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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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 Independent Expert on the situation of human rights in the Sudan; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) Sudan G/SO 214 (33-27) G/SO 214 (53-24)
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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; 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; Independent Expert on the situation of human rights in the Sudan; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 15/18, 16/16, 16/4, 15/21, 16/5, 21/27, 17/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding a series of demonstrations that took place in different cities of Sudan from 23 September to 6 October 2013.

According to the information received:

Several demonstrations took place in various cities from 23 September to 6 October 2013. They started in Sudan's central state of Gezira to protest against the Government's decision to suspend subsidies on fuel, and have reportedly spread later to other parts of the country, including Khartoum, Atbara, Gadarif, Kosti, Nyala, Omdurman, Port Sudan, Sinnar, and Wad Medani.

The Ruling National Congress Party has allegedly portrayed the demonstrations as riots and unauthorized gatherings "aimed at looting and damaging property".

Violent dispersal of assemblies

Sources refer to an excessive and disproportionate use of force, notably the use of live ammunitions and tear gas, and the intentional use of lethal force, by the Sudanese security forces to disperse peaceful demonstrations. An estimated two hundred demonstrators have been reportedly killed by gunshot wounds, the majority of which in the upper torso and head, including two in the back. However, the number of casualties could be higher.

On 24 September, the Sudanese police reportedly killed a mechanic worker and spectator of the demonstrations working in the Althawra area of Omdurman. On 25 September 2013, the Sudanese police reportedly shot and killed **Ayman Salah Ibrahim**, a 14 years old child, during a demonstration in Khartoum Bahri, and prevented demonstrators from giving assistance to him. Moreover, on 26 September, a National Intelligence and Security Services (NISS) officer allegedly shot and killed Mr. **Musab Mustafa**, an artist aged 29 who was filming the demonstrations, in the Banat area of Omdurman. The said officer then approached the lifeless body and shot him again twice at close range. The same day, Mr. **Tariq Sediek**, a 20-year old protestor was allegedly killed by a bullet; and Mr. **Abdulagadir Rabeia**, aged 29, and Mr. **Baldr Eldein Ahmed**, aged 21, were allegedly shot and killed during demonstrations in Hajyousif. Additionally, on 26 September, the Sudanese police reportedly killed a food vendor of Ethiopian nationality and bystander of the demonstrations working in the Alshajara neighborhood of Khartoum.

Arrests and charges

Since 22 September 2013, the NISS and the Sudanese police have arrested at least 800 people throughout the country, including political activists, opposition party members, human rights defenders and journalists.

So far it has been possible to identify 13 known political activists and human rights defenders who have reportedly been arrested by the NISS from their homes or offices, and allegedly been held incommunicado:

1. Mr. **Ibrahim Al Shaik**, president of the Sudanese Congress Party.
2. Mr. **Sidig Yousif**, member of the Sudanese Communist Party and leader in the coalition National Consensus Forces, arrested at 22:00 on 22 September in Omdurman.
3. Mr. **Adam Suliman**, Popular Congress Party, arrested on 24 September.
4. Mr. **Marghani Atta Almanan**, member of the Communist Party and trade unionist, arrested on 23 September in Omdurman.

5. Mr. **Mohaid Sidig**, human rights defender, prominent member of Change Now, arrested at 21:00 on 23 September in Al Halfaia, Khartoum Bahri. The NISS confiscated his wife's laptop and other personal effects.
6. Mr. **Amjad Faried**, human rights defender, prominent member of Change Now, arrested on 1 October in Khartoum.
7. Ms. **Dalia Alrobi**, human rights defender, prominent member of Nafeer, arrested on 30 September in the Amarat area of Khartoum.
8. Mr. **Alfatih Saliem**, member of the Arab Nasserist Party, arrested on 25 September in Wad Medani.
9. Mr. **Shiekh Ahmed Altyeb Zain Alabdien**, member of the Alsmania group of Sufi Muslims.
10. Mr. **Almahi Mohamed Suliman**, member of the Sudanese Congress Party, arrested on 1 October in Sennar, White Nile state.
11. Ms. **Maha Yahya**, member of the Sudanese Congress Party, arrested on 1 October in Sennar, White Nile state.
12. Mr. **Adam Mohamed Sharif**, member of the Sudanese Communist party, arrested at midnight on 26 September in Nyala, South Darfur.
13. Mr. **Mohamed Hassan Alim**, member of the Ba'athist opposition party, arrested in Al Haj Yousef, Khartoum Bahri.

