



## **Sudan's Compliance with the African Charter on Human and Peoples' Rights: The Death Penalty**

**Submitted by The Advocates for Human Rights**

a non-governmental organization with observer status with the African Commission on Human and Peoples' Rights since 1991

and

**The World Coalition Against the Death Penalty**

In response to the African Commission on Human and Peoples' Rights Call for Inputs, Submissions, Reports and Documentation of Human Rights Violations in Sudan for its Fact-Finding Mission

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

**The World Coalition Against the Death Penalty** is a volunteer-based non-government organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

## EXECUTIVE SUMMARY

1. Sudanese authorities appear to be using the conflict between the Sudanese Armed Forces and the Rapid Support Forces Militia, which began in April 2023, as a pretext for escalating use of the death penalty and instilling fear among civilians who might otherwise criticize the government.<sup>1</sup>

### **Sudan fails to uphold its obligations under the African Charter on Human and Peoples' Rights**

2. The African Commission on Human and Peoples' Rights, in preparation for its Hybrid Joint Fact-Finding Mission with the African Union's Department of Peace, Security and Political Affairs in Sudan, announced a call for contributions relating to human rights violations and abuses arising from the conflict in Sudan. This report addresses issues relating to violations of civil and political rights, particularly as they pertain to Sudan's use of the death penalty.

#### **I. Sudan is engaging in violations of civil and political rights.**

##### *An overview of the death penalty in Sudan in law and practice*

3. Sudan's Criminal Code of 1991 authorizes the death penalty for a variety of offenses, including murder (*qisas*, article 28(3), article 130(2)) as well as discretionary (*ta'azir*) offenses (article 39), "undermining the constitutional system of the country, or exposing to danger the unity and independence thereof" (article 50), "waging war against the State" (article 51), espionage (article 53), giving false testimony resulting in a sentence of death (article 104(2)), apostasy (article 126(2)), abetment of suicide of a vulnerable person (article 134), adultery committed by a married person (article 146(1)(a)), the third offense of anal sex (article 148(2)(c)), the third offense of running a place for prostitution (article 155(3)), and breach of trust by a public servant or an employee (article 177(2)).<sup>2</sup> The Sudan Narcotics Drugs and Psychotropic Substances Act of 1994 mandates the death penalty for trafficking or producing drugs by a recidivist, by an official entrusted with combatting drug trafficking, or as part of an international criminal organization.<sup>3</sup> It also authorizes the death penalty for providing drugs to students or in schools or assisting trafficking generally.<sup>4</sup>
4. The Criminal Code specifies that if a person is sentenced to death under *qisas* for murder, "retribution shall be death by hanging," but the court may specify that the execution take place "in the same manner in which the offender has caused death."<sup>5</sup> Some offenses, such as adultery, are punishable by stoning,<sup>6</sup> and crucifixion is an available method of execution under article

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<sup>1</sup> Elshareef Ali Mohammed, *DPRU Q&As: Elshareef Ali Mohammed, Sudanese Human Rights Initiative (SHRI), Sudan: Part Two*, Death Penalty Research Unit, University of Oxford, 11 July 2024, <https://blogs.law.ox.ac.uk/death-penalty-research-unit-blog/blog-post/2024/07/dpru-qas-elshareef-ali-mohammed-sudanese-human-0>.

<sup>2</sup> The Criminal Act 1991, available at <https://ihl-databases.icrc.org/en/national-practice/criminal-code-1991>.

<sup>3</sup> Sudan Narcotics Drugs and Psychotropic Substances Act of 1994, arts. 15, 17.

<sup>4</sup> Sudan Narcotics Drugs and Psychotropic Substances Act of 1994, arts. 16, 17.

<sup>5</sup> The Criminal Act 1991, Art. 28(3), available at <https://ihl-databases.icrc.org/en/national-practice/criminal-code-1991>.

<sup>6</sup> The Criminal Act 1991, Art. 146(1)(a), available at <https://ihl-databases.icrc.org/en/national-practice/criminal-code-1991>.

27(1), including for armed robbery under article 27(3).<sup>7</sup> According to the African Centre for Justice and Peace Studies, “hanging is the only known method of execution in Sudan.”<sup>8</sup>

