

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Working Group on Enforced or Involuntary Disappearances; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24) G/SO 217/1  
SDN 4/2013

16 April 2013

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/16, 15/18, 16/4, 15/21, 16/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **alleged torture of Mr. Hatim Ali Mohammed and the following incommunicado detention and subsequent risk of further torture and ill-treatment as well as the incommunicado detention of Mr. Sharf Eldein Tia.**

Mr. Sharf Eldein Tia is the nephew of Ms. Jalila Khamis Koko, a Nuba women's rights activist who was detained for 10 months before she was released last January 2013. Ms. Khamis Koko was the subject of a joint urgent appeal sent to your Excellency's Government on 12 October 2012, by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of human rights while countering terrorism and the Special Rapporteur on violence against women, its causes and consequences. We regret that no response have been received to date from your Excellency's Government to this communication.

According to the information received:

On 23 March 2013, Mr. Hatim Ali Mohammed, a 25 year old Sudanese engineer, attended a demonstration in the suburbs of Khartoum. It is reported that the demonstration protested the auctioning of essential medical equipment by the Khartoum North Hospital.

According to the source, plain clothes members of the National Security Service (NSS) arrested Mr. Hatim Ali Mohammed during the protest. It is alleged that Mr. Mohammed was detained for several hours, tortured by beating, and subsequently released. He was allegedly ordered to report to the NSS the next day.

On 24 March 2013, Mr. Hatim Ali Mohammed presented himself at the headquarters of the NSS in Khartoum North, as requested by NSS officers. Since then his fate and exact whereabouts as well as the criminal charges against him are not known.

It is reported that Mr. Mohammed remains at grave risk of torture and ill-treatment while in incommunicado detention, and that his current detention marks the fifth time he has been detained for participation in peaceful protests.

It is reported that on 10 April 2013, Mr. Sharf Eldein Tia, the nephew of Ms. Jalila Khmais, a Nuba women's rights activist, was allegedly arrested by eight plain clothes men who identified themselves to be members of the NSS. Since then, the fate and whereabouts as well as the criminal charges against Mr. Sharf Eldein Tia are not known.

Furthermore, as highlighted in communications sent to your Excellency's Government on 6 July 2012 and 3 August 2012, it is reported that over the months of June to August of 2012, hundreds of peaceful protesters and civil society activists were arrested by the NSS in response to a wave of demonstrations that affected many of Sudan's largest cities. The NSS allegedly tortured and otherwise ill-treated many of the detainees by kicking them; beating them with sticks, rubber hoses and fists; making them stand in scorching heat for days at a time; depriving them of food, water and sleep; and forcing them to adopt stress positions. In light of the gravity of the concerns raised, we deeply regret that no response to these communications have been received to date. In addition, it is alleged that in November 2012, NSS agents threw acid on seven high school students from Nyala (Darfur) while in detention, causing severe burns.

Utmost concern is expressed regarding the allegations of torture and the incommunicado detention of Mr. Hatim Ali Mohammed and Mr. Sharf Eldein Tia by the NSS. Further concern is expressed regarding the violent response of the NSS to peaceful protests during the months of June to August 2012.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the forementioned persons is arbitrary or not, we would like to

appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

Furthermore, we appeal to your Excellency's Government to seek clarification of the circumstances regarding Mr. Hatim Ali Mohammed's and Mr. Sharf Eldein Tia's situation. We would stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR and the ICCPR.

With regard to the alleged torture of Mr. Hatim Ali Mohammed, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

In this regard, we note that paragraph 2 of Resolution 16/23 of the Human Rights Council, which "Condemns in particular any action or attempt by States or public officials to legalize, authorize or acquiesce to torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions, and urges States to ensure accountability for all such acts".

In relation to the allegations according to which the fate and whereabouts of Messrs. Hatim Ali Mohammed and Sharf Eldein Tia are currently unknown, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearance which sets out necessary protection by the State, and in particular:

- article 2 (no State shall practice, permit or tolerate enforced disappearances);
- article 3 (each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction); and
- article 10 (right to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest); and

In this regard, we would also like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that "Prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished."

With regard to Mr. Hatim Ali Mohammed's and Mr. Sharf Eldein Tia's alleged activities in relation to the promotion and protection of human rights, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.
- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We would further like to remind your Excellency's Government of article 19 of the ICCPR, that Sudan acceded to on 18 March 1986, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek,

receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

With regard to Mr. Hatim Ali Mohammed’s alleged attendance of peaceful demonstrations in Khartoum, we would also like to appeal to your Excellency’s Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the forementioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the cases accurate?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to these cases.
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Hatim Ali Mohammed and Mr. Sharf Eldein Tia and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR. Please inform where and for how long Mr. Hatim Ali Mohammed and Mr. Sharf Eldein Tia have been detained.
4. Please provide information on the fate and whereabouts of Messrs. Hatim Ali Mohammed and Sharf Eldein Tia. If their fate and whereabouts are unknown, please

provide the details on any investigation or other queries which may have been carried out. If no queries have taken place, or if they have been inconclusive, please explain why.

5. Please provide the full details of any prosecutions which have been undertaken with regard to the alleged torture of Mr. Hatim Ali Mohammed. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators? Please also provide full details of any prosecutions which have been undertaken with regard to the alleged torture and ill-treatment of protestors by NSS personnel during the months of June and August 2012.

6. Please explain what measures have been taken to ensure the non-reoccurrence of such incidents, including communications made to all officers involved in arrest, detention and interrogation that torture and other ill-treatment will not be tolerated under any circumstances.

7. Please explain whether any compensation has been paid or will be paid to the victims.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

We would like to bring to the attention of your Excellency's Government that should sources submit the allegations of enforced disappearances mentioned concerning Messrs. Hatim Ali Mohammed and Sharf Eldein Tia as cases to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Olivier de Frouville  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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