese government announced the suspension of the license of the Brit-

ish Broadcasting Corporation (BBC), which broadcasts in Arabic on local FM waves in four major cities in northern Sudan, (Khartoum, Port Sudan, Wad Medani and el Obey-yidh). The Ministry of Information had declared that the government 'stopped the service of the BBC on FM waves working in: Khartoum, Port Sudan, Wad Medani and el Obey-yidh, and suspended the agreement signed between the BBC and the National Radio Corporation effective August 9, 2010'.⁴⁵

Shortly after the BBC suspension, and specifically on October 4, 2010, Monte Carlo world service which broadcasts in Arabic from Paris was blocked off, without giving any clear reasons for taking such a decision.

The general administration of Radio Monte Carlo had applied to the Sudan Ministry of Information to renew its license to broadcast through FM 93, but the Sudanese government refused to grant the annual license without giving any clear reasons for that except claims related to the organizing agreements and broadcast laws - the same flimsy reasons as those the government used to justify stopping the broadcasting of the BBC Arabic service .

The government had earlier (2006) rejected to permit the Miraya FM radio of the United Nations to broadcast its programs in the north and has been operating in Southern Sudan only. No agency is granted permission to transmit via the airwaves except through a license from the government represented by the Ministry of Information and Communications. Dozens of activists have been arrested in the months of October and November 2010, on claims of working for Radio Dabanga, which has a broad audience in the Darfur region.

Harassment of Reporters:

Foreign correspondents in Sudan are exposed to a lot of harassment with restrictions and obstacles imposed on their movements and their jobs, especially those who cover the issues of Darfur and the conflict zones. This is done by refraining from granting licenses to correspondents of world news agencies, and restricting freedom of movement for correspondents of the World newspapers, and delaying and preventing entry visas to the country and the monitoring of all they prepare for publishing by the External Information Department, considered by many as a branch of the security service.

For example, in March 2007, the administration of the External Information Department forced the journalist Jonah Fisher, a BBC correspondent, to leave the country after giving him an exit visa from the country within one month and the External Information Department told Fisher's lawyer that 'his media coverage is hostile' as Fisher had published a report in November 2006, in which he said that 'the government is working in close coordination with the Janjaweed militia'.

On February 28, 2009, the security authorities deported Hibba Ali, a Canadian journalist of Egyptian origin, due to sending reports on the Darfur crisis and arms industry in Sudan.

45 The BBC, available at: http://www.bbc.co.uk/arabic/worldnews/2010/08/100809_bbc_sudan_suspend_tc2.shtml

46 Arab network for human rights, available at: <http://www.anhri.net/?p=13228>

On March 1, 2009, the National Intelligence and Security service arrested the journalist Zuhair Latif, a Tunisian-born British citizen, who works for the France 24 channel which broadcasts in Arabic, and charged el Hayah newspaper for allegedly violating the immigration laws. He had participated in what was described as activities not covered by the authorization granted to him. He was later deported.

On December 14, 2010, security forces assaulted the BBC radio correspondent James Copnall in Khartoum while covering a protest demonstration and the arrests that ensued, and confiscated recording devices that were in his possession and beat him.

James Copnall wrote on the Radio Website that after he took out the microphone and recording equipment, he was surrounded by several men dressed in civilian clothes, 'it was clear that they belonged to one of the security services', he wrote, 'one of them grabbed my arm while another picked up the microphone and tried pulling it from me. I told them 'I am a journalist, and have the right to record this', but a third man, slender with moustaches, kicked me on my leg. He carried out the kick with great skill and he may be a Judo champion'.⁴⁷

Local correspondents also complained of harassment and restraints against them by local authorities. For example, the security authorities arrested in Nyala (South Darfur) the journalist Noor el Deen Mohammed Suleiman Biraimah, the correspondent of *ajras el hurriyah*, on October 11, 2008. he was only released after more than two weeks of detention without charge, because of news published in the newspaper. In December 2007, police arrested two of the city of Nyala local correspondents: Mahjoob Hassoon (*el Sudani newspaper*) and Jamal Dahawi (*Rai el shaab*). Police reports were filed against them because of news published in the papers they work for.

Harassment of correspondents of international news agencies and newspapers is intended to cover up the abuses that occur in the country, and reduce the content of media material on the Sudan in the international media. Towards the same objective, harassing local reporters and intimidating them is done to prevent them from reflecting the reality of conflict areas in the national newspapers.

47 BBC Website, documented by the international Committee to Protect Journalists. Available at: <http://www.bbc.co.uk/news/world-africa-11991558>

Blocking Websites:

People turn to the Internet to express their views without restrictions because it provides them with a space of freedom of expression that is not available in the written press, radio or television, which are subject to so many pressures. However, in recent times the online realm is no longer a free space, wherein information is freely transacted and where the real practice of the freedom of expression takes place. The government in Sudan has resorted to blocking many of the websites within the Sudan through the National Authority for Communications, a government body established in September 1996, for the purpose of organizing and set rules for the Internet service. To control the content of the Internet coming into Sudan the Authority has established a special unit for shadowing and filtering information.



Picture: Website blocked by the National Authority for Communications 2011.

Mission of Internet Information Filtering Unit (Blocking Unit):

The National Telecommunications Authority has established a special unit to filter the information delivered to Internet users in Sudan. The unit's process of filtering Internet information is based on the content of sites, and not on the name of the site. The Authority says that the role of this unit 'complements the role of the family, school or university to work on maintaining good values and ward off evil from society'! The Authority says it is obscures (some) websites, 'in order to protect the nation's faith and morals, and to instil the principles and values of virtue and chastity'!⁴⁸

These are vague terms and without meaning or definition, through which the Sudan Government aims to impose strict censorship on the Internet, a matter which is inconsistent with Sudan's international obligations for the protection of the right to freedom of expression and freedom of opinion and the right to obtain information.

Based on these vague phrases the National Telecommunications Authority has blocked many of the websites within the Sudan during different periods. These include, for example the YouTube site. This site has been blocked after it published pictures of Security and Intelligence Services members and officers torturing children from Darfur, who were

48 Source: National Telecommunications Authority website, <http://www.ntc.gov.sd>

arrested following the attack by the Justice and Equality Movement on Omdurman in May 2008. It was blocked again after the presidential election when activists broadcasted on YouTube videos revealing the fraud witnessed during the election.

Following the announcement of the decision of the International Criminal Court's arrest warrant for President Omar el Basheer the Authority blocked the website of the International Criminal Court. The Authority also used to block Arab secular and nonbelievers' sites, and although their return was observed in recent times it is not a regular return. It also blocks the site elMustafa.com, which is a virtual library containing books of famous authors, books about Islamic history, and books confiscated or banned by Governments in the Arab world.

Most recently, the National Telecommunications Authority blocked some legal sites, and in particular the ones which publish human rights abuses in Sudan, including Darfur. Sometimes access to the site of the United Nations, which contains the report of the Special Rapporteur on Sudan, was for periods hard to obtain, but it was not confirmed whether it was blocked by the Authority or not. In the past, the National Telecommunications Authority used to place a message, after blocking a site, explaining that it had blocked the designated site, but the disappearance of such message has been noted recently.

The National Telecommunications Authority blocked the January-30 movement blog, which called for young people to go out in peaceful demonstrations demanding the departure of the regime during the Arab Spring in early 2011.

The National Telecommunications Authority also blocked the 'Sudanese Elections Observation' site during the period of the elections in April 2010.

It also blocked in different periods the sudaneseonline.com and alrakoba.net news sites; this shows that the blocking is also according to a systematic policy aimed at standardization of oppression and repression of alternative opinions.

Internet and Telecommunications Laws in Sudan:

Telecommunications Law of 2001⁴⁹, the IT Crime Act of 2007, Electronic Transactions Act of 2007⁵⁰, the regulating competition and prevent monopoly law for the year 2009.⁵¹

In 1994 the first internet legislation was issued which was 'the National Council for Telecommunications Act' to function as a regulatory apparatus for communications in Sudan.

In 1996 the law of the Council was amended and it was converted into a body to regulate the telecommunications sector.

In 2001, the Telecommunications Law was issued; while in 1997 the first license for the Internet service in Sudan was issued to *Sudanet*. A few days later that was followed by the IT Crime Act of 2007!

49 Available at: <http://www.ntc.gov.sd/images/stories/docs/arabic/lawa.pdf>

50 Available at: http://www.ntc.gov.sd/images/stories/docs/arabic/e_transactions_law.pdf

51 Available at: http://www.ntc.gov.sd/images/stories/docs/arabic/competition_law.pdf

Notes on the IT Crime Act 2007 ⁵²:

The Law does not guarantee the right of access to information and the right to freedom of opinion and expression, while noting that it was issued in light of application of the provisions of the Interim Constitution of 2005.

The law speaks in a vague manner - in its fourth quarter – about what it calls ‘crimes of public order and morals’! It provides for the punishment of the perpetrator of the crime of disturbing public order and morality, which the law does not give a specific definition of, a term of imprisonment not exceeding five years, or a fine or both!

The Law criminalizes the establishment of sites that criticize the government! It threatens the one who creates, publishes or uses a site on the Internet or a computer or the like to facilitate or promote programs or ideas contrary to public order or morality, punishable by imprisonment for a term not exceeding three years or a fine or both!⁵³ Again, the legislator resorts to ambiguity and vague, undefined phrases.

The IT Crimes Act, like other repressive laws in the Sudan, punishes for the vague offense of ‘detracting from the reputation’ - a charge commonly used by the government to intimidate critics.

The law punishes anyone who uses the Internet or a computer or the like for defamation by imprisonment for a term not exceeding two years or a fine or both ⁵⁴- without bothering to define what the crime of defamation is.

The Law admits the establishment of a competent court for IT crimes, and competent prosecution and competent police.

This law as a whole is contradictory to the Interim Constitution of the Sudan for the year 2005, and Sudan’s international commitments towards the protection of the right to freedom of opinion and expression and the right to access to information.

Blocking the Internet, and control/censorship over the content of sites is contradictory to all international conventions and norms that protect the right to freedom of opinion and expression, and violates the public’s right to knowledge and receiving information; it also adversely affects the public opinion and forming it in a totalitarian climate, antagonistic to freedom of information and the right of expression. The blocking of the Internet is deemed a deliberate attempt to throw into ignorance an audience that relies on it to receive information. A matter of importance seen in the light of the government’s possession of radio and television and 97% of the newspapers!

14. Telecomm Companies and Violation of Privacy:

52 Available at: http://www.ntc.gov.sd/images/stories/docs/arabic/info_crimes_law.pdf

53 Article 15 of the IT Crimes Act, 2007.

54 Article 17 of the same legislation.

In the name of Allah, the Merciful, the Compassionate
The National Congress
General HQs
The Political Affairs Secretariat

Ref: NCPAS

Date: 14 November 2009

To: brothers, Heads of NCP in states

Sub: SPLM Leaders' Telephones

Reference is made to the above cited subject. Through our surveillance of calls through the administrations of Telephone stations, it became clear that the SPLM has communications with hostile agencies. On our part, all directors of telecom companies operating in the Sudan; Zain, Sudani, Canar and MTN, have been alerted to monitor and follow up on any call that harms the interests of the homeland.