5. In recent years, legal changes have curbed some uses of the death penalty. Law No. 12 of 2020 ended the death penalty for the third offense of anal sex.<sup>9</sup> The new law also ended the death penalty for the crime of apostasy.<sup>10</sup>
6. Law No. 12 also prohibited implementation of the death penalty for individuals younger than 18 years of age, when previously individuals younger than 18 could be sentenced to death for crimes of homicide.<sup>11</sup> Sudan’s 2021 National Report for the Universal Periodic Review (UPR) stated that the death penalty “cannot be handed down against anyone under the age of 18,”<sup>12</sup> but during the interactive dialogue the Sudanese delegation added an important qualification: “The death penalty could not be imposed for offences committed by persons under the age of 18 years or persons aged 70 or above, except in the case of *hudud* and *qisas*.”<sup>13</sup>
7. It is not clear whether the laws of Sudan allow a court to sentence a person to death who is 18 years old or older for an offense committed while under the age of 18. The UN Special Rapporteur on Sudan in 2006 reported that courts could sentence a person to death under those circumstances.<sup>14</sup> In 2019, UNICEF condemned the sentencing of an 18-year-old boy to death for a crime he committed when he was 15.<sup>15</sup>
8. In its 2021 UPR National Report, Sudan informed the Human Rights Council that it had “abolished [the death penalty] for *ta’zir* offenses,”<sup>16</sup> and during the interactive dialogue in February 2022, the Sudanese delegation to the Council confirmed that authorities had abolished the death penalty “for discretionary (*ta-zir*) offences.”<sup>17</sup>
9. The UPR National Report also stated that Sudan was “examining” the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of

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<sup>7</sup> The Criminal Act 1991, Art. 27, available at <https://ihl-databases.icrc.org/en/national-practice/criminal-code-1991>.

<sup>8</sup> African Centre for Justice and Peace Studies, *The Wide Application of the Death Penalty in Sudan*, at 13 (New York: African Centre for Justice and Peace Studies, 2016). Also available online at <http://www.acjps.org/wp-content/uploads/2016/08/The-Wide-Application-of-the-Death-Penalty.pdf>.

<sup>9</sup> Ben Barkawi & Rachel Savage, ‘Great first step’ as Sudan lifts death penalty and flogging for gay sex, Reuters (July 16, 2020), <https://www.reuters.com/article/us-sudan-lgbt-rights-trfn/great-first-step-as-sudan-lifts-death-penalty-and-flogging-for-gay-sex-idUSKCN24H30J>.

<sup>10</sup> *Changes in criminal law as Sudan annuls apostasy death sentence*, Al-Jazeera (July 12, 2020), <https://www.aljazeera.com/news/2020/7/12/changes-in-criminal-law-as-sudan-annuls-apostasy-death-sentence>.

<sup>11</sup> Library of Congress, Global Legal Monitor, Sudan: New Law Amending Penal Code Takes Effect (July 23, 2020), <https://www.loc.gov/law/foreign-news/article/sudan-new-law-amending-penal-code-takes-effect/>.

<sup>12</sup> Human Rights Council, *National report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1*, (27 Aug. 2021), U.N. Doc. A/HRC/WG.6/39/SDN/1, ¶ 195.

<sup>13</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Sudan*, (20 Apr. 2022), U.N. Doc. A/HRC/50/16, ¶ 67.

<sup>14</sup> Report of the Special Rapporteur on the human rights situation in Sudan, Sima Samar to the Commission on Human Rights, E/CN.4/2006/111, 11 January 2006 at ¶ 55.

<sup>15</sup> Abdullah Fadil, *Boy sentenced to death in Sudan for crime reportedly committed as a child*, United Nations International Children’s Emergency Fund, May. 30 2019, <https://www.unicef.org/mena/press-releases/boy-sentenced-death-sudan-crime-reportedly-committed-child>.

<sup>16</sup> Human Rights Council, *National report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1*, (27 Aug. 2021), U.N. Doc. A/HRC/WG.6/39/SDN/1, ¶ 195.

<sup>17</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Sudan*, (20 Apr. 2022), U.N. Doc. A/HRC/50/16, ¶ 67.

the death penalty,<sup>18</sup> and during the interactive dialogue in February 2022, the Sudanese delegation confirmed that authorities were continuing to examine the Second Optional Protocol.<sup>19</sup> But in June 2022, Sudan noted all recommendations regarding the Second Optional Protocol, including recommendations simply to consider taking steps toward ratification.<sup>20</sup> Sudan also noted recommendations to consider imposing a moratorium on executions and to take steps toward abolition of the death penalty.<sup>21</sup>

10. During the UPR interactive dialogue in February 2022, the Sudanese delegation to the Human Rights Council stated that under article 53 of Sudan’s Constitution, authorities could sentence a person to death “as a punishment for extremely serious offences only (*hudud* and *qisas*), with sufficient safeguards and specific provisions in place and after all methods of appeal had been exhausted and fair trial procedures met, in accordance with article 6(2) of the International Covenant on Civil and Political Rights.”<sup>22</sup>
11. Amnesty International’s most recent global report states that in 2023, there was no confirmation that authorities in Sudan carried out any executions or sentenced anyone to death, but the number of people under sentence of death was unknown.<sup>23</sup> According to Amnesty International’s data, Sudanese courts sentenced at least one person to death in 2022 and at least 96 people were under sentence of death at the end of 2022.<sup>24</sup>

#### *Developments since 2023*

12. According to the African Centre for Justice and Peace Studies, in May 2023, the Sudanese Sovereign Council reinstated Sudan’s National Security Laws, which the former regime had used “to suppress civil freedoms and target human rights activists.”<sup>25</sup> Moreover, some governors have issued emergency decrees that give broad powers “to joint forces composed of military intelligence, police, and national security personnel,” resulting in escalated joint force activities in areas under the control of the Sudanese Armed Forces.<sup>26</sup> The Centre reports that these escalations have “led to the detention and torture of numerous lawyers, activists,

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<sup>18</sup> Human Rights Council, *National report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1*, (27 Aug. 2021), U.N. Doc. A/HRC/WG.6/39/SDN/1, ¶ 195.

