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Introduction

1. Sudanese authorities, particularly the National Intelligence and Security Services (NISS), employed several tactics intended to silence critics or perceived critics of the Government at the time. Freedom of expression in Sudan has improved under the reforms of a technocratic cabinet led by Abdalla Hamdok, the first civilian prime minister to serve since former president Omar al-Bashir came to power in a 1989 coup. The cabinet governs alongside the Transitional Sovereign Council (TSC), the civilian-military transitional government that assumed control from the Transitional Military Council (TMC), a short-lived military junta, in August 2019. ¹The TSC's interim constitution, the Sudan Constitutional Charter, safeguards digital rights but the practical extent of these reforms remains to be seen, as Sudanese journalists and citizens continue to face arrest, prosecution, harassment, and intimidation for their online activities. Internet disruptions and total shutdowns are executed during pro-democracy protests.

Updates Since the Previous Review

2. During Sudan's second UPR cycle, a total of 303 recommendations were addressed to Sudan. Out of the 303 recommendations, 204 recommendations were accepted including 10 recommendations that addressed the rights to free expression and opinion, and access to information.
3. The recommendations relating to free expression and access to information included calls to amend the Press and Publications Act 2009, and other relevant legislation to bring them in line with international and constitutional obligations to protect the right to freedom of expression; to guarantee press freedoms; to ensure prompt and independent investigations of alleged attacks against journalists and human rights defenders; to protect against reprisals; to adopt legislation prohibiting hate speech; and to introduce legislation to support access to information.
4. Since Sudan's last review in 2016, the country has experienced political change. In April 2019, a civilian-led protest movement led to the ouster of President Omar al-Bashir, who had ruled for almost 30 years. A Transitional Military Council (TMC) temporarily assumed executive authority, but protests calling for a civilian-led transition to civilian rule continued.² In July 2019, a power-sharing deal was brokered between the TMC and the civilian protest movement, Forces for Freedom of Change (FFC). The agreement provided for a 39-month transition period led by a

¹ <https://freedomhouse.org/country/sudan/freedom-net/2020>

² African Centre for Justice and Peace Studies *et al.*, Sudanese, African and International civil society calls for protection of the democratic will of the people of Sudan, 16 April 2019, available at: <http://www.acjps.org/sudanese-african-and-international-civil-society-calls-for-protection-of-the-democratic-will-of-the-people-of-sudan/> [accessed 9 February 2021]

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Sovereign Council (SC) composed of a mixed membership of civilian and military leaders.³

Freedom of Expression and Opinion

5. The period under review is marked with a mix of positive and negative steps in relation to the protection and promotion of freedom of expression in Sudan. Sudan is currently undergoing transition to democratic civilian rule following a citizen-led revolution that saw an end to three decades of authoritarian rule under Al-Bashir's regime. As stated above, the Constitutional Charter provides for the unrestricted right to freedom of expression, receive and publish information and access the press. The Charter also places an obligation on the State to guarantee freedom of press and other media as regulated by law in a pluralistic and democratic society.⁴
6. In line with these guarantees, the transitional authorities have made public pledges to protect freedom of expression and opinion. Speaking at the UN General Assembly in September 2019, Prime Minister Abdalla Hamdok stated that "Never again in the new Sudan will a journalist be repressed or jailed." The Government also signed the Global Pledge to Defend Media Freedom, an initiative of Canada and the United Kingdom of Great Britain and Northern Ireland.⁵ However, recent threats by the Sudanese military targeted at journalists and other critics seem to indicate a continuation of repressive practices used by the previous regime.
7. On 5 January 2018, chief editors of various newspapers were given instructions not to cover the anti-austerity protests or publish reports on shortage of bread and oil.⁶ On 7 January, NISS confiscated print-runs of six daily newspapers in Khartoum prior to distribution without justification. The confiscations were likely related to the coverage of rising food prices.⁷ On 8 January 2018, the NISS confiscated the daily print-runs of Aljareeda, an independent newspaper and Albaath, a newspaper affiliated with Arabic Baath Party, without giving reasons. The previous day, Aljareeda's lead story covered the student protests that took place in El Geneina, West Darfur.⁸ Between 16 and 17 January 2018, at least 7 journalists were arrested and detained by the NISS while they covered the protests in Khartoum.⁹

³ African Centre for Justice and Peace Studies et al., Sudan: Ensuring a credible response by the UN Human Rights Council at its 42nd session, 2 September 2019, available at: <http://www.acjps.org/sudan-ensuring-a-credible-response-by-the-un-human-rights-council-at-its-42nd-session/>; Magdi El-Gizouli, Sudan's Power-Sharing Agreement: Towards Transition or a Game of Tajility?, Arab Reform Initiative, 19 July 2019, available at: <https://www.arab-reform.net/publication/sudans-power-sharing-agreement-towards-transition-or-a-game-of-tajility/> [accessed 9 February 2021]

⁴ Article 56(1) of Sudan's Constitutional Declaration.

