

1 November 2013

Dear Commissioners,

Urgent Fact-Finding Mission needed to investigate killings and detention by security forces in Sudan

The undersigned organisations are writing to you to express our deep concern at the lack of action or public comments made by the African Commission on Human and Peoples' Rights (ACHPR) and the African Union (AU) concerning recent events in Sudan, including the deaths of at least 170 protestors and the detention of over 800 others, and restrictions on the media. The gravity of the situation requires a swift and concerted response from the ACHPR. As the premier human rights institution on the continent, the ACHPR should urgently condemn the excessive and disproportionate use of force against protestors, and restrictions on basic civil and political rights in Sudan.

The ACHPR should also send a Fact Finding Mission to investigate these violations and call on the Government of Sudan to immediately stop further abuses. Such an inquiry could be organised in close coordination with the African Union High Level Implementation Panel and relevant UN bodies.

We call on the ACHPR to act swiftly to protect human and peoples' rights in Sudan, which is a state party to the African Charter on Human and People's Rights. The African Charter contains guarantees relating to the rights to liberty, freedom of expression, information, association and assembly under Articles 6, 9, 10 and 11. The Sudanese government response to the protests has violated these obligations. It has shown no signs of responding to calls for an urgent, independent and impartial investigation into incidents surrounding the recent protests.

The findings of any inquiry should include recommendations to the AU as to take up their responsibilities as set out in the AU Constitutive Act to promote peace, security, and stability in Sudan; promote democratic principles and institutions, popular participation and good governance; and promote and protect human and peoples' rights.

Government response to demonstrations

Demonstrations taking place throughout the country that began on 23 September have been met with excessive use of force by the Sudanese authorities. Many of the protests turned violent as protesters vandalized and set fire to gas stations and police stations, and threw stones at police and security forces. Government security forces, including the National Intelligence and Security Services (NISS) and the Central Reserve Police forces, have fired live ammunition at protestors, beaten them with rubber batons, and fired tear gas to disperse crowds.

The initial demonstrations were sparked by a government announcement on 22 September that subsidies on fuel and other commodities would be lifted. As the demonstrations spread to cities and towns, the death toll and numbers of people in detention rose.

Whilst the exact death toll linked to these events is not known, Sudanese human rights groups have documented at least 170 deaths. The Sudanese Doctors' Union has placed the figure at 210. According to witnesses, the majority of deaths resulted from gun-shots to the upper parts of the body and head and strongly suggests the disproportionate use of force against scores of protestors.

Since the demonstrations began, the Sudanese authorities have shut down national and international media outlets, ordered journalists not to write about these incidents and issued strict instructions to newspaper editors on what information can be published about the protests.

On 25 September the Medical Director of Omdurman Hospital was summoned by the NISS after he spoke publicly on BBC Arabic about the numbers of casualties admitted to his hospital. The Chairman of the Sudanese Doctors' Union was also detained for a few hours on 5 October after he reported publicly that at least 210 people had been killed according to data from his Union.

At least 800 people have been detained by the police and the NISS since the demonstrations began on 23 September 2013, according to the African Centre for Justice and Peace Studies. Those in custody include scores of political activists and human rights defenders as well as journalists, lawyers, and youth activists, who have been arrested at their homes and places of work.

Authorities have used Sudan's repressive National Security Act of 2010 to detain people who have spoken out or sought to document the abuses. Under the act, detainees can be held for four and a half months without charge or trial, and are usually held incommunicado and without access to their families or lawyers for prolonged periods in violation of international law, giving rise to a risk of torture or ill-treatment in detention. There are serious concerns for the safety of the dozens still in national security detention, many of who are without access to their families and lawyers.

At least 50 people who participated in the protests have been arrested, charged with public order offences and subject to summary trials that do not meet international law standards and fail to guarantee procedural rights. Some of those convicted have been sentenced to lashing. On 24 September 2013, for example, the Omdurman Central Criminal Court summarily tried and convicted eight protestors arrested from a demonstration the night before in the Al Abassia area of Omdurman for disturbance of public peace (article 67 of the 1991 Penal Code) and public nuisance (article 77), sentencing them each to twenty lashes and a fine of 200 Sudanese pounds. The group had no legal representation during the proceedings and the lashing penalty was carried out immediately.

The leadership role of the ACHPR

The human rights violations that have taken place in Sudan in connection with the demonstrations reflect a broader governance and human rights crisis in the country that requires concerted and swift action by the ACHPR and AU. We recall that the ACHPR in its 2012 Concluding Observations and Recommendations on the 4th and 5th Periodic Report submitted by Sudan recommended that Sudan "appoint an independent commission to investigate all extrajudicial executions, enforced disappearances, and torture by the police and make public its findings."

The recent tragic events cannot be addressed in isolation from serious and widespread violations of human rights and humanitarian law taking place on a daily basis throughout Sudan, including armed attacks against civilians in Sudan's armed conflict zones of Darfur, South Kordofan and Blue Nile states. The ACHPR's request for provisional measures in the case of South Kordofan in November 2011 remains unimplemented by the Government of Sudan, in violation of Rule 98 of the ACHPR's Rules of Procedure to "adopt Provisional Measures to prevent irreparable harm to the victim[s]."

Over the past twenty years, the ACHPR has issued several resolutions demonstrating commitment to peace and security, justice and accountability, and respect for fundamental human rights in Sudan and Africa as a whole. It has shown leadership on Sudan's human

rights crises. For example, in 2004, the ACHPR undertook an investigative mission to Darfur, which drew the attention of the AU to the crisis and has demonstrated the potential positive impact of the ACHPR.

The ACHPR has a clear mandate to conduct fact-finding investigations. Under Article 45 of the African Charter, the ACHPR is empowered to conduct research into human rights practices and to give its views and recommendations to governments, as well as to cooperate with other African and international institutions concerned with the promotion and protection of human and peoples' rights. Article 46 of the Charter gives the ACHPR the right to use "any appropriate method of investigation."

In June 2013, the ACHPR carried out a fact-finding mission in the Republic of Mali, having been requested by the AU Executive Council to open an investigation into the human rights situation in the North of Mali and to provide concrete recommendations on measures to be taken.

Recalling the mandate of the Commission, we urge you to take urgent action to establish and send a fact-finding mission to investigate the death and injury of protesters and mass detentions in towns across Sudan, in violation of international human rights law.

Yours sincerely,

African Centre for Democracy and Human Rights Studies
African Centre for Justice and Peace Studies
Amman Centre for Human Rights Studies
African Organisation for Human Rights and Development
Conscience International Sierra Leone
East and Horn of Africa Human Rights Defenders' Project
Human Rights Institute of South Africa
Human Rights Watch
International Refugee Rights Initiative
Socio-Economic Rights and Accountability Project
Sudan Consortium