<sup>19</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Sudan*, (20 Apr. 2022), U.N. Doc. A/HRC/50/16, ¶ 23.

<sup>20</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Sudan*, (20 Apr. 2022), U.N. Doc. A/HRC/50/16, ¶ 137.7, .8, .9, .11, .45, .46, .47, .48, .54, 56; Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Sudan: Addendum*, (3 June 2022), U.N. Doc. A/HRC/50/16/Add.1, at 2-3.

<sup>21</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Sudan*, (20 Apr. 2022), U.N. Doc. A/HRC/50/16, ¶ 137.111-.116; Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Sudan: Addendum*, (3 June 2022), U.N. Doc. A/HRC/50/16/Add.1, at 3.

<sup>22</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Sudan*, (20 Apr. 2022), U.N. Doc. A/HRC/50/16, ¶ 67.

<sup>23</sup> Amnesty International, *Death Sentences and Executions 2023* (2024), at 36, <https://www.amnesty.org/en/documents/act50/7952/2024/en/>.

<sup>24</sup> Amnesty International, *Death Sentences and Executions 2022* (2023), at 34, <https://www.amnesty.org/en/documents/act50/6548/2023/en/>.

<sup>25</sup> African Centre for Justice and Peace Studies, *The Death Penalty Protects No One: Abolish It Now*, 10 Oct. 2024, at 2, <https://www.acjps.org/publications/calling-on-the-sudanese-authorities-to-respect-international-human-rights-law-on-this-world-day-against-the-death-penalty-day>.

<sup>26</sup> African Centre for Justice and Peace Studies, *The Death Penalty Protects No One: Abolish It Now*, 10 Oct. 2024, at 2, <https://www.acjps.org/publications/calling-on-the-sudanese-authorities-to-respect-international-human-rights-law-on-this-world-day-against-the-death-penalty-day>.

volunteers, and journalists, many of whom have faced unfair trials resulting in harsh prison sentences or execution.”<sup>27</sup>

13. In 2024, the Founding Director of the Sudanese Human Rights Initiative observed that authorities in Sudan had stepped up their use of the death penalty, apparently as “a strategic move by the government to deter further collaboration with rebel forces and set a strong precedent.”<sup>28</sup> He pointed out that many people recently sentenced to death “are prominent figures - community leaders, politicians, professionals, individuals involved in the past Sudanese revolution and members of the resistance committees. This suggests a deliberate effort to dismantle influential networks that might oppose the government.”<sup>29</sup> He concluded that authorities’ increased reliance on the death penalty “reflect the government’s intention to consolidate power and maintain national security, although they raise serious concerns about the fairness of trials and potential human rights violations.”<sup>30</sup> He predicted that the government’s increased reliance on the death penalty could “escalate tensions with opposition groups” and “create a climate of fear, suppress dissent and hinder civil society’s role in post-war recovery and reconciliation.”<sup>31</sup>
14. Three civil society organizations—Sudanese Women Right Action (SUWRA), the Regional Coalition for Women Human Rights Defenders in Southwest Asia and North Africa (WHRDMENA), and International Service for Human Rights (ISHR)—in July 2024 issued a joint statement raising concerns about the Sudanese authorities’ lack of respect for the right to life, the right to a fair trial, and the right to humane detention conditions.<sup>32</sup> The three civil society organizations report that in the first half of 2024, courts sentenced at least six people to death in areas under control of the Sudanese military forces.<sup>33</sup> According to this report,

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<sup>27</sup> African Centre for Justice and Peace Studies, *The Death Penalty Protects No One: Abolish It Now*, 10 Oct. 2024, at 2, <https://www.acjps.org/publications/calling-on-the-sudanese-authorities-to-respect-international-human-rights-law-on-this-world-day-against-the-death-penalty-day>.

<sup>28</sup> Elshareef Ali Mohammed, *DPRU Q&As: Elshareef Ali Mohammed, Sudanese Human Rights Initiative (SHRI), Sudan: Part Two*, Death Penalty Research Unit, University of Oxford, 11 July 2024, <https://blogs.law.ox.ac.uk/death-penalty-research-unit-blog/blog-post/2024/07/dpru-qas-elshareef-ali-mohammed-sudanese-human-0>.