Furthermore, it is reported that on 24 September, Mr. **Magdi Saleem**, a 67-year old lawyer and human rights activist, was arrested in Wad Medani after taking part in demonstrations. He was reportedly held in Al Sariya detention center in the south west of Wad Medani before being moved to an undisclosed location.

Moreover, we received information that on 26 September the Sudanese security forces carried on house arrests operations in different Khartoum state areas targeting protestors and human rights activists from the age of 16 years-old.

On 28 September, the NISS arrested two journalists, Mr. **Abdelatif Aldaw** and Ms. **Amal Habani**. At the moment of the arrest, the former was in Al Gadarif, in the North Kordofan State, the latter in street 60 in Khartoum.

In addition, raids of Sudanese security forces were reported in houses of ordinary families, not linked to human rights defenders or political leaders, in the areas of Alkalakla, Hajyousif, Ombada, Mayo, Shambat, Alkadrow, Aldroshab, and other areas in Karthoum. It is alleged that minors from the age of 14 years were detained and taken to unknown places. On 29 September at 12:00, **Alamein**

Awad and **Ibrahim Botrus Orban** were allegedly arrested from their houses in Hajyuosif and their family members were severely beaten.

On 26 September 2013, **Majid Mohamed Ali**, a resident of Althoura in Omdurman participating in the protests and arrested on 25 September 2013, was found dead at Omdurman Hospital.

It is brought to our attention that in most cases the detainees have allegedly been held incommunicado and denied access to medical care, and that provisions of the 2010 National Security Act allow NISS facilities to have custody extended for up to four and a half months without charges or judicial review.

It is alleged that the majority of the at least 800 detainees remain in NISS custody and have not been charged with any criminal offence. In addition, the Sudanese Minister of Justice, Mr. Mohamed Bushara Dousa, would have reportedly announced that no detainee arrested by the police in connection with the demonstrations would be granted bail.

On 24 September 2013, eight arrested demonstrators were reportedly sentenced without legal representation for disturbance of public space, and 77 were sentenced to twenty lashes and a fine of 200 Sudanese pounds for public nuisance following their participation in peaceful demonstrations in the Al Abassia area of Omdurman the evening before. .

Medical access hampered

The NISS and the Central Reserve Forces (CRF) reportedly blocked access to Khartoum hospitals and arrested injured demonstrators, their families and friends on their way to the hospital, deterring people from accessing medical treatment or verifying reported injuries and deaths. In addition, it is reported that medical doctors have been harassed and threatened by the authorities. The NISS summoned **Dr. Ussama**, director of the Omdurman hospital, after he gave an interview to the media about the number of dead and injured in his hospital, and arrested on 25 September two medical doctors in Kosti, **Dr. Adil Sidig** and **Dr. Omer Fagiri**. According to sources, medical doctors in public hospitals that have refused to obey orders not to treat protesters have been replaced by health personnel from the ruling party or working with the Sudanese security.

Intimidation of the media

The authorities have allegedly severely increased restrictions on freedom of expression. On 25 September, the NISS allegedly summoned editors of several newspapers and ordered them not to publish any article related to the demonstrations or the rise in fuel prices unless the information came from the Sudanese police or the NISS. This allegedly resulted in the resignation of three journalists from the Al Sahafa newspaper.

It is alleged that three newspapers, *Al Ayaam*, *Al Garar* and *Al Gerida*, decided go on strike from 25 September to 27 September as a sign of protest against the media censorship. On 26 and 27 September, the NISS allegedly confiscated the print copies of *Al Sudana*, *Al Mijhur* and *Al Watan*. On 28 September, the NISS allegedly suspended the pro-government *Al Intibaha* newspaper indefinitely without any reason.

According to sources, the NISS has summoned several journalists for questioning, including Mr. **Tarig Altigani**, international correspondent for Arabic Sky News, on 24 September and, Mr. **Saad Hassan**, international correspondent of *Al Arabiya* TV in Khartoum on 27 September.

Political parties

Since the start of the aforementioned demonstrations, political parties have reportedly not been allowed to hold meetings at their offices, which have been frequently raided by security forces in the last weeks.