⁵ OHCHR, Report of the Independent Expert to Sudan, A/HRC/45/53, 30 July 2020, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/194/56/PDF/G2019456.pdf?OpenElement>;

⁶ ACJPS, 8 newspapers prevented from distribution by NISS amidst protests against recent austerity measures, 9 January 2018, available at: <https://www.acjps.org/8-newspapers-prevented-from-distribution-by-niss-amidst-protests-against-recent-austerity-measures/>.

⁷ CPJ, Sudanese authorities seize critical papers after reports on rising food prices, 8 January 2018, available at: <https://cpj.org/2018/01/sudanese-authorities-seize-critical-papers-after-r/>

⁸ Op. cit., fn. 26.

⁹ CPJ, Sudan arrests journalists, confiscates papers for reporting on inflation protests, 18 January 2018, available at: <https://cpj.org/2018/01/sudan-arrests-journalists-confiscates-papers-for-r/>

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8. On at least 27 occasions in 2018, entire print runs of 10 Sudanese newspapers were confiscated by the authorities. Al Jazeera, an independent newspaper, had its print runs confiscated at least 13 times that same year. At least 15 journalists were arrested and detained by the NISS between January and October 2018.¹⁰
9. In May 2018, the NISS imposed a “red line” on chief editors of Sudanese publications and ordered them not to publish any news related to the custodial death of businessman Ekasha Mohammed Ahmed, an associate of the Al-Bashir regime. The chief editors were also prohibited from reporting on the prevailing fuel crisis. On 22 May 2018, four Sudanese journalists were prohibited from traveling to Saudi Arabia to attend a regional conference for journalists without any justification. On 14 June 2018, the Sudanese foreign media department revoked the license of a Qatari correspondent to the Middle East.¹¹ In October 2018, nine journalists were arrested and briefly detained by the NISS as they protested a ban on the coverage of the Omdurman Parliament sessions.¹² On 29 October 2018, Zeinelabdin El Ajab, a former editor-in-chief of al-Mustagila newspaper was sentenced to prison by the Press and Publications Court for false news in connection to articles published in 2015.¹³
10. At least 90 journalists across different states in Sudan were arrested and detained including incommunicado, for coverage of the protests or while protesting media censorship between December 2018 and April 2019. In some instances, journalists were facing criminal charges such as publication of false news (article 66) and public nuisance (article 69) of the Criminal Act 1991. Some journalists were banned from writing for various periods.¹⁴ The authorities revoked the credentials of six foreign correspondents and prohibited foreign media houses from hosting guests on talk shows without prior approval.¹⁵ On 30 May 2019, the Transitional Military Authority shut down the Khartoum bureau of Al-Jazeera and banned its staff from working in Sudan. The shutdown of Aljazeera indicated further suppression of the coverage of the pro-democracy

¹⁰ Ibid, Amnesty International.

¹¹ ACJPS, Violations against free press and freedom of expression in Sudan, May/June 2018, available at: <http://www.acjps.org/violations-against-free-press-and-freedom-of-expression-in-sudan-mayjune-2018/>; Radio Dabanga, NISS confiscates newspapers covering Sudan crises, 8 May 2018, available at: <https://www.dabangasudan.org/en/all-news/article/niss-confiscates-newspapers-covering-sudan-crisis>.

¹² Radio Dabanga, NISS arrests journalists at parliament protest, 16 October 2018, available at: <https://www.dabangasudan.org/en/all-news/article/niss-arrests-journalists-at-parliament-protest>.

¹³ Radio Dabanga, Journalist locked-up for articles by Sudan press court, 20 October 2018, available at: <https://www.dabangasudan.org/en/all-news/article/journalist-locked-up-for-articles-by-sudan-press-court>.

¹⁴ Ibid, ACJPS, Sudan Protests: NISS introduces a new tactic targeting chief-editors after lifting censorship against four newspapers; RSF, At least 79 journalists arrested in two months of protests in Sudan, 14 February 2019, available at: <https://rsf.org/en/news/least-79-journalists-arrested-two-months-protests-sudan>

¹⁵ CPJ, As anti-Bashir protests continue, Sudan revokes credentials of foreign press, 22 January 2019, available at: <https://cpj.org/2019/01/as-anti-bashir-protests-continue-sudan-revokes-cre/>; op. cit., ACJPS, Incommunicado detentions and increase in media gags amidst heavy crackdown on anti-government protests in Sudan.