<sup>29</sup> Elshareef Ali Mohammed, *DPRU Q&As: Elshareef Ali Mohammed, Sudanese Human Rights Initiative (SHRI), Sudan: Part Two*, Death Penalty Research Unit, University of Oxford, 11 July 2024, <https://blogs.law.ox.ac.uk/death-penalty-research-unit-blog/blog-post/2024/07/dpru-qas-elshareef-ali-mohammed-sudanese-human-0>.

<sup>30</sup> Elshareef Ali Mohammed, *DPRU Q&As: Elshareef Ali Mohammed, Sudanese Human Rights Initiative (SHRI), Sudan: Part Two*, Death Penalty Research Unit, University of Oxford, 11 July 2024, <https://blogs.law.ox.ac.uk/death-penalty-research-unit-blog/blog-post/2024/07/dpru-qas-elshareef-ali-mohammed-sudanese-human-0>.

<sup>31</sup> Elshareef Ali Mohammed, *DPRU Q&As: Elshareef Ali Mohammed, Sudanese Human Rights Initiative (SHRI), Sudan: Part Two*, Death Penalty Research Unit, University of Oxford, 11 July 2024, <https://blogs.law.ox.ac.uk/death-penalty-research-unit-blog/blog-post/2024/07/dpru-qas-elshareef-ali-mohammed-sudanese-human-0>.

<sup>32</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/> (joint statement on behalf of ISHR, Sudanese Women Right Action (SUWRA), and the Regional Coalition for Women Human Rights Defenders in Southwest Asia and North Africa (WHRDMENA)).

<sup>33</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/> (joint statement on behalf of ISHR, Sudanese Women Right Action (SUWRA), and the Regional Coalition for Women Human Rights Defenders in Southwest Asia and North Africa (WHRDMENA)).

authorities are sentencing civilians to death under articles 50 and 51 of the Criminal Code for “undermining the State” for suspected support for the Rapid Support Forces (RSF) Militia.<sup>34</sup>

15. According to the three civil society organizations, in March 2024, a court in Algardarif sentenced a man to death for his alleged work with the RSF Militia and for allegedly publishing a post on Facebook expressing support for the RSF Militia.<sup>35</sup> In June, the same court sentenced another man to death on similar allegations after joint forces arrested him.<sup>36</sup> Also in June, a court in the Blue Nile state sentenced lawyer Eissa Ahmed to death under articles 50 and/or 51 for “undermining the State” by allegedly supporting the RSF Militia.<sup>37</sup> The evidence against him included social media posts and WhatsApp messages on his mobile phone.<sup>38</sup> Another civil society organization reports that courts in Sudan have recently sentenced 10 men on charges of spying and destructive actions against the state, and some of the men received death sentences while others received 10 years imprisonment.<sup>39</sup> These sentencing have happened since early January 2025.<sup>40</sup>
16. In September 2024, a Dongola court sentenced one civilian and 17 RSF Militia fighters to death for allegedly attacking Merowe airport early in the conflict.<sup>41</sup> Sudanese state media reported that on October 3, 2024, a court in Port Sudan had sentenced a man identified as M.J.M. to death for “cooperating with rebel forces, undermining the constitutional system, and inciting war against the state.”<sup>42</sup>
17. Barriers to abolition of the death penalty are multifaceted. According to the Founding Director of the Sudanese Human Rights Initiative, “there is a lack of strong, sustained advocacy for the abolition of the death penalty within the country. Human rights organisations and activists face significant risks and obstacles in their work, limiting their ability to push for comprehensive

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<sup>34</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/>.

<sup>35</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/> (joint statement on behalf of ISHR, Sudanese Women Right Action (SUWRA), and the Regional Coalition for Women Human Rights Defenders in Southwest Asia and North Africa (WHRDMENA).

<sup>36</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/> (joint statement on behalf of ISHR, Sudanese Women Right Action (SUWRA), and the Regional Coalition for Women Human Rights Defenders in Southwest Asia and North Africa (WHRDMENA).

<sup>37</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/> (joint statement on behalf of ISHR, Sudanese Women Right Action (SUWRA), and the Regional Coalition for Women Human Rights Defenders in Southwest Asia and North Africa (WHRDMENA).

<sup>38</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/> (joint statement on behalf of ISHR, Sudanese Women Right Action (SUWRA), and the Regional Coalition for Women Human Rights Defenders in Southwest Asia and North Africa (WHRDMENA).

<sup>39</sup> Email communication with Sudanese civil society organization, 31 Jan. 2025, on file with The Advocates for Human Rights.

<sup>40</sup> Email communication with Sudanese civil society organization, 31 Jan. 2025, on file with The Advocates for Human Rights.

<sup>41</sup> *Death sentence in Port Sudan highlights crackdown on RSF sympathizers*, Sudan Tribune, Oct. 4, 2024, <https://sudantribune.com/article291716/>.