Grave concerns are expressed about the alleged disproportionate use of force by the Sudanese security forces to disperse the aforementioned demonstrations. Similar concerns are expressed for the physical and psychological integrity of those held in custody since the start of the demonstrations - with no or only limited access to legal assistance and medical care, held without charges or judicial review, and/or kept incommunicado, in particular minors, women, political activists and human rights defenders arbitrarily arrested in connection with their role in the recent peaceful demonstrations and in documenting violations. Further concerns are expressed that the alleged charges levied against individuals in connection to the recent demonstrations fail to meet the right to a fair trial standards. Concerns are also expressed about restrictions on the access to medical treatment for wounded demonstrators, and the alleged harassment of the medical staff who treated protestors. Finally, concerns are expressed about the acts of intimidation against the media and political parties in connection with these protests.

While we do not wish to prejudice the accuracy of these allegations, we wish to draw the attention of your Excellency's Government on the principles set forth in the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights (ICCPR), to which Sudan acceded to on 18 March 1986. Articles 3 and 6 (1) of these instruments respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life. Furthermore, we would also like to refer to the principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, (resolution 1989/65 Economic and Social Council) which underlines that Governments "shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances (...)". Moreover, principle 18 underlines that "Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary

or summary executions in any territory under their jurisdiction are brought to justice. Governments shall either bring such persons to justice or cooperate to extradite any such persons to other countries wishing to exercise jurisdiction. This principle shall apply irrespective of who and where the perpetrators or the victims are, their nationalities or where the offence was committed.”

Moreover, we would like to remind your Excellency’s Government of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (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). In particular, principle 12 provides that “everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the UDHR and the ICCPR, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.” These provisions restrict the use of firearms to situations of violent assemblies and provide that force and firearms may only be used as a last resort when unavoidable and require exercising the utmost restraint.

Without expressing at this stage an opinion on whether the detention of the abovementioned 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 UDHR and articles 9 and 14 of the ICCPR.

In relation to the allegations according to which the demonstrators have been held incommunicado and some of them have been transferred to unknown places, we would like to bring to the attention of your Excellency’s Government the United Nations Declaration on the Protection of All Persons from Enforced Disappearance with sets out necessary protection by the State, and in particular:

- 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);

We would also like to draw the attention of your Excellency’s Government to paragraph 7.c of Human Rights Council Resolution 8/8 of 18 June 2008, which reminds all States that “[p]rolonged incommunicado detention may 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”.

Furthermore, we would like to refer your Excellency’s Government to article 19 of the ICCPR, which provides that “[e]veryone 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 also wish to reiterate the principle enunciated by Human Rights Council Resolution 12/16, which calls on States, while noting that article 19, paragraph 3, of the ICCPR provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on (ii) the free flow of information and ideas, including practices such as the banning or closing of publications or other media and the abuse of administrative measures and censorship.

Furthermore, we would like to refer to article 21 of the ICCPR, which provides that “[t]he 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.

Similarly, we would like to refer to article 22 of the ICCPR which states that “[e]veryone shall have the right to freedom of association with others...”.

We would also 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 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 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 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 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.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) of the then 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”.

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 above-mentioned persons in compliance with the above international instruments.

Moreover, since 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 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 present communication accurate? ;
2. Please provide information on the orders concerning the use of force and whether it is compatible with international standards on the use of force and firearms.
3. Please indicate the legal basis of the arrest and detention of the mentioned individuals, and how such measures are compatible with international human rights norms and standards as mentioned above.
4. Please indicate the legal basis of the sentences applied against demonstrators, and how such measures are compatible with international human rights norms and standards as mentioned above.
5. Please provide information on the whereabouts of the detained individuals and clarify whether their families have been informed of their places of detention, including transfers.
6. Please indicate whether the detainees have been given access to their lawyers and families and whether they have been provided with medical treatment.
7. Please indicate the rules concerning custody, including custody time limits, and how such measures are compatible with international human rights norms and standards as mentioned above.
8. Please reveal Magdi Saleem's current location.
9. Please provide details, and where available results, of any inquiries, medical examination, and judicial or other inquiries carried out in relation of the death of Majid Mohamed Ali. If no inquiries have taken place, or if they have been inclusive, please explain why.
10. Please clarify whether compensation has been made available to the families of the victims identified;
11. Please indicate the legal basis for the use of media and newspapers censorship, and how such measure complies with international human rights norms and standards as mentioned above;
12. Please indicate the legal basis of the prohibition for political parties to held meetings at their offices, and how such measures are compatible with international human rights norms and standards as mentioned above.

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 prevent the recurrence of these acts, and to ensure that in the event that your investigations support or suggest the above allegations to be correct, any person responsible of the alleged violations should be held accountable.. 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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