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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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

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 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: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)
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Excellency,

We have the honour to address you in our capacities as 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 resolution 16/4, 15/21, 16/5, and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the alleged **excessive use of force during peaceful demonstrations and the alleged torture and ill-treatment of detainees**.

According to the information received:

On 16 June 2012, a group of female students at Khartoum University held a protest in their dorm against the rising cost of food and other basic commodities in Sudan, reportedly due to government austerity measures. Police allegedly entered the dorm and dispersed the students using tear gas and batons, several of whom were reportedly injured during the incident.

Several protests reportedly took place during the following week in numerous areas of Khartoum, neighboring cities Khartoum North and Omdurman, as well as other cities and universities across Sudan including Madani, Sennar, Gedarif, Port Sudan, Hasahisa and Blue Nile University in Damazin.

Groups of pro-government students allegedly co-operated with security forces and police on several occasions to forcibly disperse and arrest peaceful student protestors, including through the use of sticks and iron bars.

It is reported that many of those protestors arrested were subjected to acts of torture and ill-treatment in detention, including sexual abuse and beatings. Several female protestors were allegedly threatened with rape and subjected to violence.

On 17 June 2012, police allegedly arrested and charged seven student protestors. The following day twenty five students were reportedly arrested at Khartoum University campus and charged. During the arrests, three students were allegedly injured due to the use by police of teargas and batons.

On 18 June 2012, agents from the National Security Service (NISS) reportedly raided the offices of opposition party the New Democratic Movement in Khartoum. Equipment was allegedly seized and several members were arrested, most of whom were reportedly released some hours later.

On 20 June 2012, the Vice-President of the Sudanese Association for Rights and Freedoms was reportedly arrested at his home in Khartoum. That same night, police and security forces allegedly beat protestors who had gathered outside the headquarters of the Umma political party in Omdurman and shot a rubber bullet into the crowd, injuring at least one protester.

On 22 June 2012, it is reported that NISS agents raided the offices of the Sudanese Conference Party and arrested the Political Secretary along with five other members.

On 22 June 2012, widespread demonstrations took place in several neighbourhoods in Khartoum. Agents from the NISS and riot police were reportedly deployed and used teargas and rubber bullets to disperse the protestors.

On 24 June 2012, a pro-government group allegedly threw explosives in glass bottles at student protestors at Khartoum University.

On 29 June 2012, several demonstrations reportedly took place in Khartoum and in at least twelve other towns. In the ad Nubawi area of Omdurman, it is reported that security forces from the NISS fired teargas inside a mosque before worshipers could escape. Approximately 300 protestors were allegedly violently dispersed and many were injured.

According to the information received, security forces from the NISS and police arrested approximately 1,000 protestors since the protests began on 16 June, including members of political parties and prominent youth groups. Some protestors were reportedly released on the condition that they signed a declaration to cease all demonstrations, while others have allegedly been charged for participating in the protests.

It is reported that those protestors still in detention are at risk of torture and ill-treatment, including Ms. **Rashida Shams al-Din**, who was reportedly arrested on 24 June and is being detained incommunicado by the NISS in an undisclosed location. Rashida Shams al-Din is a member of youth movement *Girifna*, which has been active in leading protests against the Sudanese Government in recent weeks.

Concerns are expressed that the aforementioned allegations of excessive use of force by law enforcement officials against peaceful protestors could be related to their dissenting views and their legitimate exercise of fundamental freedoms. Serious concerns are expressed that the arrest, torture and ill-treatment of protestors, including Ms. Rashida Shams al-Din, may be solely based on the peaceful exercise of their rights to freedom of assembly and freedom of opinion and expression.

While we do not wish to prejudge the accuracy of these allegations, 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, and in particular to the 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.

With regards to youth defenders taking part in demonstrations, we would like to refer to the 2007 report to the General Assembly (of the Special Representative of the Secretary-General on the situation on human rights defenders) in which she recommends to "take steps to create a conducive environment that allows children and young adults to

associate and express views on matters affecting them as well as on broader human rights issues. Student protests have a high educational value as they are among the first experiences of public participation and human rights defense of students. Ensuring a conducive environment for student protests is a social investment in addition to a legal obligation” (A/62/225, paragraph 101 b).

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) of the Special Representative of the Secretary-General on the situation of human rights defenders and in particular to paragraph 98 which states that “in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials”.

We would also 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.”

We would 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 interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that “Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... 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.”

We would also like to draw your Excellency’s Government attention to the following article of the report A/HRC/27/21/add. 3 of the Special Rapporteur on the

rights to freedom of peaceful assembly and of association: “When there is still credible information that a violent counter-demonstration may take place, greater efforts are required to ensure adequate protection for the members of the first assembly planned. In this connection, the State has a positive obligation to ensure that the right of peaceful assembly is protected against any disruption or provocation.”

Furthermore, we should like to appeal to your Excellency’s Government to seek clarification of the circumstances regarding the cases of the persons mentioned above. We would like to 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.

We would also like to draw your Excellency's Government’s attention to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” Furthermore, Principle 5 provides that, “Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.” (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990).

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:

1. Are the facts alleged in the above summary of the cases accurate?
2. Please indicate which measures have been taken to ensure that those exercising their right to freedom of peaceful assembly were protected against counter demonstrators during protest, notably during the one that took place on 24 June 2012.
3. Please provide the full details of the legal basis for the use of force during several peaceful demonstrations that took place on 17, 20, 22 and 29 June 2012.
4. Please provide information concerning the legal grounds for the raids against the offices of the New Democratic Movement and the Sudanese Conference Party and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights

5. Please provide the full details of the legal basis on which the President of the Sudanese Association for Rights and Freedoms as well as the Political Secretary and members of the Sudanese Conference Party were arrested.

6. Please provide information on the measures taken to ensure the physical and psychological integrity of Ms. Rashida Shams al-Din and other detainees.

7. Please indicate what measures have been taken to ensure that the legitimate right to meet and assembly peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report 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 the above mentioned persons 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.

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freedom of opinion and expression

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