<sup>42</sup> *Death sentence in Port Sudan highlights crackdown on RSF sympathizers*, Sudan Tribune, Oct. 4, 2024, <https://sudantribune.com/article291716/>.

legal reforms.”<sup>43</sup> Moreover, the judiciary is not independent or fully functional, conditions that “hamper[] efforts to ensure fair trials and protect the rights of defendants.”<sup>44</sup>

### *Women*

18. The three civil society organizations further report that courts have sentenced several women to death and to extreme sentences in the past year. One civil society organization reports that lawyers from various regions of the country report that at authorities have arrested at least 31 women on charges of spying and destructive actions against the state, which could result in death sentences.<sup>45</sup> This organization reports that some of the women are under trial and others have already received death sentences.<sup>46</sup> According to another civil society report, a court in Port Sudan sentenced a woman named Hanaa Daw Elbeit to death in June 2024 under article 50 and/or 51 after authorities searched her mobile phone and allegedly found messages expressing support for the RSF Militia.<sup>47</sup> That court also sentenced a young woman named Shimaa Ahmed to life imprisonment.<sup>48</sup> In May 2024, a court in Atbara (northern Sudan) sentenced a woman to death for allegedly supporting the RSF Militia.<sup>49</sup> A court in Kassla sentenced a 21-year-old woman named Gufran Ahmed Musa to death in November 2024.<sup>50</sup>
19. Sudan’s Criminal Code of 1991 authorizes the death penalty for adultery committed by a married person (article 146(1)(a)), and the application of death penalty for this offense represents gender-based discrimination. According to a report published by the Cornell Center on the Death Penalty Worldwide, the method of execution prescribed for the crime is stoning, which is discriminatory as “Shariah law dictates that if the prisoner succeeds in freeing themselves during the stoning, he or she will be pardoned. In preparation for stoning, men are buried to their waist in the ground while women are tied up and buried deeper (theoretically to prevent their breasts from being stoned). Some men, but virtually no women, are able to escape execution.”<sup>51</sup> Further, as reported by Human Rights Watch, “the vast majority of adultery cases

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<sup>43</sup> Elshareef Ali Mohammed, *DPRU Q&As: Elshareef Ali Mohammed, Sudanese Human Rights Initiative (SHRI), Sudan: Part Two*, Death Penalty Research Unit, University of Oxford, 11 July 2024, <https://blogs.law.ox.ac.uk/death-penalty-research-unit-blog/blog-post/2024/07/dpru-qas-elshareef-ali-mohammed-sudanese-human-0>.

<sup>44</sup> Elshareef Ali Mohammed, *DPRU Q&As: Elshareef Ali Mohammed, Sudanese Human Rights Initiative (SHRI), Sudan: Part Two*, Death Penalty Research Unit, University of Oxford, 11 July 2024, <https://blogs.law.ox.ac.uk/death-penalty-research-unit-blog/blog-post/2024/07/dpru-qas-elshareef-ali-mohammed-sudanese-human-0>.

<sup>45</sup> Email communication with Sudanese civil society organization, 31 Jan. 2025, on file with The Advocates for Human Rights.

<sup>46</sup> Email communication with Sudanese civil society organization, 31 Jan. 2025, on file with The Advocates for Human Rights.

<sup>47</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/>.

<sup>48</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/>.

<sup>49</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/>.

<sup>50</sup> Email communication with Sudanese civil society organization, 31 Jan. 2025, on file with The Advocates for Human Rights.

<sup>51</sup> *Sudan: Ban Death by Stoning* | Human Rights Watch. 31 May, 2012, <https://www.hrw.org/news/2012/05/31/sudan-ban-death-stoning>.

and stoning sentences have been imposed on women, pointing to the disproportionate and unequal application of this law.”<sup>52</sup>

20. While the law criminalizing adultery may be ostensibly gender-neutral, a closer analysis reveals that the criminalization of adultery is in practice directed at women and girls. On 26 June 2022, a court sentenced Mariam Tirab, a 20-year-old woman, to death for the crime of adultery.<sup>53</sup> An appellate court subsequently overturned the conviction on appeal and ordered a retrial due to the lower court’s failure to adhere to fair trial standards.<sup>54</sup> In the last 10 years, Sudan has seen multiple cases similar to Maryam’s where convictions were later overturned on appeal.<sup>55</sup> According to the African Centre for Justice and Peace Studies, in March 2024, a court sentenced a 30-year-old woman named Fatima Ahmed to death for adultery, showing the ongoing nature of the application of this punishment.<sup>56</sup> The systematic prosecution of women under adultery laws contravenes the State’s obligation to eliminate all forms of discrimination, including the duty under the Maputo Protocol to take corrective measures to address discrimination against women in law and practice.<sup>57</sup>
21. The UN Human Rights Committee in its 2018 Concluding Observations highlighted the case of Noura Hussein:

The Committee notes the case of Noura Hussein, a woman subjected to a forced marriage at the age of 16, who was sentenced to death after she stabbed and killed her husband in self-defence, after the latter attempted to rape her. The Committee welcomes the quashing, in June 2018, of Noura Hussein’s death sentence, and its replacement with a five-year prison sentence. The Committee welcomes the oral assurance from the delegation that despite an ongoing appeal by the State prosecutor, there will be no reinstatement of the death penalty in her case. The Committee is concerned nonetheless that the gender-based violence to which she had been subjected was not taken into account as evidence by the court (arts. 2, 6–7, 14 and 26).<sup>58</sup>

The Committee urged Sudan to “ensure that Noura Hussein is not subjected to the death penalty” and to “reconsider her five-year jail sentence.”<sup>59</sup>

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<sup>52</sup> *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, September 2018, p.13,

<https://www.deathpenaltyworldwide.org/wpcontent/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

<sup>53</sup> *Sudanese court overturns stoning sentence for young woman*, Sudan Tribune, Nov. 24, 2022,

<https://sudantribune.com/article267336/>.

<sup>54</sup> *Sudanese court overturns stoning sentence for young woman*, Sudan Tribune, Nov. 24, 2022,

<https://sudantribune.com/article267336/>.

<sup>55</sup> International Service for Human Rights, *Calling the Sudanese Government to overturn sentence of death by stoning and protect women’s rights*, Sept. 23, 2022, <https://ishr.ch/latest-updates/sudan-woman-at-risk-of-death-by-stoning/>.

<sup>56</sup> African Centre for Justice and Peace Studies, *The Death Penalty Protects No One: Abolish It Now*, 10 Oct. 2024, at 2, <https://www.acjps.org/publications/calling-on-the-sudanese-authorities-to-respect-international-human-rights-law-on-this-world-day-against-the-death-penalty-day>.

<sup>57</sup> Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2005), art 2 (b) and (d).

<sup>58</sup> Human Rights Committee, *Concluding observations on the fifth periodic report of the Sudan*, (19 Nov. 2018), U.N. Doc. CCPR/C/SDN/CO/5, ¶ 21.

<sup>59</sup> Human Rights Committee, *Concluding observations on the fifth periodic report of the Sudan*, (19 Nov. 2018), U.N. Doc. CCPR/C/SDN/CO/5, ¶ 22.



22. In February 2021, news media reported that a South Sudanese woman had been hanged for a 2018 murder.<sup>60</sup>

*Targeting people based on ethnic affiliation and political opinion*

23. The statement by the three civil society organizations referenced above describes the context of the crack-down that escalated in the first half of 2024:

The Sudanese Armed Forces (SAF) is leading a campaign of arrests against civilians based on ethnic affiliation within communities allegedly supporting RSF [Militia] and members of political parties and activists calling for an end to the war who are accused of supporting the [RSF] Militia. Following the passing of the laws reinstating the former regime's security forces in May, a joint force of SAF intelligence and former regime security led an arrest campaign in different States under SAF control. Dozens of civilians and activists are detained either based on their ethnic affiliations or as a result of their opinions or posts on social media. Some detainees were presented to brief trials with limited access to legal aid. Lawyers and activists who tried to support the detainees faced intimidation and threats. According to lawyers and local rights groups, the legal procedures followed in some of the courts' decisions did not grant detainees their rights to fair trials.

24. The Founding Director of the Sudanese Human Rights Initiative confirms that “systemic discrimination against defendants from marginalized ethnic or social groups exacerbates their vulnerability within the legal system, further compromising their right to a fair trial.”<sup>61</sup> He adds that lawyers and other people representing people charged with capital crimes or advocating for abolition of the death penalty face “significant personal risks. Human rights lawyers and activists often encounter threats, harassment and violence, posing continual challenges to their work.”<sup>62</sup>

*RSF Militia abuses*

25. The three civil society organizations also expressed concerns that the RSF Militia has been subjecting people to torture and has been carrying out summary executions: “In RSF-controlled areas, . . . houses holding execution rooms were found in Khartoum. Lists of people sentenced to death, including women, were found in these houses. Reports of executions inside RSF detention centers or death under torture increased in the last few months. The Militia has

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<sup>60</sup> Alhadi Hawari, *Khartoum authorities hang S Sudanese woman*, Eye Radio, 10 Feb. 2021, <https://eyeradio.org/khartoum-authorities-hang-s-sudanese-woman/#:~:text=A%2039%2Dyear%2Dold%20South>.

<sup>61</sup> Elshareef Ali Mohammed, *DPRU Q&As: Elshareef Ali Mohammed, Sudanese Human Rights Initiative (SHRI), Sudan: Part One*, Death Penalty Research Unit, University of Oxford, 11 July 2024, <https://blogs.law.ox.ac.uk/death-penalty-research-unit-blog/blog-post/2024/07/dpru-qas-elshareef-ali-mohammed-sudanese-human>.

