

An Open Letter from Monim Elgak to Salah Gosh: regarding my arrest, torture and the International Criminal Court (ICC)

19th December 2008

Subject: regarding my arrest, torture and the International Criminal Court (ICC)

Dear Sir Salah Abdullah (Gosh), Director General of Sudanese Security and Intelligence

I am writing to you a little later than would be expected. The torture and interrogation by your officers at the national security service has left me weak. This is an open letter, addressed to you personally equally as it is addressed to your colleagues, both at the National Intelligence and Security Service (NISS) and your ruling party, the National Congress Party (NCP). Although the letter recounts my own personal experience it also echoes I believe the reactions of hundreds, and perhaps thousands, of people who were horrified at my arrest and torture.

I and my colleagues Amir Suleiman and Osman Hummaida were arrested at midday on Monday 24th November 2008 on the basis of the “accusation” that we had been cooperating with the International Criminal Court (ICC) in its case on Darfur. It is only now that have I managed to gather some of my energies, as part of a gradual recovery, to take my pen and to write to you while I still feel the wounds and find myself reliving the memories of this incident that may have changed me irrevocably. At the same time, what I suffered with your thugs in the NISS is millions of times less than what millions of my people in South Sudan suffered during the time of your ideological obsession and the fire of war and torture rained upon them. It is also less than what is now being faced by millions of my people in Darfur, that land which you raped forcibly after you lost your direction. What I have suffered is a thousand times less than that endured by the true lovers of this country in your ghost houses during the 90s. What I have suffered is so much less than that this good country has borne, with its good men and women, since your bloody night of darkness on 30th July 1989.

I address this letter to you Mr. Salah Gosh, while I am forced to stay a while outside the reach of your ruling oppressive institutions. Once again, more than a decade later, I am compelled by terror to leave my country. The first time was after the killing by your colleagues of the martyr and defender of student rights, a student of law at that time in Khartoum University, my friend and follower in the leadership of the Medani Students Association, Mohamed Abdelssalam. When Mohamed Abdelssalam was killed your colleague now in the cabinet was the then President of the University of Khartoum, and the instigator of its insane jihad, Professor Al Zubar Bashir Taha. He drafted and signed my certificate of dismissal from the final year, sending your security men to hound me until I was forced to knock on the door of exile!

Mr. Gosh, more than ten years later your security body is still practising torture and killing, and violating rights. There will be no statute of limitations on these crimes:

the loss of Mohamed Abdelssalam left sorrow and pain which is still felt. Once again your security body is practising the same with me and trying to push me from my homeland. But you will not succeed. Molana Abil Aleir was insightful in his commentary “Non-stop breaking of covenants”. What agreements do you respect? With my arrest and torture you are loudly declaring that your regime and your ruling party does not intend to change. It is stuck in its cycle of repression, torture and terror—even as you practice cooperation with the United States in the so called ‘war on terror,’ an issue that would benefit from much deeper discussion on another occasion. Your regime, Mr Gosh, is like the cobra in its annual transformation, changing only the outer layers, its skin and its fangs.

You might be surprised, and in your arrogance, questioning where am I going with this discourse? What might be the motivation and interest of my letter? This letter is driven by, and addresses, a range of interests. One of them is to ensure that I, and we, will never forget what happened. You may also consider it as a complaint, to you and against you. In addition the letter is an attempt to inform people in this country about my experience and to make them listen to the sounds of the torture and terror that I suffered at the hands of your thugs, stained with shame and blood. I want them to hear the message that you were trying to send through my body, a message of terror and threat to the real life-blood that maintains the heart of this country, the civil society organisations, the democrats and enlightened forces—although you will not succeed in your intended effect.

When I first thought about addressing you Mr Gosh, I remembered a similar letter written in the early times of your dark period, a letter from the well known and respected Professor Faroug Mohamed Ibrahim, published eighteen years ago. He was complaining of his torture under the supervision of his colleague at the university at that time, Mr Nafie Ali Nafie, the one in whose chair you now sit at the NISS and who is now an assistant to the President. Do you not find it strange Mr Gosh that two persons find themselves drafting almost the same letter in substance, with a span of almost 18 years between the incidents? There is complete stagnation in the river of your regime Mr Gosh despite the many agreements promising movement. It is as a fetid lake with a permanent odour changing only the colour of its algae bloom. I am drafting this open letter, therefore, in an attempt to oxygenate this water in which for two decades, skulking at its rotten sedges, you have conducted your conspiracy, torture and killing.