Also, the Seen station was identified to monitor and follow up on Thuraya and international calls via satellites for the same purpose. Therefore, you are requested to gather the telephone numbers of leaders of SPLM in your states in a confidential manner so we can place them under surveillance.

Thank you.

(signed)

Mohamed el Mahdi Mandoor el Mahdi
Secretary, Political Affairs

Addressed to:
states

Photo: a letter showing the control of the ruling party on telecom companies and companies' violation of its customers' privacy (published on sudaneseonline.com)

Telecom companies used to violate privacy, and it is believed the Security Services are involved in that as well, through eavesdropping on the beneficiaries of the service. Companies operating in the field of telecommunications and mobile phone, record calls between users of the service, which is a violation of privacy. Affected by this procedure are journalists as this makes them vulnerable to revealing their sources as well as spying on their calls.

15. Confiscation of Books and Literary and Artistic Works:

A letter showing the control of the ruling party on telecom companies and companies' violation of to its customers' privacy (published on sudaneseonline.com).



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

المؤتمر الوطني

المركز العام

أمانة الشؤون السياسية



الرقسم : م و أش س
التاريخ : ٤٤ نوفمبر ٢٠٠٩م

الأخ / رؤساء المؤتمر بالولايات

السلام عليكم ورحمة الله تعالى وبركاته

الموضوع | تلفونات قادة الحركة الشعبية

مشيراً إلى الموضوع أعلاه ، ومن خلال رصدنا للمحادثات بواسطة إدارات محطات الهواتف ، تبين أن الحركة الشعبية لها محادثات مع جهات معادية ، من جانبنا تم تنيبه جميع مدراء شركات الإتصال العاملة بالسودان ، زين ، سوداني ، كنار ، إم تي إن ، برصد متابعة أى محادثة تضر بمصلحة الوطن .

كذلك تم تحديد محطة (س) لرصد ومتابعة أجهزة الثريا والإتصالات العالمية عبر الأقمار الإصطناعية لنفس الغرض ، عليه نرجو أن يتم جمع أرقام هواتف قادة الحركة الشعبية بولاياتكم بطريقة سرية حتى نتمكن من وضعها تحت المراقبة .

ولكم الشكر أجزله

محمد المهدي مندور المهدي

أمين الشؤون السياسية

معنون إلى :
مواصلة

Republic of the Sudan
Ministry of Culture, Youth & Sports
The Federal Council for Literary & Artistic Works

Ref: CLAW/36/A/1

Resolutions of the Secretary General
Resolution 1 for the Year 2010

Pursuant to powers vested in me by Article 14.16 of the Federal Council for Literary & Artistic Works Act; and whereas the book titled 'el Jangu: Masameer el Ardh' by the author Abdul Azeez Barakah Sakin has violated the provisions of the Law, in accordance with Article 15, rendering it imperative to confiscate the book.

Therefore, all incoming copies of the book mentioned above are to be confiscated and all concerned agencies have to place this order into effect.

Issued under my hand and seal this Tuesday 7/4/2010 AD.

(signed)

Hala Gasim Ali

Charged Secretary General

cc: Department of Publication & Publishing
Director, Literary & Artistic Works Police
Khartoum Airport Customs
Field Inspection & Control Unit

Circular seal of the Federal Council for Literary & Artistic Works.

The confiscation of books and literary and artistic works constitutes yet another front of other fronts of violations of freedom of expression and opinion and downscaling of freethinking in

Photo: Letter prohibiting the novel 'el Jangu: Masameer el Ardh, distributed by the novelist Abdul Aziz Barakah Sakin to friends and acquaintances via email.



اللمرة: م م أ ق/ ٣٦/ ١

قرارات الأمين العام

قرار رقم (١) لسنة ٢٠١٠م

وفقاً لسلطاتي المحولة لي بموجب المادة (١٤ - ١٦) من قانون المجلس الاتحادي للمصنفات الأدبية والفنية وحيث أن الكتاب: (الجنقو (مسامير الأرض) - لثمنوف عبد العزيز بركة ساكن قد خالف أحكام القانون وفقاً لنص المادة (١٥) مما يحتم مصادرتها عليه تصادر كافة النسخ الواردة من الكتاب المذكور أعلاه، وعلى جميع الأجهزة المعنية وضع الأمر موضع التنفيذ.

صدر تحت ختمي وتوقيعي في يوم الثلاثاء الموافق ٧/٤/٢٠١٠م

الأمين العام المكلف
هالة قاسم علي

مسورة الي:

- ادارة المطبوعات والنشر
- مدير شرطة المصنفات.
- جمارك مطار الخرطوم.
- وحدة التفتيش والرقابة الميدانية

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Website: mosnafat.com - E-mail: info@mosnafat.com

the Sudan. It is a practice that violates international laws that guarantee the right to freedom of opinion, thinking and creativity. The Sudanese authorities confiscate many books, literary and artistic works and go further to sentence writers and bookstore staff with prison terms and fines. For example, on December 16, 2007, the Criminal Court of Khartoum North, headed by Judge Issmat Mohammed Yousif sentenced the Egyptians Abdul Fattah el Saadani, 30 years old, Mahroos Mohammed Abdul Azeem, 30 years old, each to 6 months imprisonment on charges of insulting the creed and religion pursuant to Article (125) coupled with Article (15) of the Sudan penal code. Saadani and Mahroos work for the famous Madbooli library in Egypt.

In the same case the court acquitted both Mohammed el Hassan Abbas, a Sudanese national, the Director of the Khartoum International Book Fair of 2007 and Hadiyah Salah el Deen, a Sudanese employee of the Federal Council at the Ministry of Culture and Information.

The reasoning behind the court's decision was that charges were levelled for promoting and selling the book 'Mother of the Believers eats her children' by the Syrian thinker Nabeel Fayyadh, and what the book contained in terms of abuse of the faith.

Noteworthy, and a likely cause for suspicion as well, is that the plaintiff in the suit was the representative of the "Muslim Scholars in Sudan". The publishing house mentioned, said that it obtained a permit from the censors of Sudan to import and distribute certain books during the exhibition, including the book in question.

The Khartoum International Book Fair witnessed much harassment against those in charge of a number of publishing houses, and the confiscation of many books and publications from the premises of publishing houses after subjecting those publications to repeated inspection and ongoing monitoring from censors and State Security officers alike⁵⁵. Among the books that were confiscated in 2007 were two books tackling the Shiite ideology, and a book entitled 'Darfur: a history of war and genocide' written by Julie Flint and Alex de Waal and translated by Antoine Bassil and Fouad Zi'aitir.

In late December of 2008, the Department of Literary and Artistic Works, a government body, confiscated the novel 'Amadira' by the writer Omaima Abdullah.

On Thursday, March 12, 2009 the State Security Prosecution in Khartoum arrested citizen Musa Rahoama, 29 years old, for printing a book on Darfur entitled, 'Darfur on the Agenda of the National Forces', by virtue of a complaint made by the Security and Intelligence Service, that the book contained false information on Darfur with the purpose of 'threatening the public peace' and 'diminishing the prestige of the state'.

On April 7, 2010, the authorities issued orders to confiscate the novel 'el Jangu: Mameer el Ardh' by the novelist Abdul Aziz Barakah Sakin, and banning the entry of the novel into Sudan and its distribution. The resolution included that the novel was against the law!

55 The Arab Network for Human Rights Information, available at: <http://www.anhri.net/ifex/alerts/sudan/2007/pr1215.shtml>

The literary works of Abdul Aziz Barakah Sakin, a Sudanese young novelist, is the most subjected to seizures. His collection of short stories '*ala Hamish el Arssifah*' has been seized in 2005, claiming it contains phrases and words offensive to 'public diffidence', as well as his other collection of short stories '*Imraah min Campo Kadees*' in 2009, from the Azzah publishers stall in the exhibition of the Khartoum International Book Fair, based on the same flimsy justification.

In April 2010, a court in Khartoum imposed a fine of 500 Sudanese pounds on the owners of two libraries for selling a book entitled 'Banat el Khartoum', and ordered the confiscation of copies in the two book stores. The Community Security police 'aka the public order police' arrested the owners of the bookstores and filed police reports against them because of the sale of the book, which seems to be banned from distribution in Sudan.

All these incidents cast their shadows on the freedom of expression in the field of literature and the arts. They also draw attention to the importance of revising the law of the Federal Council of Literary and Artistic Works.

Radio & TV:

In the context of talking about freedom of expression in Sudan, one cannot avoid talking about radio and television, as the state owns the National Authority for Radio and TV and directs the staff thereof to fully abide by the state orientation. The Minister of Information supervises the radio and television, and, according to the law of the Sudan News Agency, the agency has always to take into account the authentic values and traditions of the Sudanese people in its news gathering, publication and distribution, and achieve the set policies of the State and taking into account the interests of the country.⁵⁶

Even the private broadcasters are forced not to open their doors to all. The Government has earlier refused the *Miraya FM Radio* of the United Nations to broadcast its programs in the North and has been operating in Southern Sudan only. No Party is granted authority to transmit via the airwaves, and recently the (BBC) Arabic has been prohibited from broadcasting in Northern Sudan. The same goes for Radio Monte Carlo. Dozens of activists were arrested under the pretext of their work for *Radio Dabanga*, which has a wide audience in the Darfur region.

Pursuant to the law of the Sudan News Agency referred to above, the Minister of Information heads the Board of Directors of the Agency, and the number of board members does not exceed fifteen nominated by the Minister. The board reports to the Minister, and the Minister may issue directives of a general nature to the Board, with respect to the general policy of the Agency. Pursuant to the law, the director of the agency may not effect any significant changes in the organs of the Agency without the consent of the Board, which is headed by the Minister⁵⁷ – a matter which is considered interference in the performance of the Agency and a restrictive and repressive measure against radio journalists and a repression of their right to speak and work freely.

⁵⁶ The Sudan news agency act.

⁵⁷ Ibid.

Red Lines:

Through the years of control/censorship and the dark days, topics that deal with issues of Darfur, dams, students violence, the forcibly displaced, the privatization project of Gezira, corruption, poor services, press and publication laws, violations of human rights, health, police violence in connection with demonstrations, issues of education, syllabuses and textbooks, displaced persons, refugees, the International Criminal Court, prison conditions, forced displacement, the excesses of the Security and Intelligence Service, and control/censorship were all issues that were being prevented from being addressed. Also, Security prevented the writings critical of the Government, or those that call for better conditions of freedom.