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protests.¹⁶

11. Since the start of the transition, there has been a decline in repressive tactics intended to enforce censorship. The confiscation of newspapers by the NISS seems to have stopped. Since August 2019, newspapers have not been subjected to confiscations.¹⁷ The 2019 Constitutional Charter has limited the powers of the NISS, now known as the General Intelligence Services, to gathering and analyzing information and passing it on to the competent authority.¹⁸
12. Whilst confiscation of newspapers has ceased, harassment and attacks against journalists have continued. In May 2020, two female journalists, Lena Awad Sabeel and Aida Abdelgadir, reported receiving threats and being harassed by the military intelligence in El Fasher, North Darfur state. The journalists were targeted for their previous reporting on the dire health situation owing to the COVID-19 pandemic in North Darfur.¹⁹ On 31 May 2020, the two journalists were approached by a plain clothes military intelligence officer who identified himself and ordered them to go with him to the local intelligence office.²⁰ The Ministry of Health of North Darfur, where Ms. Sabeel is employed, published a statement refuting the reports as disinformation. A complaint against Ms. Sabeel was filed by the Ministry with the Informatics Offences Prosecution Office in El Fasher.²¹ In June 2020, two journalists were assaulted by the police in Suakin as they were covering the fuel shortage and another journalist was beaten by unknown assailants for interviewing an opponent in Port Sudan.²²
13. At the end of 2020, Sudan's Minister of Information, Culture, and Tourism kick-started the establishment of a 17-member advisory committee for media reform tasked with drawing up policies and reviewing media legislation and other related laws. This process is part of the comprehensive reform process envisaged in the Constitutional Charter. An independent Commission on media reform was part of recommendations proposed by UNESCO as part of the

¹⁶ CPJ, Sudan's military rulers shut down Al-Jazeera Khartoum bureau, 31 May 2019, available at:

<https://cpj.org/2019/05/sudan-military-ruler-al-jazeera-khartoum-closed/>.

¹⁷ RSF, Sudan still awaits its press freedom revolution, 3 December 2019, available at:

<https://rsf.org/en/news/sudan-still-awaits-its-press-freedom-revolution>.

¹⁸ Article 36 of Sudan's Constitutional Charter, 2019.

¹⁹ CPJ, Sudanese authorities in North Darfur state harass 2 journalists reporting on COVID-19, 31 July 2020, available at: <https://cpj.org/2020/07/sudanese-authorities-in-north-darfur-state-harass-2-journalists-reporting-on-covid-19/>; Radio Dabanga, Journos harassed for reporting on North Darfur Covid-19 death spike, 2 June 2020, available at: <https://www.dabangasudan.org/en/all-news/article/reporters-harassed-for-reporting-on-north-darfur-covid-19-death-spike>; Darfur 24, Darfur 24 reveals ordeals of two journalists in North Darfur being pursued by military intelligence, 2 June 2020, available at: <https://www.darfur24.com/en/2020/06/02/darfur-24-reveals-ordeals-of-two-journalists-in-north-darfur-being-pursued-by-military-intelligence/>.

²⁰ Ibid, CPJ.

²¹ Op. cit., fn. 27, Report of the Independent Expert to Sudan, p. 8-9.

²² Radio Dabanga, Sudanese journalist beaten up by policemen, 23 June 2020, available at: <https://www.dabangasudan.org/en/all-news/article/sudanese-journalist-beaten-up-by-policemen>; Radio Dabanga, Eastern Sudanese journalists assaulted in Red Sea state, 25 June 2020, available at: <https://www.dabangasudan.org/en/all-news/article/eastern-sudanese-journalists-assaulted-in-red-sea-state>.

joint program with the Ministry.²³

Freedom of Information and Censorship of Content

14. With the breakout of anti-austerity protests in mid-December 2018, the Sudanese authorities resorted to several repressive tactics to suppress the growing revolution. On 20 December 2018, the authorities disrupted internet access making it impossible to access social media sites without the use of Virtual Private Networks (VPNs).²⁴ The NISS ordered print houses not to publish news covering the protests without prior approval.²⁵ The NISS also imposed a publication ban on some newspapers for several weeks. Aljareeda newspaper, an independent newspaper, was denied publication for 76 days from 20 December 2018 and several copies of their print runs were confiscated. Al Maidan newspaper was denied publication from 11 January to 11 March 2019. Akhbar Al-Watan newspaper was subjected to pre-publication censorship for 11 weeks until 11 March 2019.²⁶
15. Under the previous regime, the authorities continued to employ repressive tactics to silence critics and restrict online activity. Several journalists who had been subjected to constant censorship launched online newspapers as an alternative to publishing stories critical of government policies that would have been difficult to publish in print newspapers. By 2017, several online newspapers were launched as NISS agents continued to confiscate entire print-runs of newspapers over articles criticising al-Bashir's regime.²⁷
16. With an increase in the use of online platforms to exchange news and information in the face of a restrictive media environment, the Sudanese authorities turned their attention to online activity and relied on prohibitive legislation to target individual online activity and restrict content online. The Cybercrimes Act 2007 criminalizes, among others, defamation, breach of public order and morality, which attract a prison sentence, fine or both. The Act however does not specify what would constitute defamation or breach of public order and morality. The Act also criminalizes the creation of websites that disseminates content contrary to public order or morality, punishable