My writing to you is to air publically some of the issues you raised in your interrogation of me, in addition to some analysis of your torture practices. It is not only on my own behalf that I should break the silence as these issues concern thousands. It is also a unique opportunity to express my unlimited appreciation thanks and love to my close and extended family, to my friends, colleagues, and hundreds of others I have not yet had the honour of knowing in person, and tens of others with whom I had lost communication for years, in addition to institutions, organisations, political parties and individuals from my country and all over the world. While your officers were intent on violating my dignity, my body and my privacy these people were crying out in solidarity with Osman, Amir and I, expressing our pain, and drafting documents urging our release,

in a confirmation of the existence of true humanity. Even after leaving your den of torture these people continued their care, salving my body, providing protection and balsam for my spirit. They of course are not waiting for thanks from me but do you not agree that these honourable people deserve a letter acknowledging their generous humanity in as much as this one which counterpoints your animalism? A letter that soothes their pure hearts and consciousness against all things that violate dignity, justice and law?

Your security agents, Sir, Director General of the Security, just as they violated my dignity and my body, have also continuously violated justice and the rule of law since your coming to power 1989. I have drafted this letter therefore to address the public on some of the implications of my arrest and torture. It is both a right and a duty of mine. Permit me then in what remains of this letter to reflect on some observations and lessons made and learned in your den of torture, in addition to some of the issues which were raised by your officials during my interrogation, and which may be of interest to the public.

I will first reflect on some of the circumstances surrounding my arrest and torture.

Let me begin, Mister Director of the Security and Intelligence Apparatus, with an educational comparison between the practices of your agents in arresting and torturing me, and the practices of the ICC, the institution which was consistently mentioned with opprobrium during my interrogation. The Statute of the ICC sets out in article 55 the rights of those questioned by the ICC:

“In respect of an investigation under this Statute, a person (a) shall not be compelled to incriminate himself or herself or to confess guilt; and (b) shall not be subjected to any form of coercion, duress or threat, to torture or to any other form of cruel, inhuman or degrading treatment or punishment”.

It goes without saying that what your agents did to me violated *to the letter* each provision of this article. But I hope that this exposition on the Statute has given confidence to the members of your ruling regime—those accused and potential accused persons—that any engagement they have with the ICC will ensure the protection of their personal and physical dignity and the inviolability of their bodies. They will never be exposed to what I have.

In this context therefore to what do you refer when you speak of the ICC as posing “a threat to Sudanese sovereignty and dignity”? Did you see pictures of my torture? The officer in charge of my interrogation ironically questioned how I had managed to get blood on my face, legs, shirt and left hand, asserting that it was likely due to my getting drunk and quarrelling with other drunks. With what sovereignty and dignity were your security officials concerned when that same officer gave orders to the four men in that small room in the third floor, pointing to where precisely on my body they should direct their blows, and with what instrument, spilling water on my head, kicking my face with his shoe and pointing his cigarette at my eye, saying he would blind me. In attempting to terrorise me about the work of the ICC this officer of yours confirmed that

you had reached the very bottom of degradation, when he tried to threaten me by ordering his soldiers to rape me. The response came in the coarsest of language, however, that I was a “fag” already and would only enjoy it. So by God, can I be exaggerating if I say that you and your regime have eroded your own dignity in your attempt to compel me to incriminate myself which respect to illusory crimes which do not exist but in the imagination of your confused and analysis-weak “intelligence” service.

Mister Director General of the Security Apparatus let me now move to two observations the implications of which I regard as more important than the particular circumstances of my detention, of which I had only rumours before I visited your den of iniquity. The first is that your security agents appear to suffer from a dangerous form of schizophrenia: the officer who intensively beat me was able to turn in a moment into a solicitous bearer of water, enquiring whether I felt comfortable in my seat, apologising and saying that he regretted his behaviour. I fail to understand the meaning of “*maalish*”, in this context, and in that place. Further, do you know that another of your men sent me his regards and his apologies to me through my other colleagues who were detained, asserting that he intended to visit with me and my family later on to ensure that I had recovered. With what kind of insanity and unbalanced behaviour have you riven this ruined country?

My second observation and one I wish earnestly would be corrected, Sir Lieutenant General Salah Abdullah Gosh, is that ethnicity and racism are clearly the reference points for the constitution and operation of your intelligence and security apparatus. I remember during the attack on Omdurman in late May 10th, when I was working as one of the founders of the civil society *National Committee for the Protection and the Defence of the Affected People of 10th May* that your incensed security personnel were hunting down all who appeared to be of Darfurian appearance. I was horrified by the torture scars of many of those who were subsequently detained (including of women and children) and, as I recall them now, know that they are much greater than mine, the protected Arab Northerner. This is despite the fact that I believe that the director and supervisor of our torture in both cases was the same, and the charges similar: “attacking the State’s capital” in the first and “providing information against the State’s sovereignty” in mine—and with respect to a common territory – Darfur! Is Darfur the locus of such fear for you?