Position of the Constitutional Court on Freedom of Expression:

On August 2, 2009, judge Abdullah el amen el Bashir, head of the Supreme Court, ordered the quashing of the constitutional contestation and the constitutional suit made by the newspapers *el maidan*, *ajras el hurriyah* and *rai el shaab* against the National Intelligence and Security service for its exercise of pre-publication censorship on the papers and its disabling them from getting published. For the Constitutional Court to permit security pre-publishing censorship on newspapers means that the highest legal authority in the Sudanese state is empowered to protect the Constitution, which is itself a violation the Constitution!

The Lawyers Nabil Adeeb Abdullah, Ali Mahmoud Hassanain, Kamal Omar Abdul Salam, Omaima Ahmed Mustafa, and Khansa Ahmed Ali filed a constitutional challenge against the National Intelligence and Security service (dated September 14, 2008) on the grounds that on different dates the Service had imposed pre-publication censorship on different materials in many Sudanese newspapers, including *el Maidan*, *Ajras el Hurriyah* and *rai el Shaab*. And that such censorship resulted in the prevention of dissemination of such materials. They cited, in support of their claim, several reasons: for the first, it was breach of freedom of expression and publication. In this connection they said that pre-publishing censorship and bans on publishing violate the constitutional right of the contestants in accordance with the provisions of Article 39 (1) of the Constitution; secondly, to prevent publishing violates the right of the contestants to disseminate information; for the third: to prevent publishing constitutes a breach of the fair court; for the fourth: to prevent publishing violates the freedom of the press; and for the fifth: pre-emptive ban on publishing, although this principle is subject to the exceptions, since there must be a way to enable the State to protect its interests, as for example, the dissemination of information about military movements in time of war.

In their petition, they sought to argue that all forms of prior censorship on news reporting as practiced by the National Intelligence and Security Service is inconsistent with the Constitution. They also called for each of the contestants to be awarded a nominal compensation of 10.000 Sudanese pounds for the harm they had sustained. The Constitutional Court rejected the appeal and the constitutional lawsuit and ordered both quashed.⁵⁸

58 See text of the court decision in addenda (appendix 1)

Concerns about Freedom of Expression in Sudan:

Concerns remain about violations of freedom of opinion and expression and press freedom in Sudan unless:

1. All laws relating to the press and media are reformed to enact a law guaranteeing the free flow of government information and the right of access / obtain information.
2. Substantial reforms are made to the Security Service Act and all laws that restrict freedoms, to prevent intervention in the performance of the press and media.
3. The justice system in Sudan is substantially reformed to ensure the independence of the judiciary so that it works for the protection of freedom of speech as a fundamental human right guaranteed by international covenants and conventions.
4. A stop is put to the use of the criminal laws to criminalize journalists and the assignment of each publication case to civil courts.

* Finally, I do not claim that this work is perfect, but it serves as a step to document the daily struggle of Sudanese journalists for freedom, and certainly this documentation needs further efforts to understand and analyze violations of freedom of expression and press freedom in Sudan.

Attachments:[Annex 1](#)**UPDATES:**[Sudan's new press laws will threaten free speech](#)

22 Aug 2011

A flawed media law already hampers the work of journalists in Sudan. But now the government is considering introducing even more restrictions. Abdelgadmir Mohamed Abdelgadmir reports:

It's been little more than a month after South Sudan gained independence and the Sudanese National Assembly is already considering introducing a new press and publications law that will further restrict freedom of expression in the North. Sudan's National Congress Party (NCP) is contemplating [enforcing pre-publication censorship](#) as it did between 1989 — after it first seized power — and 2009. Following this, the government passed a new law, which it claimed was a step towards press freedom. However, despite the new law, pre-publication censorship was [selectively enforced](#) by the regime during Sudan's 2010 elections.

The details of the proposed legislation have not been made available to the public; journalists and human rights experts have been excluded from the deliberations. The 2009 act already imposes serious limitations on press freedom because it enables strict state control over the press and journalists. Article 22 of the law restricts the types of companies that can issue newspapers. Any organisation that wishes to publish a newspapers must obtain permission from the state-run Council of the Press and Publications and reapply for approval from the Council every year.

On 8 July, the eve of South Sudan's independence, the Council [announced](#) that it would be withdrawing the licences of six newspapers owned or part-owned by citizens of the new nation. The 2009 press law only allows Sudanese citizens to own newspapers. The Khartoum Monitor, Juba Post, Advocate, Democrat, Sudan Tribune, and Ajas Al-Hurriya were all closed. All six papers were critical of the government and many view the decision as an act of censorship.

International observers [have condemned the practice](#) of licensing print systems. In 2000, the Office of the High Commissioner of Human Rights (OHCHR) ruled that a licensing-to-print system is incompatible with the right to freedom of expression, protected by the [International Covenant on Civil and Political Rights](#). The covenant is monitored by the OHCHR and has also been signed and ratified by Sudan. The current law is in direct violation of this, as it is an unjust restriction on freedom of the press and expression.

The law also restricts journalists, requiring that they be registered after an exam held by the Council of the Press and Publications, which is organised by the Union of Journalists. In order to work as a journalist, one must be registered.

<http://www.indexoncensorship.org/2011/08/sudans-new-press-laws-will-threaten-free-speech/>

<http://www.sudantribune.com/Sudan-mulls-return-to-pre,39840>

<http://www.indexoncensorship.org/2010/06/sudan-newspaper-suspends-publication-in-censorship-row/>

<http://allafrica.com/stories/201108121176.html>

<http://www.article19.org/data/files/pdfs/analysis/sudan-draft-media-laws-07.pdf>

<http://www2.ohchr.org/english/law/ccpr.htm>

The 2009 law also expanded the powers of the National Press and Publication Council, providing them with the power to close newspapers, stop publication, and provide licences to newspapers. While given the power to crush the press, the Council has not created mechanisms to protect journalists or provide them with any kind of public interest defence. With a flawed law already in place, and the government's recent [crackdown on newspapers](#), it is frightening to think of what the new law will look like, but there is no doubt that it will further endanger press freedom.

<http://www.indexoncensorship.org/2011/08/sudans-new-press-laws-will-threaten-free-speech/>

Sudan: IPI Condemns Newspaper Confiscations

press release :26 March 2012

IPI is concerned about a recent trend of censorship through the confiscation of newspapers in Sudan.

The Sudanese authorities confiscated the fourth issue of Al Midan in a row on March 20, and have also banned two journalists for Alwan, Mujahid Abdullah and Essam Jaafar, from writing for any Sudanese newspaper, according to the Arabic Network for Human Rights Information (ANHRI). The group reported that the National Intelligence and Security Services (NISS) told the editor-in-chief of Al Wan newspaper that they were unhappy with the publication and its journalists, a few weeks prior to the raid.

Abdelgadir Mohammed Abdelgadir, a freelance journalist and press freedom consultant based in Khartoum, told IPI in a phone interview that the moves were not isolated.

In 2012, newspapers have been seized and confiscated at an alarming rate. Al Midan has been seized five times in March alone, and 10 times since January. Other publications such as Al Ahdath, Alyoum Al Tali, Al-Jareeda, Al Shahid and Al Tayyar have all been confiscated once.

Abdelgadir said that since January the NISS had forced Rai Al Shaa'b, Al Wan, Al Tayyar, and Al Jareeda newspapers to stop publication. Alwan, Al Jareeda and Al Tayyar were only allowed to publish again after accepting NISS orders of pre-publication censorship.

Abdelgadir said: "The NISS in Sudan has a lot of authority, and the NISS abuses its authority to close papers. It also abuses press freedom. NISS marks certain 'red lines' for newspapers and orders them not to deal with or write about these 'red lines'. They include human rights abuses, corruption, the ICC, problems in Darfur and army movements." He added: "Al Midan is seized because it refuses NISS orders".

Al Midan is a thrice-weekly publication by the communist opposition in Sudan and according to the Sudan Tribune it was confiscated at least eight times last year for reporting on violence in the Blue Nile and South Kordufan regions and also about the Sudanese People's Liberation Movement (SPLM-N). It has repeatedly refused to pander to censorship and, according to ANHRI, had recently published articles related to alleged police abuses, including the alleged killing of a girl, by police, as she protested.

<http://www.indexoncensorship.org/2011/08/sudan-newspapers-confiscated-by-security-forces/>

Last month Al Tayyar and Alyoum Al Tali were confiscated after publishing articles alleging that security forces had bugged the office of the Islamist opposition leader, Hassan al-Turabi, who is the leader of the Popular Congress Party (PCP), according to the Sudan Tribune. The authorities have also targeted newspapers that they believe to be sympathetic to the PCP, according to the Sudan Tribune; as a result they closed down both Ra'y al Sha'b and Alwan, an independent daily that has been targeted multiple times by the NISS for reporting on various 'red line' topics.

Al Tayyar, a private daily newspaper, was also suspended this year because the NISS accused it of destabilising national security. According to AllAfrica, the paper had recently featured a series of articles about corruption.

Other newspapers, such as Alwan and Ra'y al Sha'b, were confiscated after reporting in a positive light about Khalil Ibrahim, the leader of the Darfur rebel movement, the Justice and Equality Movement, who was killed last year, according to reports.

Although there is a Press Act in Sudan which is supposed to guarantee freedom of expression, there are also articles within the Act which are often used to restrict press freedom. Journalists can easily be arrested, detained or fined if they write about corruption or criticise the authorities, under the guise of "spreading false information", "defamation" or even "disturbing public order", which can lead to self-censorship.

Moreover, the NISS is tasked with securing the safety of society and as such it has the power to seize property, confiscate assets, arrest people, and interrogate people, as it sees fit. This means that often newspapers are seized or confiscated without an official court order but under the pretext of helping national security. Abdelgadir noted: "This law gives the NISS a lot of authority but it is against the constitution and against the obligations of Sudan under international human rights law, as Sudan signed the ICCPR."

Last year, the National Congress Party announced that it was considering implementing pre-publication censorship again, according to Index on Censorship. Censorship was enforced in 1989, when the NCP first seized power, and again selectively in 2009 and 2010, according to Index on Censorship. The current press laws are flawed, according to Abdelgadir, as the state has a large degree of control over the press. For example, newspapers must apply to obtain a license to print from the Council of Press and Publications, which is state-run. Even journalists must pass an exam by the Council of Press and Publications and then be registered to work as a journalist.

Worryingly, the NISS already appears to be pursuing a policy of censorship. Every article in a newspaper must be approved by the NISS before it can be circulated. Last year, agents would go to the offices of the newspaper and review the paper with the editor-in-chief. They would demand that certain articles be replaced if they covered sensitive topics, but alternative material was often also rejected. In some cases, such as with Al Midan, so many articles were removed that the newspaper could not be published.

Abdelgadir told IPI that the NISS are pursuing a new strategy and that they phone the editor-in-chief of the newspaper every evening and tell them to review the paper. They also give them a new list of 'red lines' that they are not allowed to report on. Abdelgadir explained that many journalists were forced to censor themselves as they needed to earn a living, which they could only do if the newspapers were published and circulated. The NISS often waits until the newspapers have been printed and then they review the newspaper

themselves, so when an article is not approved all copies of the newspaper are confiscated. None of the newspapers can be circulated, resulting in a large financial loss. As a result newspapers such as Al Midan and Al Ayyam are facing great financial difficulties and could even be forced to close, according to Abdelgadir, as last week they could not afford to print their issues due to financial problems.