<sup>62</sup> Elshareef Ali Mohammed, *DPRU Q&As: Elshareef Ali Mohammed, Sudanese Human Rights Initiative (SHRI), Sudan: Part One*, Death Penalty Research Unit, University of Oxford, 11 July 2024, <https://blogs.law.ox.ac.uk/death-penalty-research-unit-blog/blog-post/2024/07/dpru-qas-elshareef-ali-mohammed-sudanese-human>.

conducted summary executions against detainees in the past months according to testimonies of released detainees.”<sup>63</sup>

### *Detention conditions*

26. Conditions in Sudanese prisons and detention facilities for people sentenced to death are poor and contrary to the Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) and ACHPR/Res.466 (LXVII) Resolution on Prisons and Conditions of Detention in Africa. These facilities lack adequate health care and food supplies.<sup>64</sup> Medical care in these facilities has been described as “primitive.” According to some reports, “security forces held detainees incommunicado; beat them; deprived them of food, water, and toilets; and forced them to sleep on cold floors.”<sup>65</sup> The Founding Director of the Sudanese Human Rights Initiative describes “harsh prison conditions, including prolonged shackling, inadequate hygiene and substandard medical care,” all of which “constitute forms of torture that exacerbate the already severe psychological burden on inmates”<sup>66</sup>
27. Reports have relayed observations that people on death row have “permanent fixture of handcuffs connected to shackles on their legs.”<sup>67</sup> As a result, inmates’ skin chafes; even more, they are unable to stand upright due to the length of the shackle chains, which “creates an atmosphere not only of discomfort but also of humiliation.” The chains remain on at all times—in their cells, with visits with family and counsel, and even during medical visits.
28. One person in detention told the African Centre for Justice and Peace Studies: “We wore shackles while in the cell and those caused wounds on our legs and hands. We went everywhere in shackles. Even when I was sick, I was taken to the hospital with my shackles on.” A pregnant woman who was imprisoned in Omdurman Women’s Prison, Meriam Yahha Ibrahim, gave birth while shackled; she was unable to open her legs and had to be lifted off the table, she later reported.<sup>68</sup>

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<sup>63</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/> (joint statement on behalf of ISHR, Sudanese Women Right Action (SUWRA), and the Regional Coalition for Women Human Rights Defenders in Southwest Asia and North Africa (WHRDMENA)).

<sup>64</sup> African Centre for Justice and Peace Studies, *The Wide Application of the Death Penalty in Sudan*, at 28 (New York: African Centre for Justice and Peace Studies, 2016). Also available online at <http://www.acjps.org/wp-content/uploads/2016/08/The-Wide-Application-of-the-Death-Penalty.pdf>.

<sup>65</sup> U.S. Dept. of State, 2009 Human Rights Report: Sudan, Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, <https://2009-2017.state.gov/j/drl/rls/hrrpt/2009/af/135978.htm>.

<sup>66</sup> Elshareef Ali Mohammed, *DPRU Q&As: Elshareef Ali Mohammed, Sudanese Human Rights Initiative (SHRI), Sudan: Part One*, Death Penalty Research Unit, University of Oxford, 11 July 2024, <https://blogs.law.ox.ac.uk/death-penalty-research-unit-blog/blog-post/2024/07/dpru-qas-elshareef-ali-mohammed-sudanese-human>.

<sup>67</sup> African Centre for Justice and Peace Studies, *The Wide Application of the Death Penalty in Sudan*, at 28 (New York: African Centre for Justice and Peace Studies, 2016). Also available online at <http://www.acjps.org/wp-content/uploads/2016/08/The-Wide-Application-of-the-Death-Penalty.pdf>.

<sup>68</sup> African Centre for Justice and Peace Studies, *The Wide Application of the Death Penalty in Sudan*, at 29 (New York: African Centre for Justice and Peace Studies, 2016). Also available online at <http://www.acjps.org/wp-content/uploads/2016/08/The-Wide-Application-of-the-Death-Penalty.pdf>; ACHPR/Res. 483 (EXT.OS/XXXIII) Resolution on the need for better protection of women sentenced to death in Africa (2021): Limit the use of shackles or any restraint on women on death row, in line with the Mandela Rules and absolutely prohibit their use during pregnancy, childbirth and nursing as required by the Bangkok Rules, available at <https://achpr.au.int/en/adopted-resolutions/483-resolution-need-better-protection-women-sentenced-death-afri>.

