

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

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; the Independent Expert on the situation of human rights in Somalia; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (33-27)
SOM 6/2013

5 December 2013

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; Independent Expert on the situation of human rights in Somalia; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 16/4, 24/5, 16/5, 24/30, and 17/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning Mr. **Adan Salah Abdalla**, a human rights monitor who worked for the local human rights organisation, Iniskoy for Peace and Development Organization (IPDO). Mr. Abdalla was based in Hudur district of Bakool region of Somalia since 2010.

According to information received:

On the evening of 21 July 2013 armed members of the militant group, Al-Shabaab allegedly went to the house of Mr. Adan Salah Abdalla in Hudur district of Bakool region where he was based and seized him accusing him of spying. They also allegedly seized his desktop computer.

On 15 August 2013, Al-Shabaab militant group reportedly transferred Mr. Adan Salah Abdalla to Diinsoor district of Bay region.

According to sources, on 14 September 2013, relatives of Mr. Abdalla travelled to Diinsoor district. On 16 September, they were informed by the Al-Shabaab militant

group that administers Hudur and Diinsoor districts that Mr Adballa was not in their custody.

On 17 September 2013, elders from Mr. Adan Salah Abdalla's clan met with the Al-Shabaab militant group administration in Hudur district who allegedly stated that Mr. Adan Salah Abdalla was somewhere in Diinsoor district and that no action had been taken with respect to his case. The Al-Shabaab militant group allegedly denied the relatives, including the wife, access to Mr Adan Salah Abdalla, and allegedly stated that they would look into Mr. Adan Salah Abdalla's case to verify the reasons for his arrest; they further committed to report back to the family on 19 September.

On 19 November 2013, the Al-Shabaab militant group reportedly called Mr Adan Salah Abdalla's father to inform him that his son, Mr. Adan Salah Abdalla had died and that he should collect his body.

On 21 November, the clan elders and relatives of Mr. Adan Salah Abdalla met with Al-Shabaab militant group to gather additional information about the circumstances surrounding the death of Mr Adan Salah Abdallah. The Al-Shabaab militant group allegedly stated that they had found evidence on Mr. Adan Salah Abdalla's seized computer such as reports, photos and video recordings of the militant group arresting, lashing or executing people which they believed served as proof that he had monitored their activities.

Grave concern is expressed that the killing of Mr. Adan Salah Abdalla may be directly related to his peaceful and legitimate human rights activities. Further concern is expressed about the security and physical and psychological integrity of other human rights defenders in Somalia.

While we do not wish to prejudge 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), acceded by Somalia on 24 January 1990. 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. (...)"

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 further like to refer to 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 connection, we would 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."

We would also 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 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- 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.

Regarding the allegations received indicating that the perpetrators of the violations reported are non-State actors, we would like to call to the attention of Your Excellency's Government the Human Rights Council Resolution A/HRC/RES/13/13 of 15 April 2010, which recognizes "the immediate need to put an end to and take concrete steps to prevent threats, harassment, violence, including gender-based violence, and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms for all" as well as to adopt the necessary measures to prevent such acts. In this Resolution the Human Rights Council also "urges States to promote a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity".

Furthermore, the Special Rapporteur on the situation of human rights defenders, in her report to the General Assembly A/65/223 of 4 August 2010, stated that "the responsibility of non-State actors to respect the rights of human rights defenders does not relieve the State of its obligations under human rights law to respect, protect and fulfil human rights, including those of human rights defenders. (...) The Special Rapporteur argued that the State's obligation to protect "first, involves ensuring that defenders do not suffer from violations of their rights by non-State actors. Failure to protect could, in particular circumstances, engage the State's responsibility. Secondly, States should provide defenders victims of human rights violations with an effective remedy. To that end, all violations of the rights of defenders should be investigated promptly and impartially and perpetrators prosecuted. Fighting impunity for violations committed against defenders is crucial in order to enable defenders to work in a safe and conducive environment."

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:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged on behalf of the alleged victim?
3. Please provide the details, and where available the results, of any investigation, 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 provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please provide the full details of any protective measures which have been put in place, or are going to be put in place to ensure the physical and psychological integrity of human rights defenders in Somalia so that they carry out their work without fear of intimidation, threats or reprisals.

6. Please indicate whether compensation has been made available to the family of the victim.

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 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.

Frank La Rue
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Shamsul Bari
Independent Expert on the situation of human rights in Somalia

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