²³ Radio Dabanga, Media revamp committee to be formed in Sudan, 13 December 20120, available at:

<https://www.dabangasudan.org/en/all-news/article/media-revamp-committee-to-be-formed-in-sudan>

²⁴ Khattab Hamad, Internet shutdowns in Sudan: The story behind the numbers and statistics, 8 June 2020, available at: <https://advox.globalvoices.org/2020/06/08/internet-shutdowns-in-sudan-the-story-behind-the-numbers-and-statistics>.

²⁵ CPJ, Sudan responds to anti-Bashir coverage with censorship and arrests, 17 January 2019, available at: <https://cpj.org/2019/01/sudan-responds-to-anti-bashir-coverage-with-censor/>.

²⁶ ACJPS, Sudan Protests: NISS introduces a new tactic targeting chief-editors after lifting censorship against four newspapers, 4 April 2019, available at: <https://www.acjps.org/sudan-protests-niss-introduces-a-new-tactic-targeting-chief-editors-after-lifting-censorship-against-four-newspapers/>; ACJPS, Incommunicado detentions and increase in media gags amidst heavy crackdown on anti-government protests in Sudan, 24 January 2019, available at: <https://www.acjps.org/incommunicado-detentions-and-increase-in-media-gags-amidst-heavy-crackdown-on-anti-government-protests-in-sudan/>

²⁷ France 27, Sudan papers go online for freedom from censors, 13 December 2017, available at:

<https://www.news24.com/news24/Africa/News/sudan-papers-go-online-for-freedom-from-censors-20171213>

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with a prison sentence, fine or both. The June 2018 amendments to the Cybercrimes Act introduced criminal penalties for spreading fake news online. These vague provisions have enabled abuse by authorities.

17. On 11 July 2017, two Sudanese citizens who were residents of Saudi Arabia were deported to Khartoum, Sudan. It was thought that their deportation was connected to their online activism and participation in a civil disobedience campaign organized by political opposition parties in Sudan in late 2016. On 12 July 2017, Mr. Izzeldien Dahab, a journalist with Aljareeda newspaper, was charged with defamation under the Sudanese Cybercrime Act 2007 in connection with an article about corruption in the Ministry of Finance in South Darfur.²⁸ In May 2018, four Sudanese citizens were charged with defamation under the Cybercrimes Act 2007 and Criminal Act 1991 as well as breach of public order and morality under the Cybercrimes Act following statements shared via social media platforms.²⁹
18. On 28 May 2018, Mr. Hisham Ali Mohammad Ali, a Sudanese blogger and human rights defender residing in Saudi Arabia, was deported to Sudan. Mr. Hisham was arrested by the Saudi authorities on 18 November 2017 at the request of the Sudanese authorities. He was vocal about corruption and the practice of torture in Sudan and contributed to various online forums. He was also an advocate of the civil disobedience campaign in 2016. In October 2018, Mohamed Hasan Alim ‘Al Boshi’, a Sudanese blogger and human rights defender residing in Egypt since 2017 as an asylum seeker under UNHCR protection, was forcibly disappeared and taken to Sudan where he was held incommunicado by NISS.³⁰ The two bloggers were released from detention in April 2019 in line with a directive ordering the release of political prisoners after the toppling of Al-Bashir.³¹
19. On 18 July 2020, the Sudanese army announced the appointment of a Special Commissioner for Cyber Crimes tasked with taking legal action against those who insult the army including

²⁸ ACJPS, Crackdown on media freedoms, May – July 2017, 14 August 2017, available at: <http://www.acjps.org/crackdown-on-media-freedoms-may-july-2017/>.

²⁹ ACJPS, Four Sudanese citizens charged with defamation and cybercrimes for social media activity, 4 May 2018, available at: <http://www.acjps.org/four-sudanese-citizens-charged-with-defamation-and-cybercrimes-for-social-media-activity/>.

³⁰ Front Line Defenders, Front Line Defenders calls on EU High Representative Mogherini to urge Sudanese Foreign Minister to free detained human rights defenders, 22 November 2018, available at: <https://www.frontlinedefenders.org/en/statement-report/front-line-defenders-calls-eu-high-representative-mogherini-urge-sudanese-foreign>; Amnesty International, Sudan: Human rights activist arbitrarily detained and at risk of torture must be immediately released, 31 May 2018, available at: <https://www.amnesty.org/en/latest/news/2018/05/sudan-human-rights-activist-arbitrarily-detained-and-at-risk-of-torture-must-be-immediately-released/>.