IPI Press Freedom Manager Anthony Mills said: "Press freedom in Sudan is being consistently violated. Journalists in Sudan must have the right to be able to work freely without intimidation from the security services. IPI condemns all attempts to confiscate newspapers."

After South Sudan's independence in July 2011, the government stepped up its attack against the press and it closed Ajras Al Hurriya, an Arabic newspaper, and suspended five English newspapers including: the Khartoum Monitor; the Juba Post; the Sudan Tribune; The Advocate; and The Democrat.

After South Sudan became independent, owners and publishers from South Sudan have been regarded as foreigners by the Sudanese government and as a result do not have the right to own media in the north.

GUEST BLOG: Sudan's War on the Media Red Lines and Confiscations Choke Independent Media

By: Abdelgadir Mohammed Abdelgadir

KHARTOUM, May 15, 2012 - In the days since the world celebrated World Press Freedom Day the Sudanese press has witnessed great setbacks. On May 3, the entire print run of Al Midan newspaper was confiscated by Sudan's National Security and Intelligence Services (NISS) and it happened again on May 6, May 8, May 10, May 13 and May 15. Al Jarida newspaper was confiscated on May 1, May 2, May 6, May 11, May 12 and May 14.

On May 1 and May 2, the NISS confiscated Al Jarida newspaper under the pretext that the paper had covered specific topics considered "red lines" that should not be addressed. Security officers visited the newspaper and asked for a copy to review before printing, deleted many of the articles, and gave approval to print the paper. But other security officers at the printing press company objected and they confiscated the paper.

"The list of red lines increases every day," Idris al-Domah, managing editor of Al Jarida paper, said. He added: "We usually adhere to the security instructions; we did not go beyond them one day, but they are always preventing the paper from being printed. We do not know what the reasons behind these deliberate disruptions are."

He added: "We think that Al Jarida was and still is being targeted by the security services, but we have no idea what the reasons for this targeting are."

On Sunday, May 6, NISS confiscated both Al Midan and Al Jarida newspapers. On May 7, Al Tayar was confiscated. On May 8, Al Midan was confiscated for the third time, which meant that distribution of all three editions produced that week was prevented.

The confiscations usually take place after the newspapers are printed and the costs have been paid to the printing press, in order to inflict the heaviest possible financial loss on the publisher. The result is that the publisher eventually stops, or alternatively chooses to follow the guidelines set by the NISS, and doesn't cover issues of concern to the public considered by security to constitute "red lines".

There are various forms of security control over newspapers, including phone calls to the editors ordering them not to publish reports on certain topics.

"I received a phone call from NISS on the evening of Saturday, May 5," said Madiha Abdullah, the editor of Al Midan newspaper. "They told me over the phone: You should not include in your paper any articles critical of the performance of the security services, armed forces, or the police, and do not criticize the President; in addition do not talk about the situation of civil liberties and press freedoms. And do not talk about the problems in the State of Gadarif or the dismissal of its governor."

She added: "In the early stages they told us not to criticize the performance of the army, or abuses by the police and security services But usually we did not adhere to those guidelines because they are restrictive and many violate our right to publish and the right of people to receive information."

Idris Al Domah, managing editor of Al Jarida newspaper, said: "We receive phone calls every evening from the NISS, the press division, determining the topics we should not be covering." He added: "We were told not to criticize the President, not to criticize the institution of

the presidency, not to criticize the security services, the armed forces and police, and not to deal with human rights violations and abuses committed by the regular forces; these are the regular red lines that we should not address. This is in addition to the topics of emergency such as the crisis in Gadarif state and the crisis in the Ministry of Information and the resignation of the minister of information, corruption issues, lack of services, and the debate about the Constitution.

“They requested that we not talk about the confiscation of the newspaper, not talk about security control of newspapers and the media. In short, we should write according to the accepted narrative of the security services.”

The task of the press - as the fourth estate - is to monitor government performance and expose corruption and human rights violations committed by the various state agencies, including the security apparatus. But Sudan's security apparatus wants the press to have a different task, to work as a publicity or propaganda machine in favor of the ruling party in order to extend the life of the regime.

There is an economic war by the government, well planned and implemented by the NISS, to curtail the role of the press. The war started with government advertisements being kept out of critical and independent newspapers. It was obvious that advertising is a major source of income for the newspapers. For example, Al Midan newspaper has not received any government advertising since the start of 2007.

The second phase of the war was the confiscation of newspapers after printing, and here they suffered significant financial loss, because the papers nonetheless pay all printing costs. But the NISS usually intervenes, inflicting considerable financial losses. The newspaper loses between 10,000 to 15,000 SDG – equivalent to \$3,300 - \$5,000 U.S. dollars. This reflects merely the cost of printing, excluding other operating costs such as rent, salaries, travel and advertising costs. Confiscation of newspapers leads to low morale amongst the staff, and decreasing confidence among readers as a result of the unexplained repeated disappearances. Worst of all, the paper is unable to inform the readers about the reasons for not publishing, as the government does not allow any newspaper to address the issue of censorship.

The NISS currently violates freedom of expression in several ways: confiscation of newspapers after printing, security prosecutions, arrests of journalists, interrogations by the security services, and by preventing journalists from writing.

The NISS summons journalists to its offices on a daily basis in order to humiliate them and keep them from doing their work. The journalist Haider al-Mokashfi, consultant editor at Al Sahfa newspaper, said: “On Tuesday, April 25, my article was blocked. It dealt with the incident of the burning of a church in Khartoum by militant Islamists. I knew that the article had been blocked from the paper by the security apparatus, and at noon I received a phone call from National Intelligence and Security asking me to come to their offices on the same day. I stayed the whole day at the offices of security, and they interrogated me about the article and other articles, and they told me verbally that I was banned from writing. When I returned to the newspaper office, the editor told me that my article would not be published because the Security Service had phoned and had told him they had suspended me from writing!” A total of 15 journalists have so far been banned from writing.

Meanwhile, since April 15 well-known journalist and university media lecturer Faisal

Mohamed Salih has been asked to come to the NISS office on a daily basis, because of his critical comments on Al Jazeera TV about a presidential speech that called for war with the South.

Salih said: "The Security agents came to my house and my office more than once during Wednesday April 25. I was outside the house.

"Around eight in the evening they came to my house once again and I spoke to them through my wife's phone. They told me I was wanted by the NISS and I met them outside and I went with them to the NISS office in Khartoum North.

"I was questioned about my comment on Al Jazeera TV on April 19 about the President's speech in Al Obied city. There was not much to talk about, as they have video footage of my comment. I repeated to them what I said in that comment again.

"Their argument was based on several points: that such a comment should not be said in the media, and that it was better for me to convey any views to those responsible by other means, that I should be cautious when talking to foreign media, that I should restrict some of the issues in the local media, and that some of the words used were indecent.

"I refuted their arguments; the questioning, however, continued till midnight. They requested that I come back on April 26 for further interrogation; they called it 'discussion'. After that, they requested that I come to their office every day from the morning till 5.00 pm. I have to sit in the reception area without any questions or answers, then they ask me to come the next morning."

Salih had been going to the security office for 11 days. On the twelfth day he decided not to go and publicised his predicament with the NISS on online websites. The NISS arrested him on May 8 and he stayed at the NISS office for nine hours before being released with a request that he return the next morning. When he didn't return, they arrested him again.

Salih's arrest is an indication that the NISS not only wants to block information from the Sudanese people but from the whole world.

The government wants to exploit the state of war with the South to justify further restrictions on freedom, punish critical journalists and newspapers and distract people's attention from the deteriorating living standards in Sudan.

The opinions and views expressed in this article are those of the author and do not necessarily reflect those of the International Press Institute.

<http://www.freemedia.at/home/singleview/article/guest-blog-sudans-war-on-the-media.html>

CPJ Blog

In Sudan, a new strategy to censor the press

By Abdelgadir Mohammed Abdelgadir/CPJ Guest Blogger
April 5, 2012

Sudanese authorities have a [long history](#) of closing newspapers and silencing journalists. But the government security agents who carry out official censorship have launched a [new strategy](#) this year that focuses on economic impoverishment--leaving newspapers more vulnerable than ever.

Agents of the National Intelligence and Security Services (NISS) now raid printing presses and confiscate newspapers on grounds that publications are covering topics barred by the NISS. The agency's red lines are numerous, changeable, and ungoverned by law or judicial order. The NISS demands, for example, that newspapers abstain from covering the International Criminal Court, government corruption, human rights violations, Darfur, the war in South Kordofan and Blue Nile, armed movements, and many other subjects.

In the past, the NISS would censor publications in advance by dispatching agents to newsrooms. Officers would read the newspaper in full and order articles be taken out and replaced. In many cases, they would reject the replacement articles too, and halt the printing of the newspaper entirely. The officers would oblige editors to sign a pledge not to publish the censored articles elsewhere, notably online.

The new goal: Censor newspapers and force them to incur heavy financial losses. Agents, for example, have confiscated copies of the newspaper *Al-Maidan* on several occasions, among them February 21, and March 13, 15, 17 and 18. The newspaper said it lost thousands in revenue each time the printed copies were confiscated. *Al-Maidan* Editor-in-Chief Madiha Abdullah said the newspaper pays for printing in advance with the expectation it will cover the expense through sales. But copies on these five dates never made it to newsstands and were instead hoarded at security offices.

On February 20, copies of *Al-Ahdath* and *Al-Tayar* were confiscated at their respective printing presses. Both publications incurred significant losses. On March 27 and 29, the NISS confiscated *Al-Jarida* copies at the printing press after the publication refused to suspend journalist Zuhair al-Siraj. In a statement, the management of the newspaper said it had received a phone call from the NISS conveying the agency's wishes regarding al-Siraj, who had criticized the Sudanese government in an article. When *Al-Jarida* management requested the NISS put its wishes in writing, the agency refused.

The agency has taken direct action as well. On February 22, the NISS director general suspended publication of *Al-Tayar* indefinitely. A writer from *Al-Tayar* was arrested the same day. The newspaper resumed publication only after it had accepted NISS conditions. It's worth noting that the president of the National Council for Press and Publications, the

<http://cpj.org/2012/02/attacks-on-the-press-in-2011-sudan.php>

<http://cpj.org/2012/03/sudan-attempts-to-silence-opposition-news-coverage.php>

government body officially charged with overseeing newspapers, said in an interview with a local news outlet that the NISS exercises full control over the press. Even his agency is powerless due to NISS encroachment.

This all comes at a time when government officials feel free to accuse journalists of treason and espionage, with pro-regime newspapers amplifying the accusations. With such attacks taking place and with security agents controlling what can be published, independent journalism in Sudan remains in great peril.

