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AUX DROITS DE L'HOMME

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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 Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (107-9) Terrorism (2005-4) G/SO 214 (89-15) Assembly & Association (2010-1)
SDN 7/2012

12 October 2012

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 16/4, 16/5, 15/15, 15/21, and 16/7.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the alleged imposition of the death penalty against Ms. **Jalila Khamis Koko** a teacher, political activist and human rights defender.

According to the information received:

On 15 March 2012, Ms. Jalila Khamis Koko, a member of the Sudan People's Liberation Movement – North (SPLM-N), and the ethnic Nuba tribe from Southern Kordofan, was arrested at her home in Khartoum, by agents of the National Security Services (NSS). She was later transferred to Omdurman Women's Prison near the capital. On 15 September 2012, Ms. Khamis Koko was summoned by the Prosecutor and Khartoum Criminal Court on alleged charges of crimes against the state.

Ms. Khamis Koko has reportedly been charged with the following under the Sudanese Penal Code of 1991: "undermining the constitutional order" (article 50), "espionage against the country" (article 53), "calling for opposition to public authority by use of violence or criminal force" (article 63), "provoking hatred

against or among sects” (article 64), “criminal or terrorist organizations” (article 65), “publication of false news” (article 66) and “joint acts in execution of a criminal conspiracy” (article 21). Five of these charges are categorized as crimes against the state, with two of them carrying the death penalty.

Prior to her arrest, Ms. Khamis Koko was working as a volunteer providing humanitarian support to internally displaced people from Southern Kordofan. In June 2011, when fighting broke out in Southern Kordofan, she reportedly appeared in a Youtube video in which she denounced the conditions in conflict affected areas of the province and called for a ceasefire. According to reports, at that time, security forces rounded up ethnic Nuba suspected to be SPLM members or supporters. In September, when fighting spread to Blue Nile, security forces, including NISS, reportedly arrested more than 100 suspected party members of SPLM-North, including the well-known Sudanese writer, artist, activist, and former state adviser on cultural affairs, Mr. Abdelmoniem Rahma. Some were released following renunciations of their political affiliation to the party. In September the Government also reportedly banned 17 political parties including SPLM-North citing their southern links.

Concern is expressed that the arrest and detention of Ms. Jalila Khamis Koko may be directly related to her peaceful and legitimate work in defence of human rights. Further concern is expressed that her arrest may represent an increasing pattern of detention of SPLM-N activists and intellectuals in Sudan.

We would like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), 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.”

In this connection, 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 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

- article 12 paragraphs 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 like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, which provides that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”. In this regard, the Special Rapporteur on the rights to freedom of peaceful assembly and of association refers to paragraph 84 (c) of his thematic report A/HRC/20/27, in which he recommended States “[t]o ensure that no one is criminalized for exercising the rights to freedom of peaceful assembly and of association, nor is subject to threats or use of violence, harassment, persecution, intimidation or reprisals”.

While we do not wish to prejudge the accuracy of these allegations, we would like to bring to your Excellency’s attention Article 7 (c) of the International Convention on the Elimination of all forms of Discrimination against Women, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

We would, moreover, like to bring to your Excellency’s attention Article 4 (o & p) of the United Nations Declaration on the Elimination of Violence against Women which notes that States should recognize the important role of the women's movement and non-governmental organizations, and should facilitate and enhance their work and cooperate with them at local, national and regional levels.

In this context, we would further like to draw the attention of your Excellency's Government to the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/63/223, paragraph 43), in which the Special Rapporteur emphasizes that "any trial for terrorism offences which could lead to the imposition of the death penalty, as well as all stages before the trial and the consideration of appeals on matter of fact and law after the trial, must rigourously comply with all aspects of a fair trial."

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 case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please indicate whether the arrest, detention and offences faced by the victim are in line with international standards.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Jalila Khamis Koko 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.

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Ben Emmerson

Special Rapporteur on the promotion and protection of human rights and
fundamental freedoms while countering terrorism

Rashida Manjoo

Special Rapporteur on violence against women, its causes and consequences

Frank La Rue

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Maina Kiai

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