³¹ ACJPS, Sudan: Hundreds of Peaceful protesters and activists released from detention, including Mohamed Hassan Alim and Hisham Ali Mohammed Ali, 17 April 2019, available at: <http://www.acjps.org/sudan-hundreds-of-peaceful-protesters-and-activists-released-from-detention-including-mohamed-hassan-alim-and-hisham-ali-mohammed-ali/>.

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individuals and journalists, both within and outside Sudan.³² The army threatened to invoke the Cybercrimes Act, Press and Publications Act 2009 and “crimes against the state” provisions in the Criminal Act of 1991. These laws were often used by the previous regime to harass real or perceived critics.³³ Five days before the army’s announcement, the Ministry of Justice published a memo detailing recently approved amendments to various laws including the Cybercrimes Act. The amendments increased prison sentences for several offences including the spread of fake news online.³⁴

Right to Equal Access and Opportunity

20. As a country emerging from conflict, Sudan is said to have one of the largest information and communications technology markets in the region.³⁵ As of 2018, Sudan had approximately 10.9 million internet users, about 27.5% of its population. A majority of these users, approximately 82%, access the internet via mobile connectivity.³⁶ “Sudan has four main internet service providers (ISPs) Zain, MTN, Sudatel and Canar. Zain, MTN and Sudatel have a GSM (Global System for Mobile Communications) license that allows them to provide internet services via mobile networks. Canar does not have a GSM license, but it provides internet through landline and wireless, leased lines.”³⁷ Despite its growing communication technology market, Sudan’s network coverage is still disproportionate to the population, failing to meet the requisite standards envisioned under SDG 9 on promoting inclusivity through increasing access to information and ICTs.³⁸
21. The Sudanese authorities have often exercised control over the internet infrastructure and imposed heavy internet disruptions prohibiting basic communication and information exchange during politically charged periods. In 2018, Sudan enacted the Telecommunication and Post Regulation Act, which gives the regulatory authority the right to disrupt any communication and telecommunication or broadcasting station if it violates the law.³⁹ This vague provision allows authorities to use their discretion when imposing access restrictions to communication services. Until September 2019, Sudan’s Telecommunication and Postal Regulatory Authority (TPRA)

³² HRW, Sudan’s Army Threatens Activists, Journalists with Lawsuits, 24 July 2020, available at: <https://www.hrw.org/news/2020/07/24/sudans-army-threatens-activists-journalists-lawsuits#>; CPJ,

³³ Ibid.

³⁴ CPJ, Sudan tightens cybercrime law as army pursues “fake news”, 23 November 2020, available at: <https://cpj.org/2020/11/sudan-tightens-cybercrime-law-as-army-pursues-fake-news/>.

³⁵ ITU, Measuring the Information Society Report 2018, available at: <https://www.itu.int/en/ITU-D/Statistics/Documents/publications/misr2018/MISR-2018-Vol-2-E.pdf>.

³⁶ Sudan Digital, The State of Sudan Digital 2018, available at: <https://sudandigital.com/portfolio/sudan-report-the-state-of-sudan-digital-2018/>

³⁷ Khattab Hamad, Internet shutdowns in Sudan: The story behind the numbers and statistics, 8 June 2020, available at: <https://advox.globalvoices.org/2020/06/08/internet-shutdowns-in-sudan-the-story-behind-the-numbers-and-statistics/>

³⁸ Sustainable Development Goals,

See; <https://unstats.un.org/sdgs/metadata/?Text=&Goal=9&Target=9.c>

³⁹ Op. cit., fn. 57, Khattab Hamad, Internet shutdowns in Sudan: The story behind the numbers and statistics.

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was under the control of the Military Defense.⁴⁰ On 19 September 2019, the head of Sudan's Sovereign Council issued a decision that placed the TPRA under the Council's control.⁴¹ While this is a welcome step towards independence of the regulator, it should be noted that the Sovereign Council, an 11-member-mixed-council with five military members, is currently chaired by Gen. Abdel Fattah Burhan and Vice Chair, General Mohamed Hamdan Dagalo, former heads of the Transitional Military Council that oversaw a near-total internet blackout from June to July 2019.⁴² Key military figures associated with the previous regime still maintain positions of influence over the TPRA.