<http://cpj.org/blog/2012/04/in-sudan-a-new-strategy-to-censor-the-press.php>

CPJ Blog

Sudan's press under siege

By *Abdelgadir Mohammed Abdelgadir*/CPJ Guest Blogger

May 21, 2012

Press freedom in Sudan is rapidly deteriorating, with confiscation of newspapers by the security agency becoming a norm. The scope of violations committed against publications and journalists by the Sudanese National Intelligence and Security Services (NISS) is widening by the day.

Since early May, the NISS has confiscated more than 14 editions of different newspapers in Sudan, suspended more than 13 journalists from writing in newspapers, and identified about 20 taboo topics not to be tackled by the press.

Newspapers confiscated by the NISS since early May:

- On May 1 and 2, the NISS confiscated *Al-Jarida* from the printing press.
- On May 3, World Press Freedom Day, the NISS confiscated *Al-Midan* after printing was completed.
- On May 6, the NISS confiscated *Al-Midan* and *Al-Jarida* after printing was completed.
- On May 7, the NISS confiscated *Al-Tayar* after printing was completed.
- On May 8, 10, 13, and 15, the NISS confiscated *Al-Midan* after printing was completed.
- On May 17, the NISS halted printing of *Al-Midan*.
- On May 11, 12, and 14, the NISS confiscated *Al-Jarida* after printing was completed.
- On May 18, the NISS confiscated *Akhir Lahza* from the printing press.

Every confiscated newspaper results in losses of between 10,000 and 15,000 Sudanese pounds (equivalent to US\$330 and US\$5,000) in printing costs, even without factoring in other operational expenses including rental of premises, wages and salaries, travel expenses, and advertisement costs. In addition, these newspapers suffer a moral blow and lose the confidence of their readership because of their repeated no-shows on newsstands--which they are unable to explain because the government bans newspapers from discussing censorship.

By confiscating newspapers, the security agency aims to cause a significant financial loss and force the newspapers either to go out of business or to comply with its instructions.

Arresting journalists

On May 15, the NISS arrested for the second time this month prominent journalist, university professor of media, and editor-in-chief of the suspended *Al-Adwa* newspaper [Faisal Mohamed Saleh](#). He was interrogated at the State Security Prosecution several hours after his arrest. A police complaint was issued against him under Article 94 of the Criminal Code on resisting a law enforcement officer.

Saleh was released on bail pending further investigations, with a hearing set for June 11.

<http://cpj.org/blog/author/abdelgadir-mohammed-abdelgadir>

<http://cpj.org/2012/02/attacks-on-the-press-in-2011-sudan.php>

<http://cpj.org/blog/2012/04/in-sudan-a-new-strategy-to-censor-the-press.php>

<http://cpj.org/2012/05/in-sudan-journalist-detained-newspapers-confiscate.php>

Conviction under Article 94 is punishable by approximately one month of jail time and a fine. Between April 25 and May 11, Saleh was told to appear at the security agency daily because of a statement he made on Al-Jazeera TV in which he criticized a speech by President Omar al-Bashir as escalating the language of war.

“The security personnel came to my house and my office more than once during the day and in the evening on Wednesday, April 25. I wasn’t at home,” Saleh said. “Around 8 p.m., they came to my house again and told me I was wanted by the security agency. I joined them outside and went with them to the premises of the security agency. I was questioned about my comments regarding the president’s speech in Al-Abyad City to Al-Jazeera’s 6 p.m. newscast of Thursday, April 19. There was not much to say since they already had the news bulletin recorded and I also repeated my comments to them. They told me that such comments were not fit for media and it was better to communicate them to the authorities by other means and that I should be conservative when speaking to foreign media outlets and should not talk about certain issues except to local media. They also told me that I used some inappropriate words. I replied to all that. The interrogation lasted until midnight. I was asked to come back on Thursday morning to continue the interrogation which they insisted on calling a ‘dialogue.’”

Saleh continued to report daily to the security agency premises in Khartoum North for 11 days. On the 12th day, however, he decided not to go to the security agency premises and posted his intention on local websites. The next morning, he was arrested and kept in the security agency premises for about nine hours without interrogation.

Journalists banned from writing per NISS orders

In addition to the direct censorship exercised by the NISS on newspapers and other publications, the NISS instructs management boards and editors-in-chief of newspapers to suspend certain journalists from writing. Should a newspaper not comply with NISS orders, it would face confiscation and possible suspension. Editors-in-chief report that they were instructed by the security agency not to publish the work of certain journalists or their news outlets will be closed.

At last count, the following journalists were suspended:

- Haidar al-Makashfi, editorial consultant at Al-Sahafa
- Zuhair al-Siraj, columnist at Al-Jarida
- Abdullah al-Sheikh, former editor-in-chief of multiple papers
- Abu Zar Ali al-Amin, writer at the suspended Rai Al-Shaab and at Al-Jarida
- Fayez al-Salik, Al-Jarida
- Amal Habbani, Al-Jarida
- Mujahed Abdullah, Alwan
- Essam Jafar, Alwan
- Rasha Awad, Al-Jarida
- Ashraf Abdul Aziz, Al-Jarida
- Al-Tahir Abu Jawhara, Al-Jarida
- Mohammad Mahmoud Al-Subhi, Al-Jarida
- Abdul Salam al-Qarai, Al-Jarida

Banning journalists from writing is a weapon used by the security agency to deprive journalists of their livelihoods and income in order to coerce them into obedience.

Taboo topics

The security agency sends a daily letter to editors-in-chief in Khartoum containing a list of taboo topics. "The list of red lines is long and renewed on a daily basis," said journalist Idris al-Douma, the managing editor of *Al-Jarida*. "We usually abide by the directives of the security agency and have never disregarded them. Yet, the security agency still disrupts the printing of the newspaper. We do not know the reason behind such deliberate disruption. We believe that *Al-Jarida* newspaper is targeted by the security agency but we do not know why," Al-Douma said.

Security agency censorship takes different forms, including orders communicated to the editor-in-chief or the managing editor over the phone not to publish about certain topics that the agency considers taboo.

"I received an evening phone call from the Intelligence and Security Services on Saturday, May 5," said Madiha Abdullah, editor-in-chief of the critical *Al-Midan*. "They told me over the phone that the newspaper must not contain articles that criticize the performance of the security agency, the armed forces, or the police, and must not criticize the president, and that the newspaper must not discuss the situation of civil liberties and press freedoms, problems in the government of the state of Gedaref [in Eastern Sudan] or the dismissal of the governor," she said. "Previously, they had warned against criticizing the performance of the army and the violations committed at the hands of the police, uniformed forces, and the security agency, along with a list of taboo subjects. However, we usually do not abide by these directives, as they are too numerous and restrictive and violate our right to publish and the people's right to access information."

<http://cpj.org/blog/2012/05/sudans-press-under-siege.php>

Annex 2

The Constitutional Court's decision on the quashing of the suit against the Security Service for exercising censorship on newspapers. The suit was filed by the papers Ajras el Hurriyah, el Miadna and Rai el Shaab. With the cancellation of the suit, the Constitutional Court may be giving the Security Service constitutional support for the exercise of censorship over the press.

In the name of God the Merciful

The Constitutional Court

Ref: CC/CD/73/2008AD

Companies of Masarat for Media Production Ltd et al

vs.

The National Intelligence and Security Service

Ref: CC/CD/73/2008AD

Accord Company for Services Ltd.

vs.

The National Intelligence and Security Service

On 14/9/2008 the lawyers Nabeel Adeeb Abdullah, Ali Mahmood Hassanain, Kamal Omar Abdul Salam, Omaima Ahmed Mustafa and Khansa Ahmed Ali presented a petition of a constitutional contestation against the National Intelligence and Security Service on the grounds that, on different dates, the Service exercised pre-publishing censorship on various articles in the newspapers they reported in their petition. Also, that such censorship resulted in the prevention of dissemination of certain materials and in support of their claim they cited the following reasons:

First; breach of freedom of expression and publication, and they said in this connection that prior censorship, coupled with banning publishing after that, violate the constitutional right of the contestants in accordance with the provisions of Article 39 (1) of the Constitution.

Second; Preventing publishing violates the right of contestants to disseminate information.

Third; preventing publishing constitutes a breach of 'fair court'.

Fourth; preventing publishing violates the freedom of the press.

Fifth; the use of the pre-emptive publishing ban. Although this principle is subject to exceptions - since there must be a way to enable the State to protect its interests in defence, for instance. An example of such would be the dissemination of information about military movements in time of war.

They add 'the exceptional nature of the permissibility of pre-emptive ban' (See in this regard, the petition of constitutional challenge).

At the end of their petition, they seek declaring that all forms of pre-publishing censorship on news reporting practiced by the respondent are acts contradictory to the Constitution and also called for the granting of each of the contestants a nominal compensation of 10000 Sudanese pounds for the harm done.

On 15/9/2008 the legal department of the National Intelligence and Security Service presented its defence, which was based on the following:

Article 39 of the Interim Constitution of the Republic of the Sudan for the year 2005 excludes certain types of expression from constitutional protection – as follows:

Article 39 (1) excludes:

Expression which involves prejudice to order.

Expression which involves prejudice to safety.

Expression which involves prejudice to public morality.

Article 39 (3) obliges the media in particular, by professional ethics not to stir up religious or ethnic, racial, cultural hatred, or advocate for violence or war, and then bans the following types of expression and lifts off the constitutional protection, namely:

Expression contradictory to the ethics of the profession.

Expression that stirs religious or ethnic, racial or cultural hatred.

Expression, which calls for violence or war.

It adds that the Sudanese constitution followed the example of South Africa, which identified three famous exceptions to free speech. At the end of their defence, they finally sought the cancellation of the constitutional motion filed.

Having reviewed the constitutional contestation petition and the reasons relied upon and the memorandum of defence and legal and constitutional defences included, we find that a fair decision on this conflict requires that we address and discuss the constitutional and legal provisions contained in them and answer the key questions it presents in the following manner:

First; Article 39 (1) of the Interim Constitution of the Republic of Sudan for the year 2005.

Second; the First Amendment of the U.S. Constitution issued in 1787 and ratified it in 1788 AD.

Third; What is meant by freedom of expression, whether it is an absolute or restricted right?

Fourth; What are the terms of reference and powers of the National Intelligence and Security Service, according to its law?

Fifth; in the light of all this is the imposition of prior censorship on articles for publication an act contradictory to the Constitution now in force?

We begin to explain it as follows:

First; Article 39 (1) of the Interim Constitution of the Republic of Sudan for the year 2005.

That article came under the title of freedom of information and expression and provided for the following:

Every citizen has an unrestricted right to freedom of expression and to receive, disseminate and publish information, and access to the press without prejudice to order, safety and public morals, in accordance with what the Law determines.

39 (2) The State shall guarantee freedom of the press and other media, as regulated by law in a democratic society.

