

**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 Chair-Rapporteur of the Working Group on Arbitrary Detention; 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**

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)  
SDN 1/2012

15 February 2012

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; 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 General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/4, 15/21, 16/5 and 16/23.

In this connection, we would like to bring to your Excellency's Government attention to information we have received concerning **alleged arbitrary arrest and excessive use of force against peaceful protesters**.

According to the information received:

On 22 December 2011, police and internal security forces violently dispersed a largely peaceful demonstration at Khartoum University, where students gathered in support of Manaseer, an ethnic group that was forcibly displaced by the construction of the Merowe dam. Police forces reportedly used teargas and batons to break up the demonstration and injured numerous protesters. Several students were subsequently arrested.

On 25 December 2011, a sit-in to protest the violence of 22 December took place on the campus of Khartoum University. It is alleged that the police used excessive

force and that 70 students were reportedly arrested. Most of them were reportedly released quickly.

On 30 December 2011, Mr. Taj Alsir Jaafar, a student activist was arrested by security forces in Khartoum. He is believed to have been arrested for participating in student protests from mid-December 2011 into January 2012. According to the information received, he is being held at the Kober prison in Khartoum without any access to lawyers nor family.

It is reported that security officials have, over the past year, violently broken up several demonstrations taking place at universities in various cities. According to the information received, security forces arrested more than 250 people during demonstrations, news conferences, political party meetings, and private homes between September and December 2011. Some of the demonstrations are about other issues such as the death of Dr. Khalil Ibrahim (head of the Justice and Equality Movement) and the student union elections.

Should this information be corroborated, concern is expressed that the aforementioned allegations of excessive use of force by law enforcement officials against peaceful protesters could be related to their dissenting views and legitimate exercise of fundamental freedoms. Concern is also expressed that the arrest of Mr. Taj Alsir Jaafar may be related to its legitimate exercise of his right to freedom of peaceful assembly. Grave concern is further expressed that these allegations could form part of a widespread systematic policy to prevent activists and human rights defenders from expressing their dissenting views, including those who may be critical of actions and policies of the Government.

Without expressing at this stage an opinion on the facts of the case and 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 Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights

Furthermore, without in any way implying any conclusion as to the facts of the case, we urge your Excellency's Government to take all necessary measures to guarantee that the rights to freedom of assembly be respected. We wish to appeal to your Excellency's Government to ensure that the right to freedom of peaceful assembly, as recognized under article 21 of the International Covenant on Civil and Political Rights (ICCPR), is enjoyed free of arbitrary restrictions. In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular paragraph 7 of the preamble, where it recognizes that, "exercising the rights to freedom of peaceful assembly and of

association free of restrictions, subject only to the limitations permitted by international law, in particular international human rights law, is indispensable to the full enjoyment of these rights, particularly where individuals may espouse minority or dissenting... political beliefs”. In this context, we would like to recall operative paragraph 1 of the same resolution 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 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 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.”

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 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; and

- 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 Special Representative of the Secretary-General on the situation of human rights defenders and in particular to paragraph 98 which stated 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.”

While we do not wish to prejudge the accuracy of these allegations, we would like to draw your Excellency’s Government attention to paragraph 14 of General Comment No. 26 of the Human Rights Committee, which provides that, “Complaints must be investigated promptly and impartially by competent authorities so as to make the remedy effective”.

With regard to youth defenders taking part in demonstrations, we would like to refer to my/the 2007 report to the General Assembly of my predecessor in his mandate 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, para. 101 b)”.

We urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of the peaceful protesters are respected and that accountability of any person guilty of the alleged violations is ensured. We also request

that your Excellency's Government adopts effective measures to prevent the recurrence of these acts.

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 summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the injured protesters?
3. Please provide information concerning the legal grounds for the use of force and how these measures are compatible with international human rights law.
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to these incidents.
5. Please indicate the legal basis of the arrest and detention of Mr. Taj Alsir Jaafar. Please indicate how these measures are compatible with international norms and standards as contained inter alia in the International Covenant on Civil and Political rights and the Universal Declaration of Human Rights.
6. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken; have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
7. Please indicate what measures have been taken to ensure that the legitimate right to meet and assemble peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

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.

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

El Hadji Malick Sow  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Frank La Rue  
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freedom of opinion and expression

Maina Kiai  
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