There were seven individuals who participated in arresting, interrogating and torturing me, two of whom clearly gave the orders and provided the supervision of the others. There were the ‘white-collar’ officers, as we define them in social science and both were of Arab Northern appearance. The rest of the group, to whom was delegated the sweaty work of beating, torture and terrorizing, carried the characteristics of those from what you would term the “African” or non Northern parts of Sudan. Pardon me Mister Lieutenant General Director of the Security Apparatus, but cultural analysis and observation is my specialization in Anthropology—and incidentally a point of amusement for your agents during my interrogation—hence my more detailed focus on this point which could be the theme for an interesting research on “The ‘Racialisation of the Politics of Torture in Sudan’”!

I now wish to turn to the issue which was at the core of my interrogation: the ICC and the case of Darfur.

Thank you, Mister Lieutenant General Salah Abdullah Gosh, for your patience in reading this long letter. I do believe that the details it includes are important, not just for your attention, but for others to hear, especially matters which would not have come to light if I and my colleagues Amir Suleiman and Osman Hummaida had not been arrested, interrogated and tortured. I will not address the details of my interrogation and the “allegations” about my relationship to the ICC, my alleged cooperation in providing information and documents, and the threats under torture to disclose this “information”. I will not dignify these illusory scenarios, and the charges of treason, espionage and disloyalty with which your soldiers threatened and insulted me, with further exposition. Suffice to say that your interrogation techniques were irrelevant to both the subject and object of your perceived “traitor”. Let me simply characterise the interrogation process as unskilled, the questions as prosaic and empty, questions which, while having the capacity to wound, only revealed a scandalous ignorance of the reality of the Court, its processes and the situation of Darfur. Ironically one of the officers seemed to view himself as a true intellectual. Let me give you an example of the sophistication of his analysis: “What is happening in Darfur is part of the Zionist conspiracy against us” he said. “The ‘Protocols of the Elders of Zion’ assert that.” Hundreds of thousands of victims and thousands of raped women in our territory, and the Zionists and the foreign conspirators are the guilty ones! Others of your men were also sure they had unshakeable proof of my treachery when they found three hundred dollars in my wallet! I wonder how many millions of oil rich dollars you have Mr Gosh and why these dollars are not considered evidence of your own betrayal of our country.

It is clear to me now that without doubt the ICC terrifies your regime very much, Mr Lieutenant General. You are confused as to whether to pursue a strategy of cooperation or confrontation. While you prevaricate I shall use the opportunity Mr Gosh to raise awareness about human rights, international humanitarian law and the work of ICC. Human rights advocate will continue to be my profession, as before, during and now after my interrogation and torture. In this regard I would like to thank you for your help in this mission: as a result of your treatment of me many more people will read this letter. As you know I have written frequently about this Court, human rights, and about Darfur, but the majority of these writings could not find the light as a result of your war on freedom of expression and exertions of your petty censorship officials.

Mr Gosh, I am puzzled by the chaotic approach of your regime to the simple issue of justice, a bewilderment only deepened by my arrest. You should be the first to understand that justice and accountability are essential factors for the revitalization of Darfur and that the policy of searching for pretexts to buy time will only bring failure. Since 2004, the centrality of accountability was clear to you in the National Congress Party. You sent a national fact-finding commission to Darfur, formed special courts, and appointed public prosecutors for Darfur. Your efforts were not genuine but it was not possible to blind everyone to your intent. Your government, for example, did not deny

that crimes took place in Darfur but determined the number of dead in a manner which was not only factually incorrect but lacked basic human and political sensitivity. Your colleagues, including the Head of the State, confessed that there were “only” 10,000 victims in Darfur. Do you know that the war crimes trials which took place in the former Yugoslavia were conducted on the basis of a lesser number of bodies? Such insensitive logic cannot fathom the concepts of war crime victims, crimes against humanity, International humanitarian law and Human Rights law!

Your confusion is manifest elsewhere: you cooperated with the United Nations Commission on Enquiry in 2004 and were quietly happy with its findings which you interpreted as determining you innocent of genocide. At the same time you were confused with how to respond to Resolution 1593 (the referral of the situation in the Darfur to the ICC) subsequently cooperating in the initial period, meeting its staff and submitting documents, even permitting the interrogation of some of your officials. In fact Mr. Gosh, the cooperation of your regime with the process of international justice is much greater than that with which you “accused” us three innocent citizens, and on which basis you subjected us to terror, and through us, the terrorization of millions. Your government was until lately a signatory to the Statute of the ICC since September 2000 and to bilateral agreements concluded under its provisions. You also participated as observers at the ICC Assembly of State Parties until last year.