Article 39 (3) all the media abide by professional ethics and not to stir up religious or ethnic, racial, cultural hatred or advocate for violence or war.

Second, the First Amendment of the U.S. Constitution passed in 1787, ratified on the second of the month of July, 1788:

The first amendment came under the heading of freedom of religion and expression and states for the following: 'the House of Representatives (Congress) may not issue a resolution on the establishment of religion, prohibiting the free exercise, or limit the freedom of speech or the press or the public's right to peaceful assembly or the right to petition the government for redress of some grievances'. This amendment was approved in December 1791.

After we have stated texts of article 39 of its different paragraphs of the Interim Constitution of the Republic of Sudan for the year 2005 and the First Amendment of the U.S. Constitution passed in 1787, and before we address these by discussion and interpretation, we state the key controls for the interpretation of constitutional provisions and say the constitutional judiciary uses the generally accepted means of interpretation to indicate the meaning of the constitutional text. The aim behind the use of these means is to determine the meaning of the constitutional provision, to ensure its correct application. By knowing the meaning of words and composition of these texts, both linguistically and terminology wise ... As well as knowing the intent of the legislator through the wording through which the legislator expresses such intent, and it could be said that the interpretation of the constitutional provision depends on knowing the meaning of words, phrases and words that make up the text as well as knowing the intent of the legislature through the formula contained therein. The case being so in the interpretation of constitutional text and as long as the phrases of the constitutional provision regarding the right of expression in the Sudanese Constitution differ from those that show the right of expression in the U.S. There is no room to say the concept of the right of expression in the Constitution of Sudan matches with that right in the U.S. Constitution. Also, there is no room to argue that the U.S. precedents in that regard match the facts that constitute the conflict in the Sudan judicial cases.... This is because the constitutional judicial precedence are only the application of the provisions of the constitutional texts - and the constitutional provisions in the two constitutions differ as we explained above.

We go back and say regarding Article 39 (1) of the Interim Constitution of the Republic of Sudan for the year 2005, that it guarantees the right to express an opinion or thinking in all

matters and to receive and disseminate information and access to the press, provided that does not affect the order, safety and public morals. The media should also abide by professional ethics and not to stir up religious ethnic, racial or cultural hatred or advocacy of violence or war.

It should be noted that the successive constitutions of Sudan were not void on providing for the freedom of expression. This was enshrined in Article 5, paragraph 2 of each of the Constitution of 1956, and 1964, as amended, and Article 48 of the Constitution of 1973, and Article 19 of the Interim Constitution of the Sudan for the year 1985. The Constitution of the Sudan for the year 1998 states in Article 25 on freedom of expression, that 'citizens are to be guaranteed the freedom to seek any knowledge or to embrace any doctrine of opinion and thought without coercion with powers, and be guaranteed the freedom of expression and to receive information, publishing and the press, without what may result in harm to security, order, safety or public morals, as detailed in the law' ... as to the field of protection of this right under these constitutions, it did not witness a violation or deprivation, and the competent court remained vigilant to its maintenance.

With regard to the First Amendment to the U.S. Constitution for 1787 AD, we find that it had provided for the freedom of expression, which is logically linked to freedom of thought. What is logical is for this freedom to extend to the person's right to publish his opinions and ideas with legitimate appropriate means... (It is noted that the text did not come to give rise to freedom of expression and opinion but it came to serve as a barrier to restricting this freedom, considering that by default this freedom is absolute. It is also noted that the text has limited the freedom of expression in the freedom of the press and freedom of speech and that the First Amendment did not explicitly provide for the free exchange of views and ideas).

However, precedence proved that the government can place restrictions on freedom of expression if circumstances warrant so; and it also led to the expansion of its meaning and concept to become inclusive of all forms of expression: with speech, writing and symbol.

After dealing with the meaning and concept of the various paragraphs of Article 39 of the Interim Constitution of the Republic of Sudan for the year 2005 and the First Amendment to the U.S. Constitution in 1787 AD, we turn the third question contained at the beginning of this judgment, and to answer it in the following manner:

What is meant by the freedom of expression, and is it an absolute or a restricted right?

The meaning of freedom of expression took different dimensions according to different national constitutions and was dealt with by writers and researchers from different angles ... In spite of this disparity, the freedom of expression has appeared as synonymous with freedom of opinion in many cases. And to explain that, it was said that 'intellectual freedom means the possibility of a person expressing his opinions or thinking about any of the political or religious issues, by the means that suit him, whether by talking, publications or the presentation through the media'.

With regard to the protection of freedom of expression in the constitutions of Sudan and the U.S., we say that the text of Article 39 of the Constitution of Sudan does not include the freedom of expression with an absolute protection, as the right to expression was limited by a set of restrictions that we listed as follows:

- the right of expression is not to affect order, safety and public morals.
- media is to adhere to professional ethics.
- commitment not to stir up religious, racial or cultural hatred or advocacy of violence or war.
- the right of expression is to commit to what the law determines.

As to the first constitutional amendment to the U.S. Constitution on the freedom of expression, and despite the scope and extent of the extensive protection of the first constitutional amendment that emerged through the application of the Federal Supreme Court of the U.S., that does not dictate saying that such protection is absolute protection; as the First Amendment came burdened with constraints dictated by the nature of social life and the protection of state higher interest in order to achieve the following:

- Protection of national security.
- Respect for religions and religious beliefs.
- Prevent hate speech and the excitement of racism.

These restrictions are not imagined or imaginary restrictions, but came through the merits of the of long judgments written by the Federal Supreme Court judges in the United States such as justice Holmes, William Brennan, Marshall and many others.

From this narrative it becomes clear that freedom of expression in the constitutions of Sudan and the U.S. is not absolute freedom as well as not covered by constitutional protection in all cases, but is deemed unprotected if it goes beyond the constraints that we have mentioned above, and if it exceeds one of those restrictions its constitutional protection recedes from this right and it becomes an action against the law and the Constitution due to exercising the freedom of expression in a delinquent manner.

Next, we turn to answer the fourth question, which came as follows:

What are the terms of reference and powers of the National Intelligence and Security Service, according to its law?

The Law of the National Intelligence and Security Service issued in 1999, as amended up to 2001, consists of 73 articles and is charged with the internal security of Sudan and the maintenance of its unity ... it gathers information regarding the internal and external security of Sudan and analyse the same and is to recommend required prevention measures, and to research and investigate to uncover any conditions, facts or activities within the country - Article (6) and the Service is also charged with detecting external threats that harm national security and threaten the country's unity, independence and capabilities - Article (7).

To carry out these competences, the Service exercises the powers of control, investigation, inspection, detention of individuals and funds in accordance with the law and to request information, data or documents from any person and look at them ... These functions and powers are the same functions and powers enjoyed by the counterpart services, counterpart services even enjoy more and broader terms of reference and powers than does the Sudanese service. To limit the abuse of such services requires striking a balance between the right to stability and security of society and the rights of citizens ... And that is by subjecting the service's decisions to judicial oversight.

After we explained the terms of reference and powers of the National Security and Intelligence Service, according to its law, we address the fifth question, which came as follows:

In light of all this, is the imposition of prior censorship on articles for publication an act contradictory to the Constitution now in force?

We have said that the right of expression is a right covered by constitutional protection, but such protection recedes from this right if it comes out beyond the restrictions that we have explained previously in this judgment, according to what was established by the judicial precedence written by judges of the Supreme Court of the Federal States (see previous items). Should this be so, it could also be said that if the material prepared for publication go beyond the constitutional protection and constitute a crime, the public authorities are entitled to intervene to prevent such crimes and to punish the perpetrators.

It is not conceivable that the publishing of material calls for the disrespect for religious beliefs or abuse of sanctities is allowed without punishment (see the case of Mr. Ruggle) in which the accused before the Court of New York was convicted on charges of insulting the sanctities and the convictions of the accused 'Horace M. Kallen' in a state court of Arkansas for publishing a book that belittles the Christian religion.

The state of Massachusetts congress approved a state law authorizing the arrest of those who seduce, scorn or degrades the sacred name of God.

For several decades, the Supreme Court used to confirm that there are many issues that fall outside the scope of protection guaranteed by the First Amendment, including, without doubt, obscenity and indecency, in which the dominant ball calls for sex and sensuality in violation of the customs and traditions of the society and also such as the carrying or possession of child pornography. This is on the right of expression which goes beyond the scope of constitutional protection and its criminalization in the U.S. judicial system.

Not only have the U.S. courts used to prosecute the offender who violates the restrictions on the right of expression if their acts constitute a crime. But their judiciary extended to impose advanced censorship on the publication whenever it forms a threat to national security, see the case of US vs. Progressive 1976 when a federal court issued an order banning the publication of some information for the risk this posed to national security and the Federal

Supreme Court added through its various judgments that the advanced restriction on publishing is essential to ensure fair trial. The Supreme Court has raised this topic through the case of Samuel Shepherd.

The matter did not stop at issuance of orders on ban of publishing, but the American government went even further as the Federal Supreme Court decided in the case of the Stanford newspaper, *Zurcher vs. Stanford Daily*, that the First Amendment does not protect the newspaper offices against surprise inspection carried out by the police in search of notes, documents, and images that can be used as evidence in criminal cases.

Perhaps the case of Victor Marsta former Deputy Executive Director of the U.S. intelligence is the most famous case of prior censorship and ban on publishing, where an order was issued expressly prohibiting Marsta from publishing any information about the CIA and was asked to display the original copy of his book to the head office of the CIA before being disclosed to any person or organization.

We add saying that the U.S. Supreme Court also allowed prior restrictions in two other fields which are obscenity and commercial advertising ... This is because to allow publishing on the basis of punishing both the newspaper and publisher after publication in accordance with the criminal laws renders such penalties insufficient to address the implications of the dissemination of confidential information harmful to national security or of fomenting violence, hatred, war and racism, so it is necessary for public authorities to have a monopoly on preventing the publication if there are legal grounds that justify it away from the abuse of power or miscalculation provided that the decisions of the Service in this regard be subject to judicial scrutiny to ensure their constitutional and legal integrity...

As for the issue presented on the table now, we cite some paragraphs of the articles, which the National Intelligence and Security Service prevented getting published to demonstrate the seriousness of publishing in such cases.

Ajras el Hurriyah newspaper (the title: the equator) copy attached by contestants.
Min taraf Carlos jat aghrab rasael [From Carlos came the strangest messages]
The minister Ahmed Haroon can not deny the International Tribunal attempt to kidnap him, but he denies being subject to hijacking because it failed or because he got away from it.

The Criminal Court, when it declares that they tried to hijack the minister's plane, it is sending a clear message that it is seeking Minister Ahmed Haroon to appear before the court by any means and with all open and available options, and if it does happen, and the ICC managed to hijack the plane by changing its course, what is the ruling on this in the law?

And what prevents this international court from trying again, not with the minister Ahmad Haroon, but with others named in the list it is clear that the INGAZ is now paying the bill for not providing the mechanism for this court.