22. From 12 September 2020, for at least three hours per day, telecommunication companies implemented orders to shut down the internet in a bid to curb exam malpractice. In response, Sudanese citizens voiced their dissatisfaction with these measures and questioned their effectiveness in curbing the targeted malpractice.⁴³ This lasted until 24 September.
23. On 14 May 2020, internet connectivity was disrupted for three days in Kassala town. Activists suggested that the disruptions in service were aimed at calming tensions in the town after inter-tribal violence claimed about 8 lives the previous week. Mobile internet services on Zain and MTN were cut off from midday on 14 May and restored on 16 May 2020 at midday. However, wired Asymmetric Digital Subscriber Line (ADSL) services remained uninterrupted.⁴⁴
24. Internet disruptions were experienced multiple times during the late 2018 and early 2019 pro-democracy protests.⁴⁵ On 21 December 2018, data covering all major population centres of Sudan showed varying attempts by various internet service providers to block the social media platforms Facebook, Twitter and Instagram, and the messaging app WhatsApp that had been rolled out since 19 December 2018.⁴⁶ Internet users were only able to access the blocked social media and messaging platforms through VPNs that could only be downloaded with a strong internet connection.⁴⁷ These social media disruptions lasted 68 consecutive days, from 21 December 2018

⁴⁰ Mohamed Suliman, Internet censorship in Sudan: Rethinking laws and tactics that served an authoritarian regime, 15 October 2019, available at: <https://globalvoices.org/2019/10/15/internet-censorship-in-sudan-rethinking-laws-and-tactics-that-served-an-authoritarian-regime/>.

⁴¹ SMEX, Military-Controlled Telecom Sector and Internet Shutdowns in Sudan, 12 November 2020, available at: <https://smex.org/military-controlled-telecom-sector-and-internet-shutdowns-in-sudan/>.

⁴² Aljazeera, Sudan forms 11-member sovereign council, headed by al-Burhan, 20 August 2019, available at: https://freedomhouse.org/country/sudan/freedom-net/2020#footnote6_6f98851.

⁴³ Access Now, Internet shutdowns in Algeria and Sudan: damaging practices during exceptional circumstances, 5 October 2020, available at: <https://www.accessnow.org/internet-shutdowns-in-algeria-and-sudan-damaging-practices-during-exceptional-circumstances/>

⁴⁴ Radio Dabanga, Precautionary' mobile internet slowdown in Sudan's Kassala, 17 May 2020, available at: <https://www.dabangasudan.org/en/all-news/article/precautionary-mobile-internet-slowdown-in-sudan-s-kassala>.

⁴⁵ Freedom House, Sudan: Freedom of the Net 2019, available at: https://freedomhouse.org/country/sudan/freedom-net/2019#footnote6_jy8q1ik

⁴⁶ NETBLOCKS, Study shows extent of Sudan internet disruptions amid demonstrations, 21 December 2018, available at: <https://netblocks.org/reports/study-shows-impact-of-sudan-internet-disruptions-amid-demonstrations-qr8Vj485>.

⁴⁷ Op. cit, fn. 54, Freedom House.

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to 26 February 2019.⁴⁸ From 7-11 April 2019, social media platforms were blocked again after hundreds of thousands of protesters marched to Khartoum and converged a sit-in in front of the army headquarters. The social media block coincided with a power outage on April 7 that disabled 45% of telecommunications services.⁴⁹

25. Between June and July 2019, the Sudanese authorities imposed a 36-day near-total internet shutdown following the violent crackdown on a peaceful sit-in in Khartoum on 3 June 2019.⁵⁰ This internet censorship imposed by the TMC was more severe than censorship under Al-Bashir's regime. This blockage emerged during an attack on peaceful demonstrators by joint security forces that resulted in the killing of over a hundred civilians, injuring of hundred more and sexually assaulting dozens. "The timing of the shutdown limited the spread of information about the massacre on the internet, including evidence of abuses perpetrated by security forces."⁵¹ Data shows that internet disruptions started on 31 May 2019, prior to more severe disruptions on 3, 5 and 10 June 2019.⁵²
26. Initial internet disruptions on 3 June appeared to be partial and focused on mobile connectivity. Reports confirmed disruptions with provider MTN, and major partial disruption with Mobitel (ZAIN) while Sudan's education and research network SUDREN was totally disconnected. A majority of internet users in Sudan access the internet via mobile, with approximately 82% of internet consumption via mobile devices.⁵³ The implementation of internet disruptions as security forces violently dispersed the peaceful sit-in meant that civilians at the sit-in struggled to stay informed, reach safety and share information and monitor unfolding events – particularly the extrajudicial killings, assaults on protestors, arbitrary detentions, sexual violence and other violations. On 5 June 2019, the authorities further restricted internet access by partially disrupting Sudan's fixed-line connectivity in addition to mobile connection disruptions. Authorities maintained some connectivity, possibly for official use. The outages targeted the access point rather than blocking specific websites, manifesting into a total disconnection that could be circumvented by internet users.⁵⁴ On 10 June 2019, the authorities disconnected remaining internet connectivity. These disruptions coincided with emerging reports of a rise in the death toll, validating reports of the deadly attacks committed by paramilitary forces. Restrictions in place

⁴⁸ NETBLOCKS, Social media disrupted in Sudan as protests converge in Khartoum, 7 April 2019 available at: <https://netblocks.org/reports/social-media-disrupted-in-sudan-as-protests-converge-in-khartoum-peBONpAZ>.

