

Mandates of the Special Rapporteur on the rights of persons with disabilities; the Independent Expert on the situation of human rights in the Sudan; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the rights of persons with disabilities; Independent Expert on the situation of human rights in the Sudan; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 26/20, 30/18, 26/12, 22/8 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **death sentence against 22 South Sudanese nationals on 6 April 2016**.

According to the information received:

During the disarmament and demobilization process that followed the peace agreement (signed on 6 April 2013) between the Government of Sudan and the Justice and Equality Movement – Dabajo Wing (JEM-Dabajo), in 2014 the Government of Sudan identified 25 South Sudanese nationals among the former ranks of JEM-Dabajo that were participating in the demobilization program in El Fashir, Sudan. The Government of Sudan then contacted the Government of South Sudan to have the 25 alleged former fighters repatriated, and an official South Sudanese delegation traveled to El Fashir on 22 December 2014 in order to facilitate their repatriation. However, Sudanese Armed Forces arrested the group

We would like to express serious concern that the death penalty may be carried out against the 22 men mentioned above, whose charges do not meet the threshold of "most serious crimes". We are further concerned that three of the men were underage when the crimes allegedly occurred, and that the judicial procedures may not fulfill the most stringent guarantees of fair trial and due process, particularly in connection to access to interpreters.

In view of the urgency of the matter, and of the irreversibility of the punishment of the death penalty, **we call upon your Excellency's Government as a matter of urgency to annul the death sentence against the 22 men mentioned above**, which on the facts available to us may constitute a violation of applicable international human rights standards, and thus an arbitrary execution.

Without making any judgment as to the accuracy of the information made available to us, the above allegations appear to be in contravention of the right of every individual to life, liberty and security as set out in article 3 of the Universal Declaration of Human Rights (UDHR), article 6.1 of the International Covenant on Civil and Political Rights (ICCPR), accessed by Sudan on 18 March 1986, and article 10 of the Convention on the Rights of Persons with Disabilities, ratified by Sudan on 24 April 2009. The allegations would also contravene article 37(a) of the Convention on the Rights of the Child, ratified by Sudan on 3 August 1990, and article 6 (5) of the ICCPR, which expressly prohibit the imposition of the death penalty for offences committed by persons below eighteen years of age.

We would like to draw the attention of your Excellency's Government attention to article 6(2) of the ICCPR which states that the sentence of death may be imposed only for the most serious crimes. This provision has consistently been interpreted by the Human Rights Committee to mean that the death sentence may only be imposed in respect of intentional killing. Furthermore, article 6.4 of ICCPR establishes that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Moreover, article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides that capital punishment may only be carried out following a legal process which gives all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages of the proceedings. Only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution. In addition, article 6 of the Safeguards stipulates that anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.

Furthermore, any judgments imposing the death sentence and executions of juvenile offenders are incompatible with the international legal obligations undertaken by your Excellency's Government under various instruments and amounts to cruel, inhuman and degrading punishment, which is prohibited inter alia in the Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as customary international law. We would furthermore like to draw your attention to the 2012-report of the Special Rapporteur on torture (A/67/279, para. 64) in which it is stated that the execution of persons who have a psychosocial disability is per se a violation of an existing norm of customary international law.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 international instruments.

Your Excellency's Government's response to this communication 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.

Catalina Devandas Aguilar
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Aristide Nononsi
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