Surprisingly, there is a third Arab party that is seeking to reach the goal of the Ingaz and Ingaz can not point the finger at them ... All of this indicates that there is a third counter-attack in the pipeline ...

After we pointed out one of the materials whose publishing was prevented by the National Intelligence and Security service, we say we have mentioned before that the right of expression is not absolute as it is limited by some constraints which we have stated, and both the contestants and the 'respondents' lawyers agreed on this (see their defence case) and we said that the constitutional protection precedes over the right to expression when the later enters a circle of such restrictions and has become an expression of offenders constituting a crime. Here, any of the public authorities is entitled to intervene to prevent crime from happening, as then the action is not an exercising of a right but a breach of duty, that is because every right has a corresponding duty in the beginning. On this basis, we conclude to say, as the Security Service has, pursuant to Article 9 (a) of the powers of control/censorship and since Article 226 (5) of the Interim Constitution of the Republic of Sudan for the year 2005 provides for the continuation of all laws in force and pungent unless another measure is taken pursuant to this Constitution - which means that the Constitution stated (TRANSLATER: The INC allows for old legislation in force when the Constitution was promulgated to continue in effect. NISS act was one of them and so was allowed to carry on into effect.) for the validity of the National Security Act. And as the materials prohibited from publication have exceeded the limit of constitutional protection and become uncovered by it (see excerpt), and since it may lead to prejudice public order and safety and may be detrimental to the unity of the stance in the face of external threat and may lead to a breach of the rules of peace laid down, beside the turbulence that may occur, and there is no benefit to reap from it to uphold public interest and the establishment of security and order. And as the appellants have failed to establish convincing argument that the prohibited materials published lie within the scope of constitutional protection, and since they did not explain the damage they suffered by the non-publishing and the basis on which they based the compensation claimed, as well as their inability to address the Constitutional Court through the authority granted, which is the cancellation of any law or action in contravention of the constitution and reinstating the right and freedom to the complainant, and compensating them for damage (see Article 122 d of the Constitution of 2005 and Article 16.1 - (a) of the Court's Act of 2005 and the contestants were satisfied with demanding to declare the unconstitutionality of prior censorship, but the power to declare unconstitutionality claimed no longer exists in light of the present Constitution nor the present law of the Constitutional Court. That such powers were present before does not give them support; I believe that the judgment is to write off the constitutional suit and no order on fees. This provision applies also to the constitutional motion No. 95/2008 due to Union of the subject matter and the same respondent in both cases (see the suit Accord Company for Services Limited vs. the National Intelligence and Security Service).

Abdullah Ahmed Abdullah
Member of the Constitutional Court
20/12/2008.

I agree with the brother scholar in the first opinion on the soundness of the reasoning. The contestants in this case as well as in No. 95/2008, which has been decided to incorporate together due to the unity of subject matter, agree on exceptions and limitations in the exercise of the right to freedom of expression and information in accordance with the Constitution as mentioned by brother Abdullah. And we add: there is no dispute over those exceptions in accordance with the provisions of the International Covenant on Civil and Political Rights for reasons of maintaining national security and public order and morals. They also agree that the law regulates this. The Constitution in Article 39/3 has detailed in adequacy the full disclosure of the purpose of the legislature which was explained by the first opinion using in this the role of the State of the United States of America and the constitutional precedents therein as an example: Also we find that the International Covenant rights has clearly disclosed those exceptions or restrictions in accordance with Article (2), Article (4) and Article (19). In paragraph (2) of Article (19): Everyone has the right to freedom of expression and this right shall include freedom to seek various forms of information and ideas, and to receive the same and impart to others, regardless of frontiers, either in writing or in print form, in the form of art or any other means of their choice.

In paragraph (3):

The exercise of the rights set forth in paragraph (2) of this Article entails special duties and responsibilities and may therefore be subject to certain restrictions provided that these are specified by the letter of the law and are necessary (a) for the respect of or reputations of others,

(b) to protect national security or public order or public morals.

Article (20) states that

(1) Any call for war is prohibited by law.

(2) Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is to be prohibited by law.

And, of course, in that there is what is direct and what is not direct with differences around them, and therefore the circumstances of each country in the International Covenant of Rights have to be considered not in the legislation of exceptions and limitations alone, but also in total non-compliance with some of these freedoms in accordance with its Article (4) with the observation of Article (5) thereof. I think that the circumstances of Sudan, read with the conditions of the international community, are convincing to say that the lack of international compliance of the law appears in Sudan simmering with political, local and international emotions of community agitations that are affected by the external positions with political repercussions and viability of the occurrence of some constitutionally prohibited acts and in a serious manner, as revealed in the constitutional precedent of 60/2008 Kamal Mohammed Saboon, et al vs. the government of Sudan in which these were accused of rebellion and taking up arms against the state on the basis of claims of marginalization and injustice as a result of dissemination and promotion of exotic and alien meanings and terms and they have obtained recommendation from the foreign positions until they were able to cross into the country and attack the city of Omdurman in violation of the Terrorism Act of 2001, which they

contested together with the Rules of Procedure of the terrorism-combat trial.

We therefore say that for some of those prohibited actions to take place, they do not need but only to evidence indicator so poor, sometimes even non-existent, which is a ... proof that controls the hearts on the conditions experienced by Sudan with active rebel movement against the state. This guide is the political evidence, which is undisciplined, and which establishes evidence that does not get established by the disciplined judicial evidence or the ibadi evidence – the most disciplined of all. Some of the attitudes, words, phrases, signs or images may lead to the occurrence of some of those prohibited acts and threatening the societal, and now the national, stability. For it may imply political evidence that has to be addressed. Such acts referred to are facts that fall under the authority of the discretion of the Security Service charged with their follow-up .. such follow-up the International Covenant extended the powers of discretion in restrictions on the freedoms in a good-insight accuracy for each of the legislative authority in the exercise of lawmaking and the executive branch as it exercises the power to enforce the law under the umbrella of Article 39/3 of the Constitution, when the International Covenant on rights states in Article 19/3:

‘The exercise of the rights set forth in paragraph 5 and 2 of this article entails special duties and responsibilities and may therefore be subject to certain restrictions, provided that these are specified by the letter of the law and are necessary ... As stated above.

The stating on subjecting constitutional rights to certain restrictions is absolute and is not restricted to portioning of such limitations and the Rule is whenever the text come absolute it has to be applied in its absoluteness i.e. free of any limitation. Thus, it is not justified to claim the portioning of when applying control in the application of the law on the exercise of freedom of expression, publication and others , as the appeal goes, based on the opinion of Mr. Blackstone in his comments on the English law when he said, ‘But this consist in laying no previous restraints upon publication ... because the rest of the Professor’s comments: ‘but if he published what is improper, mischievous or illegal, he must take the consequence of own temerity’. It has clear indicators on the need to establish the effectiveness of the law vis-à-vis the potential of prohibited acts, which occur to the flimsiest of indicators and signs in what is published in terms of words, graphics or signals ... etc. While the effectiveness of law is a sound legal means and an open time span: from initiating the banned act to falling into its committing; I do not believe in the existence of a dispute over the matter that the effectiveness of law does not effect until the law is applied in all cases from the presence of the emergence of any indicator of initiating a prohibited act and up to the completion of crime and that all the sound legal means are then legitimate to establish what is intended in the Constitution and the International Covenant on the Rights of the legality of the restrictions and to achieve the priority of the public interest in the principle of freedom over private interest and the maintenance of interests of society and its regime over anything else.

The mechanism or means of such maintenance is to be pitched by the legislative power promulgating to prevent the occurrence of any prohibited act as ... by the courts for imposing penalties and restraining, mounted at the time of the occurrence of the banned act and that the provisions are disciplined by the monitoring of the of the legal effectiveness by the

constitutional authority ... the interpretation of laws and the correct application thereof when adjudicating disputes in accordance with Article 123 of the Constitution; and the Constitutional Court has nothing to do with that.

The conflict before us, in my view, is a matter of facts governed by law, its being brought before us resulted from that the difference between the effective exercise of discretion in applying the law and the arbitrariness in doing so is a thin line that represents the overlap and so the actors of litigation find ambiguous. So I say:

The matter is not related to withholding the right to exercise freedom of expression and publication, but is related to the assessment of the event of the behaviour, which the respondent applied its discretion into and decided upon - is the Service propped by the law in its decision or not?

With consideration paid to Article (48) of the Bill of Constitutional Rights and Article 15/1/d of the Constitutional Court Act, I say deciding on the appeals of decisions in the context of application of the law falls within the jurisdiction of the National Judiciary. However, transparency and accuracy in the case of the exercise of freedoms is a responsibility shared between the entitlement and the control over the exercise of such entitlement, in which it is imperative that matters are not left at liberty with all the theoretical outputs of the of rights and the discretion of oversight authorities.

Soami Zidan Attiyah
Member of the Constitutional Court
24/2/2009 AD

I agree with the conclusion reached by my two colleagues.

Bullen Fanchol Awal
Member of the Constitutional Court
17/3/2009

The freedom of expression and information is of the fundamental freedoms that have been recognized all over the world in the constitutions of States and international conventions:

Among the international conventions which referred to that:

The Universal Declaration of Human Rights, Article (19) of which reads 'each person has the right to freedom of opinion and expression and this view includes the differing of opinions without interference and to seek news, ideas, and to receive, and to disseminate through any media and regardless of frontiers' and Article 29/2 of it on the following: 'in the exercise of his rights and freedoms, an individual is subject to such limitations as are determined by law only to ensure recognition of the rights and freedoms of others and respect thereof and the achievement of the just requirements of public order, public interest and morality in a democratic society'.

The International Covenant on Civil and Political Rights, Article (19).

'Everyone has the right to hold opinions without interference'.

'Everyone has the right to freedom of expression and this right includes freedom to seek information or ideas of any kind, receipt, transfer, regardless of frontiers, either orally or in writing or print, whether in the form of art or through any media of his choice'.

The exercise of the rights set forth in paragraph (2) of this Article is associated with special duties and responsibilities and thus they may be subject to certain restrictions, but only on basis of the provisions of the law and which are necessary:

To respect the rights or reputations of others.

In order to protect national security, public order, public health or morals.

Article (20):

All propaganda for war is prohibited by law.

All calls for national, racial or religious hatred that would constitute incitement to discrimination, hostility or violence are prohibited by law.

The African Charter on Human and Peoples' Rights, Article (9):

Each individual has the right to access to information.

Each individual has the right to express and disseminate his opinions within the law.

Article (27):

The rights and freedoms of each individual are exercised with respect for the rights of others, collective security, ethics and the common good.

Article (29):

There will also be on the individual the duty not to endanger the public security of the state that is his home and place of residence to risk.

European Convention on Human Rights Article (19).

Each individual has the right to freedom of expression and this right includes the right to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

According to the second paragraph of this Article, the exercise of these rights can be subject to the terms and conditions, restrictions and sanctions provided by law and necessary in a democratic society in order to protect the various individual and public interests.