⁴⁹ NETBLOCKS, Social media restored in Sudan as protesters prevail, 11 April 2019, available at: <https://netblocks.org/reports/social-media-restored-in-sudan-as-protesters-prevail-Vryzr6yI>

⁵⁰ NETBLOCKS, Further internet cuts target Sudan's pro-democracy movement with nationwide impact, 6 June 2019, available at: <https://netblocks.org/reports/further-internet-cuts-target-sudan-pro-democracy-movement-with-nationwide-impact-XB7wj0B7>.

⁵¹ Freedom House, Freedom on the Net 2020, <https://freedomhouse.org/country/sudan/freedom-net/2020>.

⁵² Op. cit., fn. 67, NETBLOCKS.

⁵³ Sudan Digital, The State of Sudan Digital 2018, available at: <https://sudandigital.com/portfolio/sudan-report-the-state-of-sudan-digital-2018/>.

⁵⁴ Op. cit., NETBLOCKS, Further internet cuts target Sudan's pro-democracy movement with nationwide impact; *see also* Khattab Hamad, Internet shutdowns in Sudan: The story behind the numbers and statistics.

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targeted all internet service providers, fixed-line and mobile connections.⁵⁵

27. Though Canar and Sudatel continued to provide internet services through optical fiber infrastructure, few digital users could afford to pay the access charges. Some activists bypassed the blockage through roaming on subscriber identification module (SIM) cards from neighboring countries. Authorities later disrupted roaming cellular services.⁵⁶ The spokesperson for the Transitional Military Council (TMC) confirmed that the TMC invoked a threat to national security as a justification for the internet blockage.⁵⁷
28. On 10 July 2019, telecommunication providers restored data connections following a court ruling in favor of an individual petition based on a breach of contract by Zain-Sudan.⁵⁸ A week after the internet shutdown, Abdelazim Hassan sued Zain-Sudan, his mobile service provider for breach of contract. Before the Khartoum District Court, Mr. Hassan argued that Zain had unlawfully defaulted on the terms of its contract despite an agreement that he would pay his bill each month as promised and in return Zain would grant him unconditional internet access.⁵⁹ On 23 June 2019, the Court ruled in Mr. Hassan's favor and opted to narrowly apply the judgment by ordering Zain to restore internet access for just him. The ruling was based on a technicality as Mr. Hassan was suing Zain for breach of his individual contract.⁶⁰ According to Mr. Hassan, the internet shutdown was a violation of contractual rights between the subscriber and the internet service provider.⁶¹
29. Following the success of Mr. Hassan's legal suit, several lawsuits were filed against Zain.⁶² On 26 June 2019, the Sudanese Consumers Protection Association filed a lawsuit against telecommunications companies citing violations of consumer rights by cutting off internet access.⁶³ In September 2019, a Sudanese court ordered Sudatel and MTN to apologise to its customers for the internet shutdown after finding that the companies could be sued by their

⁵⁵ NETBLOCKS, Severe internet outage across Sudan amid reports of Darfur paramilitary attacks, 10 June 2019, available at: <https://netblocks.org/reports/severe-internet-outage-across-sudan-amid-reports-of-darfur-paramilitary-attacks-aAwq0oyM>

⁵⁶ Op. cit., Khattab Hamad, Internet shutdowns in Sudan: The story behind the numbers and statistics.

⁵⁷ Radio Dabanga, SPA: Sudan digitally isolated by 'arbitrary' internet blackout, 12 June 2019, available at: <https://www.dabangasudan.org/en/all-news/article/spa-sudan-digitally-isolated-by-arbitrary-tmc-internet-blackout>

⁵⁸ VOA News, Sudan's Mobile Internet Restored After Power Sharing Deal, 10 July 2019, available at: <https://www.voanews.com/africa/sudans-mobile-internet-restored-after-power-sharing-deal>.

⁵⁹ Jina Moore, Anatomy of an internet shutdown: How citizens, telecom employees, and activists in Sudan turned a battle for digital rights into a referendum on the government, 12 May 2020, available at: <https://restofworld.org/2020/sudan-revolution-internet-shutdown/>.

⁶⁰ Ibid, see also, BBC, Sudan crisis: Internet restored - but only for lawyer, 24 June 2019, available at: <https://www.bbc.com/news/world-africa-48744853>.

⁶¹ Op. cit., VOA News, Sudan's Mobile Internet Restored After Power Sharing Deal.

