

Mandates of the Special Rapporteur on the situation of human rights defenders; the Independent Expert on the situation of human rights in the Sudan; and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE: AL
SDN 7/2015:

28 December 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Independent Expert on the situation of human rights in the Sudan; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 25/18, 27/29, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information received concerning **alleged acts or intimidation and reprisal against three Darfuri students, [REDACTED] and [REDACTED], and a human rights defender and translator, [REDACTED]**, for cooperating with the former Special Rapporteur on violence against women, its causes and consequences during her official visit to the Sudan from 13 to 24 May 2015.

According to the information received:

On Saturday 16 May 2015 at about 14h30, three Darfuri students, [REDACTED] and [REDACTED], and a human rights defender and translator, [REDACTED], as well as members of the Darfuri Student Association met with a staff supporting the former Special Rapporteur on violence against women, its causes and consequences, in the lobby of the Corinthia Hotel in Khartoum, during the official visit of the Special Rapporteur to the Sudan, which took place from 13 to 24 May 2015.

During the meeting, the group was visibly being monitored by members of the National Intelligence and Security Services (NISS), a body of the State of Sudan who had entered the hotel. At some point, a group of more than five officers moved very close to the table where the meeting was being held.

Due to the intimidating presence of these security forces, and feeling unsafe to disclose further information, the students decided to conclude the meeting. As the

group was leaving the hotel, security officers tried to detain [REDACTED] and [REDACTED] in front of the hotel. As all three students and the human rights defender and translator loudly protested this action, the security officers brought the men back to the lobby while pushing and pulling at them. Some of the security officers subsequently became very aggressive and attempted to pull both men into the stairwell and down into the basement, in an alleged attempt to remove them from the hotel. It is reported that during the incident, the security officers said to them: "the UN are here for five more days". Threats were also made against the two women who were trying to prevent their colleagues from being detained.

When the Special Rapporteur arrived and asked on what basis the two students were being detained, the security officers refused to respond to her. They instead proceeded to put [REDACTED] and [REDACTED] in the back of an unmarked pickup truck, parked at the entrance of the hotel, and drove off. The two students were reportedly taken to a police station and remained in custody for about 7 hours, during which time police officers took their detailed information.

Due to the intervention of the Special Rapporteur who called the Ministry of Foreign Affairs, the students were eventually released without charges.

It was reported that between 21 and 27 May 2015, [REDACTED] received three phone calls threatening him and asking for information about [REDACTED], the nature of their relationship, her phone number and address. As a result of these calls, [REDACTED] decided to change his SIM card, however he continued to feel threatened. In October 2015, he was followed and harassed by unknown individuals who called him by his name on the campus and in the street. As a consequence of these threats, [REDACTED] decided to leave the university.

On 18 May 2015, [REDACTED] allegedly received a phone call from an agent of the NISS threatening to kill him if he did not stop working on human rights issues in Darfur, specifically saying "see what [REDACTED], just like we arrested you and your friend [REDACTED] before we can kill you at any street in Khartoum, we can do anything we want, now that the foreigners who were supporting you have left" and ordered him to leave Khartoum, to which [REDACTED] replied that he "will leave Khartoum forever". The agent in turn added that if he did not do what he ordered him, he would be killed at any time in front of everybody.

On 21 May 2015, [REDACTED] left Khartoum. However, it is alleged that his friends still received messages from unknown numbers threatening that he would be killed. Furthermore, it was reported that on the day of his arrival to his family house in Darfur, four security agents visited his family and said to his father that he "became an agent of foreign organizations and that [he] has to stop any political or cultural activity otherwise the Government will punish [him] severely for it".

Two weeks later, whilst with a friend at the market place in [REDACTED], Western Darfur, an officer from the National Military Service Department, a body of the State, allegedly asked [REDACTED] to follow him and took him to their office where he was told that if he criticised the Government in Khartoum, he would be tortured close to death. He was subsequently ordered to leave their office.

It is further alleged that on 2 October 2015, four security agents went again to [REDACTED] family house looking for him, however, he was not there at that time. When he returned home three days later, one of them called him stating that next time he wanted to leave his family house, he needed to have permission. During the phone call, the security agent also asked about the whereabouts of [REDACTED], and threatened that "she will be punished for betraying her homeland".

Following the visit of the former Special Rapporteur on violence against women, [REDACTED] was also threatened and decided to leave the university and Khartoum.

Prior to the official visit of the former Special Rapporteur, the students had previously been victims of threats and torture by security agents due to their ongoing activism as members of the Darfuri Student Association.

Grave concern is expressed at the reported acts of intimidation and reprisal against [REDACTED] and [REDACTED] for their cooperation with the former Special Rapporteur on violence against women, its causes and consequences during her visit to the country. Serious concern is further expressed at the reports that, as a consequence of these acts, [REDACTED] and [REDACTED] have had to discontinue their university studies. We remain concerned about the well-being of all four individuals, who have allegedly continued to receive threats to their wellbeing and safety.

Serious concern is further expressed regarding the wider atmosphere of fear faced by human rights defenders in the country when reporting on human rights violations, in particular when it concerns gender-based violence, which risks having a chilling effect on the work done by human rights defenders in the Sudan.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide the details, and where available the results, of any administrative and/or judicial investigation, or any criminal charges and/or administrative sanctions and other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.

[REDACTED] Please provide information concerning the measures that may have been taken to guarantee the psychological and physical security of [REDACTED]

[REDACTED] and [REDACTED]

4. Please provide information regarding allegations indicating that the aforementioned persons are under surveillance and suffer harassment by security agents.
5. Please indicate what measures have been taken to ensure that the legitimate right to interact with international bodies, in particular with the United Nations in the field of human rights, without fear of acts of intimidation or reprisal is respected and that the physical and psychological integrity of those exercising this right is guaranteed.
6. Please provide information as to the measures that are in place to ensure in practice that the four persons mentioned above may report, to national and international bodies or mechanisms, any instances of physical or psychological pressure exerted against them without fear of facing reprisals of any sort from the security agents.
7. Please kindly indicate what measures have been taken to ensure that human rights defenders in Sudan are able to carry out their legitimate work in a safe and enabling environment without fear of reprisals, threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Michel Forst

Special Rapporteur on the situation of human rights defenders

Aristide Nononsi

Independent Expert on the situation of human rights in the Sudan

Dubravka Šimonovic

Special Rapporteur on violence against women, its causes and consequences

Annex
Reference to international human rights law

In this context, we would like to refer your Excellency's Government to 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5, 6 a), 9 and 12 2) and 3).

We would like to recall Article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women.

The Special Rapporteur would like to bring to Your Excellency's attention Article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (c), which provides for the right to communicate with non-governmental or intergovernmental organizations;
- article 9, paragraph 4, point a), which provides for the right to unhindered access to and communication with international bodies;

article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone 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 addition, we would like to recall the Human Rights Council Resolution (A/HRC/RES/12/2) on cooperation with the United Nations, its representatives and mechanisms in the field of human rights which, inter alia, urges "governments to prevent and refrain from all acts of intimidation or reprisal against those who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them;... condemns all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights;... calls upon States to ensure adequate protection from intimidation or reprisals for individuals and members of groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, and reaffirms the duty of all States to end impunity for such actions by bringing the perpetrators, including accomplices, to justice in accordance with international standards and by providing an effective remedy for their victims".

We would also like to refer to Human Rights Council Resolution 24/24 which calls on States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its mechanism and representatives in the field of human rights;

We would also like to refer to Human Rights Council Resolution 22/6, which provides for the right to "unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms". (OP 13)