All of these international conventions included the freedom of speech restricted by the law which requires the exercise of freedom of expression without prejudice to national security and no propaganda for war and prejudice public safety and morals and other things that cause division between people and cause discord among them.

Those who study the freedom of expression in the Sudanese constitutions in different eras note these constitutions restrict freedom of expression and that liberties were not stated for without restraints. It was always stated for, restricted by law.

The Constitution of 1953:

Article 7/2 all persons have the right to free expression of opinions and the right to form associations and unions within the law.

The Constitution of 1956:

Article 5/2 all persons have the right to free expression of opinions and the right to form as-

sociations and unions within the law, the same provision in the Constitution of 1953.

The Constitution of 1964:

States for the above Cited in its Article 5/2.

The Constitution of 1973:

Article (48) freedom of opinion is guaranteed and every Sudanese has the right to express his opinion in writing, public speaking and other means of expression within the law.

The Constitution of 1985:

Article (19) all persons have the right of expression and press and publishing within the law.

The Constitution of 1998:

In its Article (25), guarantees for citizens the freedom to seek any knowledge or embracing any doctrine of opinion and thought without coercion by powers and guarantee their freedom of expression and to receive information and publishing and the press without what may result in damage to security, public order, safety or public morals, as detailed in the law.

Extrapolating the above, we find that what is brought by the Constitution of the Sudan for the year 2005 is not new as it is indisputable that the freedom of expression and publication should be constrained by the law regulating that activity but the question is whether the law applies to the publisher before or after publication, whether in writing or otherwise?

Sudan is a vast country with hundreds of tribes, of different ancestry and different authorities, customs and even religions. Wars, famines and desertification have swept this country, in different times, eventually leading to the stirring up of regional, ethnic, tribal and racist tendencies at times in such a country, the publication or broadcast of certain material may lead to a disaster that may cause the loss of many lives. This is the sedition and hatred that the law prevents the stirring up thereof. We have before us two examples. The first of these examples is what happened to the journalist Mohamed Taha Mohamed Ahmed, as it started with an article published in newspapers it developed to cost him his life in a manner that all Sudanese found disgusting. The second is the disorder in the state of Gedaref when words attributed to one of the officials about a particular tribe was published.

By these two examples I meant to prove that the consequences of publishing violating the law may often result in sedition that could shake the pillars of this nation and the rupture of the fragile social fabric.

National Security and Intelligence Forces Act, 1969, grants the Security Service broad powers to protect national security in several articles including, for example, article 6 (a) that reads 'take care of Sudan's internal security and the safety of its moral components and to maintain the country's unity and its integrity', and include Article 9 (a) which reads 'the service exercise the following powers, in accordance with the provisions of this Act, or control, investigation and inspection', and include Article 6 (f), which gave the president the right to assign the Security Service any terms of reference as he may determine. Based on the above, the Security Service has power in the control, in principle, and it remains to be regulated by law.

Accordingly, I am pro pre-publishing censorship, which must be regulated by law and I there-

fore am of the view that the constitutional suit is to be cancelled together with its fees, with the judgment applied on the suit 65/2005, too.

Abdul Rahman Yagoob Ibrahim
Member of the Constitutional Court
21/5/2009 AD

I agree with the distinguished colleagues on what they came up with in their exhaustive memoranda and conclude with them to the following:

There is no dispute that the freedom of speech and the freedom of the press are of the fundamental liberties for the construction of a proper democratic system of government and have been guaranteed by the successive constitutions of Sudan ratified the international conventions and covenants contained also found protection from the Constitutional Court pointed out in this regard to its rule number Sd/3/2000 between the Company today for printing publishing and distribution against the National Press Council (published magazine provisions of the Constitutional Court for the period 1999 - 2003) page 204 The reasoning in search of values for the concept of freedom in general and freedom of the press, especially in the Sudanese constitution and Islamic law in the constitutions of some foreign countries and ended the sentence to the report is not permissible to restrict the freedom of the press or put narrow limits it, because in criminal law and other materials related to state security and the law of the press what is the guarantor that it does not deviate from the true path that must be overwhelmingly while retaining the right which is guaranteed by the Constitution, law and law and then the Court ruled unconstitutional an administrative decision to cancel the paper contesting.

Established too is that the Constitution of Sudan did not launch this freedom to protect the individual and society and the state security, integrity and restricted its practice by no prejudice matters prescribed by the Constitution and leave the planning exercise with the law and was the Press Act 1999, controls for the practice of journalism so as not to affect the issues that protected it the Constitution (Article 25 of the Act).

I agree with Mowlana Abdul Rahman that restrict this freedom is not an innovation invented by the Sudanese constitution, but contained in international covenants and conventions referred to by colleagues as the text of Sudan is similar to provisions of the constitutions of some Arab countries, for example, Article (15) of the Jordanian Constitution, Article 30 of the Constitution of the State Emirates, Article 24 of the Constitution of the Kingdom of Bahrain, Article 78 of the Syrian Constitution and that in the constitutions of the State of Kuwait, Qatar and Oman.

The Somali Constitution has guaranteed freedom of expression in accordance with the law, however, the text should not be subject of expression and publication of a license or to the control rod, and the Egyptian constitution guarantees freedom of the press and the prohibition of censorship on newspapers or warning, or cancel the administrative remedy only in the state of emergency and war to be regulated by law.

Brothers also agree that the concept of this freedom varies according to the stipulations in

the constitutions of different countries and different perceptions and therefore their political principles established by the American and English precedents is taken out with does not violate the Constitution of Sudan and its concepts and its political system.

As long as we determined that restricted freedom of the press freedom must take into account the specific issues of oversight to make sure that does not affect the practice of including these issues was approved by Mr. esteemed lawyer, prosecutors need to control this in exceptional cases.

Because of the tasks of the National Security Apparatus in accordance with Article 6 of the National Security Forces Act 1999, maintaining the security of Sudan internal research and investigation to uncover any conditions or activity that would prejudice the security and integrity of Sudan and any duties and functions assigned by the President of the Republic, the exercise of such control commissioned by the Presidency of the Republic does not violate the Constitution or the law provided that the committed and any other administrative authority, legitimacy of any controls to be the subject of censorship within the limits of its competence and within the law and not to act arbitrarily in the use of this authority and that its decisions and actions are subject to cancellation by the competent administrative court.

Conclude that the agreement with the Distinguished colleagues in consequence of which their findings that the principle of censorship on the press to the extent that her two sons does not violate the Constitution should not be wasted freedom of the press with the consequent need write off the proceedings with regard to the constitutionality of materials contested, but on the damage and the compensation claimed the contestants are to resort to the competent court .. No order on fees.

Saniyah el Rasheed Mirghani
Member of the Constitutional Court
4/6/2009 AD

There is no dispute about the right of the Sudanese citizens to freedom of expression, reception and dissemination of information by all means there is no dispute also that this right is subject to several restrictions defined in article 39 of the Constitution and corresponding provisions of the International Covenant on Civil and Political Rights and other covenants and conventions ratified by the Government of Sudan is no dispute well as on the powers of the National Security Apparatus in the control of those rights and freedoms in order to prevent out by protecting the security and integrity of the country, an arrangement that I see that a decision on motions present before determined to answer the specific question is whether the authorities of the National Security Service include prior censorship in the sense that the device in advance and advance the prevention of dissemination of news item that a particular view that they were incompatible with his duties and powers as provided for in Articles (6) and (7) and (9) of the Law on National Security for the year 1999 and if so, have a device to prevent publication administrative decision issued by, or is it to be the issuance of a warrant from a judicial body in answer to this question, I say: I do Contestants effort destined to say it is not permissible prior censorship relying on a number of precedents the U.S. and extracts of segments of English law and in my opinion, the measurement on the precedents of America and the commentators of English law is to measure with a difference because

freedom of expression as contained in the First Amendment of the U.S. Constitution came absolutely from any restrictions and the imposition of restrictions too tight in this regard was the interpretation of the U.S. Supreme Court, while restrictions on freedom of expression enshrined in the Constitution of Sudan which is much broader than established by the U.S. Supreme Court no room for appeal before this Court or any other party as long as the Interim Constitution of 2005 in effect not caused by the adjustment means and the means set forth herein the one hand on the other hand, the case of America, which were too Contestants to rely upon all relate to control the judicial pre-and has not been no place opportunities controls (previous or subsequent) administrative decisions in terms of a third I have to say that the precedents and extracts foreign with what is available with the respect and duty must be taken right to the circumstances and the Constitution, which were issued in which it in any case not less than that prior censorship possible but in the very narrow limits and under the judicial decisions did not find in the Sudanese constitution and relevant laws explicitly prohibits prior censorship and limit exercise the judicial authorities as do some constitutions so I think that to say unconstitutional prior censorship say has no basis in the constitution or the law may be correct to say In my opinion by completion of publishing, damage has already occurred is no way to lift it to condemn and punish the publisher and in accordance with the law and perhaps the clearest example of the deployment of military or security information in the circumstances of war and insecurity and racism.

In such cases, the prohibition of prior treatment is best and perhaps only, and this leads me (while recognizing the right of victims to resort directly to this Court) to consider whether it would be more appropriate in such cases to challenge the ban advance as an administrative decision to a normal to the Administrative Appeals Tribunal on the basis of that the National Security Agency had exceeded its powers in terms of form, topic, arbitrariness in the use of his powers and use them for purposes which began for him in addition to other defects administrative decision is no doubt that the administrative court are better able to hear the case and enable the parties to establish their claims and pushed them because the asset is that separates the Constitutional Court in the proceedings of the reality of the documents and the exception is hearing the parties and their arguments (Article 18 (2) of the Law on the Constitutional Court that the decision to the Administrative Tribunal of the various levels does not prevent the appellants if they saw it from resorting to this Court on the grounds that those decisions had violated their constitutional rights in accordance with the rules and boundaries established by the famous case of Mubarak Khatami have berths Contestants in motions present before their constitutional right to resort directly to this court and this is in good standing, but did not challenge the constitutionality of any of the articles of the law the National Security Service which means that their claim in the face of the device based on basis exceeded its powers (*ultra vires*) in preventing the deployment of one or many models they have made sufficient claim in that the unconstitutionality of all forms of prior censorship and this is not I could approve it and perhaps stems from the mistaken belief that the task of the device is limited to the information collection, analysis and advice to the relevant authorities It follows inevitably lack of response to requests by appellants to prevent the Service from interfering to prevent in advance materials from getting published in newspapers and the same applies for the request for nominal compensation. Based on the above, I agree to

write off motions 73/2008 and 95/2008 and no order about the fees.

Abdullah el Basheer el Ameen
Head, the Constitutional Court
2/8/2009 AD

The final order:
Contestations No. CS/73/2008 and CS/95/2008 are cancelled and no order on fees.

Abdullah el Basheer el Ameen
Head, the Constitutional Court
2/8/2009 AD



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