Mister General Director of the Intelligence and Security Apparatus, the position of Sudan *vis a vis* the ICC must be consistent, as the Statute of the Court consists of principles, systems and mechanisms that humanity has developed for its own progress in order to prevent and punish the most atrocious crimes, and in which task consistency is a vital principle. Based on my belief and chosen profession, I have steadfastly advocated for and spread awareness about the principles of this mechanism of international justice. I reveal no secrets when I mention that since 2004 I have been advocating for the referral of the Darfur case to the ICC as opposed to the activation of the Genocide Convention or the mechanisms of humanitarian intervention. Mister Lieutenant General Director of the Security and Intelligence Apparatus, if your tactic now is to confront, arrest, torture and assassinate everyone who cooperates with the ICC, then logic and consistency dictate that you should begin inside your own home and those of the members of your dominant regime, rather than confronting innocent individuals like ourselves. I would not, however, advise this confrontation as you are likely to be on the losing side.

Mr Gosh, I have not failed to hear the message you have been trying to send through arresting and torturing me and my colleagues. But you know better than I that these messages will not have the intended effect. Your intensified harassment of journalists and war of freedom of expression through the censorship, arrest and interrogation of independent writers, have not worked. These actions have produced only isolation and critique as they make testament to the lack of seriousness of your regime’s commitment to democratic transition and transparency in this country. I think you know, Mister Lieutenant General, to what extent the commitment of your regime and party to protection of freedom of expression is an important criterion in measuring your

credibility with respect to expressed commitments to tackling other obligations such as building peace and justice in Darfur.

This brings me to a second message which you wanted to send through our arrests, this time to members of Sudanese civil society and the human rights movement. I am sorry to say that this effort will also fail. The timing of your current attack on three well known human rights defenders (both nationally and internationally) was an attempt to exploit the ICC as a pretext to found a new wave of harassment of civil society, an opportunity to fissure elements within the independent human rights movement. The history of the Sudanese human rights movement is well known to you as it has paralleled your own ascendancy from the battle for civil and political rights, to the dark time of the ghost houses, the efforts to promote women's rights and crack the walls of racism, to our struggle to unveil the massive violations of human rights in Darfur.

Our arrest and torture also sends another message: your desire to impose your unconstitutional law, a law inconsistent with the web of international conventions to which your regime has committed itself. If you neither fear God nor respect the people of this country, you must at least fear for your survival in the face of these obligations. Resisting will be your doom.

Mr Gosh, I would like to offer some advice, and indeed not only to you but to the Sudanese society and international community and all those concerned with the issue of peace, justice and democracy in Sudan. I think that I am now in a position to offer advice after you raised my profile, a profile which I had always intended to keep low as I prefer to work quietly. My advice does not differ from that from your partners in Government, the Sudan People's Liberation Movement (SPLM), which is to positively cooperate with the ICC, to engage legally with the Court and its Statute on its own terms. I also urge that you generate the genuine political will to implement the following package of measures and commitments:

- achieve a fair political solution that responds practically to the demands of the Darfur people, with clear international and regional participation in the guarantee of its implementation;
- reverse the slow suffocation of the spirit of the Comprehensive Peace Agreement through the full and active implementation of its provisions;
- amend the legislation essential for the democratisation process, particularly the laws regulating the security services and the media in order also to ensure conformity with the Interim National Constitution and international conventions;
- ratify and domesticate the relevant international conventions on human rights;
- guarantee free and fair national elections, safe from any trace of conspiracy, elections with which ensure equal and full geographic representation to all parts of the country, including Darfur;
- strive unceasingly to make unity an attractive option for the people of Southern Sudan, making the issue of development in the South a national priority and firmly shutting the door on the war option, in particular calling a halt to your efforts to destabilise and exacerbate internal tensions;

- revive the suggestion of the SPLM at the Naivasha talks—a suggestion that you had strongly rejected at the time—to begin a comprehensive national process of transitional justice, benefiting from international experience and paying attention to the differences in the Sudanese contexts, in particular the diverse nature of the violations and grievances suffered respectively in the West, South, East, far North and at the Centre, ensuring that this process does not become a pretext for amnesties or the consolidation of impunity, and aiming at the goal of reparation and healing for ongoing historical injustices, especially that of the rampant social and institutional racism that is crippling our national body.

Mister Lieutenant General, this is a package of advice that must be taken as a whole – as we say in the human rights literature: indivisible and interdependent and interrelated.

Finally, in conclusion Lieutenant General Gosh, the day after I was tortured I talked to the BBC. At that time I was unable to move without extreme pain as a result of your torture. The presenter asked me, and it was live, if I would make a formal complaint against the NISS for my loss. My answer was simple: a summary of the package of changes needed in Sudan, the advice I have just offered you, and in the heart of which, you must understand, is implied my right of redress. What might be your answer?

Monim Elgak