29. In Khartoum’s Kober Prison, there are reportedly seven cells for people under sentence of death, each measuring two meters by two meters and without windows, ventilation, and airflow.<sup>69</sup> It is in these cells that people must spend at least 16 hours of each day.
30. According to a civil society coalition report, at some point in the first half of 2024, a woman in her 60s who had been imprisoned for more than five months without access to medical care on suspicion of supporting the RSF Militia died in an Atbara detention center.<sup>70</sup>

## **II. Suggested questions for the Government of Sudan**

31. The coauthors suggest that the Fact-Finding Mission request the following information from the Government of Sudan:
- Please provide comprehensive data regarding all persons currently under sentence of death and persons executed over the last five years, disaggregated by sex/gender, nationality, year of birth, year of birth of any dependent children, ethnic group, crime of conviction, court of conviction, date of arrest, date of sentencing, status and outcome of any appellate proceedings, date of execution (if applicable), current location (if applicable), and relationship to any victims or codefendants.
  - What measures are in place to ensure that people charged with capital crimes receive heightened fair trial and due process safeguards, including representation by qualified legal professionals and the right to appeal?
  - How do prosecutors and courts ensure that women are not sentenced to death for conduct arising in the context of self-defense after protracted gender-based violence?
  - What steps have authorities taken to investigate allegations of summary executions and deaths under torture in detention facilities controlled by the RSF Militia?

## **III. Suggested recommendations for the Government of Sudan**

32. The coauthors suggest that the Fact-Finding Mission recommend that the Government of Sudan:
- Abolish the death penalty and replace it with penalties that are fair, proportionate, and consistent with international human rights standards.
  - In the interim:
    - Abolish the death penalty for adultery and release any person currently under sentence of death for adultery.

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<sup>69</sup> African Centre for Justice and Peace Studies, *The Wide Application of the Death Penalty in Sudan*, at 29 (New York: African Centre for Justice and Peace Studies, 2016). Also available online at <http://www.acjps.org/wp-content/uploads/2016/08/The-Wide-Application-of-the-Death-Penalty.pdf>.

<sup>70</sup> *Sudan: Protect lives, stop death sentences and executions of civilians*, International Service for Human Rights, July 4, 2024, <https://ishr.ch/latest-updates/sudan-stop-death-sentences-and-execution-of-civilians/> (joint statement on behalf of ISHR, Sudanese Women Right Action (SUWRA), and the Regional Coalition for Women Human Rights Defenders in Southwest Asia and North Africa (WHRDMENA)).

- Amend the Criminal Code and the Narcotics Drugs and Psychotropic Substances Act to prohibit the death penalty for any offense in which the offender did not kill with intent to kill.
- Commute the death sentences of any person currently under sentence of death for an offense in which the offender did not kill with the intent to kill.
- Dedicate financial and human resources to the provision of legal aid to all persons charged with capital crimes.
- In collaboration with civil society, adopt a comprehensive training program for all attorneys who take on defense work in capital cases.
- Ensure that no lawyer, human rights defender, or civil society organization advocating on behalf of people charged with capital crimes or sentenced to death or advocating against the death penalty faces harassment or intimidation and ensure their safety and protection from such attacks.
- Investigate allegations of discrimination on the basis of ethnicity in the criminal legal system and in collaboration with civil society organizations, provide training to judges, prosecutors, law enforcement, and staff within the criminal legal system to ensure that people in conflict with the law do not face discrimination.
- In collaboration with civil society, undertake an awareness-raising campaign with the public and among lawmakers about human rights concerns regarding the death penalty and the efficacy of alternatives to the death penalty.
- On at least an annual basis, publish comprehensive data about death sentences and executions, disaggregated by sex/gender, ethnic group, nationality, year of birth, crime of conviction, court of conviction, date of offense and date of conviction, year of birth of any dependent children, relationship to any codefendants or victims, current location (if applicable), date of execution (if applicable), and status of any appeals or requests for clemency.
- Codify gender-specific defenses and mitigation in capital trials, encompassing trauma, gender-based violence, economic pressures, human trafficking, and family caretaking responsibilities.
- Require that court-appointed attorneys in capital cases against women defendants have prior experience in capital cases and have training regarding gender-based violence, gender-specific defenses, and gender-specific mitigation.
- Establish mandatory trainings for judges on gender-based discrimination, domestic violence, gender-based violence, and tactics of coercive control that can lead to women committing death-eligible offenses.

- Implement legislative reforms to prevent application of the death penalty when women who experience gender-based violence act against their abusers.
- Ensure that sentencing judges accord mitigating weight to defendants' experiences of trauma, gender-based violence, economic pressures, duress, human trafficking, and family caretaking responsibilities.
- Ensure that all detention conditions comply with international human rights standards, including the Kampala Declaration, the Commission's 2020 Resolution on Prisons and Conditions of Detention in Africa, the Nelson Mandela Rules, the Bangkok Rules, and the Luanda Guidelines, and collaborate with civil society organizations and international organizations to monitor and report on compliance.
- Ensure that all prison authorities adopt gender-sensitive policies in relation to women's detention, based on the Bangkok Rules and the Nelson Mandela Rules, ensuring women's safety and security pre-trial, during admission to any detention facility, and while incarcerated.
- Expressly prohibit shackling of detained persons during childbirth.
- End the practice of permanent shackling and direct prison authorities to use shackles only when necessary (i.e., when transporting individuals outside of the detention facility).