⁶² AccessNow, Judges raise the gavel to #KeepItOn around the world, 23 September 2019, available at: <https://www.accessnow.org/judges-raise-the-gavel-to-keepiton-around-the-world/>

⁶³ Radio Dabanga, Sudan internet shutdown: Another court case filed, 27 June 2019, available at: <https://www.dabangasudan.org/en/all-news/article/sudan-internet-shutdown-another-court-case-filed>

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customers for the shutdown.⁶⁴

30. Article 54 of Sudan’s Constitutional Charter stipulates that, “no one’s privacy may be violated, nor shall it be permitted to interfere in the private or family life of any person in his home or correspondence, except by law.” Other than this constitutional guarantee, Sudan has no law to adequately protect a user’s privacy and data from Government surveillance. Sudan’s 2018 Telecommunications Act “permits interception, surveillance and eavesdropping — only on order from the prosecutor or a specialized judge.”⁶⁵ The 2007 Cybercrimes Act criminalizes unauthorised interception and eavesdropping of messages “through an information network or computer hardware or similar without permission from the public prosecutor or the competent authority or the party to which the information belongs.”⁶⁶ The Act does not define who constitutes a competent authority, leaving this provision open to abuse by authorities.
31. There is no data protection law or authority to regulate the collection, storage and use of personal data by state actors and the private sector. This places personal data in the hands of government actors and private sector including telecommunication companies, at risk of abuse. Companies, websites and organizations are not legally required to share written policies explaining their data collection and sharing practices.⁶⁷
32. In November 2018, chief editors of Khartoum-based newspapers received a 6-page form from the NISS. The form required personal information from the chief editor including a passport-size photo, details of her/his family, tribe, spouse’s contact details, political affiliations, a sketch map to one’s residential address and information on one’s involvement in any activity that is related to the military or security.⁶⁸

Recommendations

33. In light of Sudan’s record on freedom of expression, freedom of the press, the right to privacy and digital rights, the submitting organisations call on States to propose the following recommendations to Sudan:

⁶⁴ Op. cit., Freedom House, Sudan: Freedom of the Net 2020.

⁶⁵ Mohamed Suliman, The right to privacy in Sudan: A call to enact a data protection act, 5 November 2019, available at: [https://advox.globalvoices.org/2019/11/05/the-right-to-privacy-in-sudan-a-call-to-enact-a-data-protection-act/#:~:text=It%20states%3A%20\"No%20one's,correspondence%2C%20except%20by%20law.%E2%80%9D](https://advox.globalvoices.org/2019/11/05/the-right-to-privacy-in-sudan-a-call-to-enact-a-data-protection-act/#:~:text=It%20states%3A%20\)

⁶⁶ Article 6 of the 2007 Cybercrimes Act, available at: <https://ictpolicyafrica.org/en/document/oi11tiq4rq?page=2>

⁶⁷ Op. cit., Mohamed Suliman, The right to privacy in Sudan: A call to enact a data protection act.

⁶⁸ ACJPS, Sudan: Media Restrictions in September, October and November 2018; Hisham enters his seventh month in detention without charge, 11 December 2018, available at: <https://www.google.com/url?q=https://www.acjps.org/sudan-media-restrictions-in-september-october-and-november-2018-hisham-enters-his-seventh-month-in-detention-without-charge/&sa=D&source=editors&ust=1615722319279000&usg=AOvVaw0idheI-715tc-9otXZwLwq>

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- a. Repeal provisions in the 1991 Criminal Act, 2009 Press and Publications Act, the Law on Cyber Crimes and others that arbitrarily interfere with the exercise of free expression, both online and offline. In particular:
 - i. Consider decriminalising defamation laws in line with international standards.
 - ii. Revise vague prohibitions on “false news” and ensure laws addressing disinformation and propaganda are in line with international standards.
- b. End the use of the 1991 Criminal Act, 2009 Press and Publications Act, Law on Cyber Crimes and other legislation to target all media, journalists and others for exercising their right to free expression. Ensure that the press and others are able to provide comment on public issues and inform public opinion without censorship or other restrictions.
- c. End intimidation and harassment of the journalists and others exercising their right to free expression and hold to account those that violate journalists’ rights..
- d. End the practice of internet shutdowns. Ensure that restrictions to internet access are authorised by law, are consistent with fundamental norms of necessity and proportionality. Repeal laws that provide authorities unfettered discretion and provide procedural safeguards, such as the establishment of an oversight body, to ensure protection of rights in Sudan.
- e. Review and amend the Access to Information Act to ensure restrictions are well-reasoned and premised on international law and standards. Operationalise the Access to Information Commission to provide oversight and ensure the promotion and protection of right to access information in Sudan.
- f. Enact Data Protection and Privacy Legislation to, among other, secure right to privacy, regulate collection and processing of personal data and provide adequate safeguards in line with article 54 of the Constitutional Charter and international human rights standards and obligations.