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HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

UNITED NATIONS
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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (33-27) G/SO 214 (53-24)
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22 February 2013

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/4, 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 Mr. **Bakri Moussa Mohammed**, a darfuri activist, who is reportedly scheduled to be executed in Khartoum.

According to information received:

In 2009, Mr. Moussa Mohammed, a community activist in the Kalma camp for displaced people in South Darfur was arrested. Moreover, it is alleged that in 2010 Mr. Moussa Mohammed was sentenced to 10 years of imprisonment for alleged murder, as retaliation for his activism. It is reported that he maintains his innocence.

On 31 December 2012, an officer of the Kober prison in Khartoum informed Mr. Moussa Mohammed, that his punishment had been revised to a death sentence. Subsequently, he was transferred to death row. The same day, he was reportedly brought to the gallows three times, before being told that the execution would be postponed for 35 days. It is reported that there was no hearing about this change of sentence and that Mr. Moussa Mohammed could be executed at any moment. It is alleged that the decision was taken by the prison administration under the influence of the National Security Service.

Without implying any conclusion as to the facts of the case, we would like to appeal to your Excellency's Government not to execute Mr. Moussa Mohammed and we wish to seek clarification of the circumstances regarding his case. We would like to stress

that each Government has the obligation to protect the right to life, the physical and mental integrity of all persons and the right to freedom of opinion and expression. These rights are set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), which your Excellency's Government acceded on 18 March 1986 and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which your Excellency's Government signed on 4 June 1986.

With regard to the imminent execution of Mr. Moussa Mohammed we would like to recall that article 6(2) of the ICCPR, provides that "in countries which have not abolished the death penalty", the "sentence of death may be imposed only for the most serious crimes."

We would also like to remind your Excellency's Government that the death penalty must be regarded as an extreme exception to the fundamental right to life, and must, as such, be interpreted in the most restrictive manner. Accordingly, it is crucial that all fair trial and other protections provided for in international human rights law are fully respected in proceedings relating to capital offences. These minimum fair trial guarantees are set forth inter alia in article 14 (3) of the ICCPR.

In this context, we would like to draw your Excellency's Government attention to the report of the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment to the United Nations General Assembly A/67/279 of 9 August 2012. In his report the Special Rapporteur observes that the possible safeguards given during legal process to ensure a fair trial in cases in which the death penalty might be imposed should be at least equal to those contained in article 14 of the ICCPR and that the imposition and enforcement of the death penalty following an unfair trial must be considered as particularly cruel, inhuman and degrading and in violation of article 7 of the ICCPR and articles 1 and 16 of the Convention Against Torture (CAT) (paras. 58, 60 and 61)..

In the context of the concerns expressed that Mr. Moussa Mohammed is being persecuted for exercising his right to freedom of opinion and expression, we would 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 light of the foregoing, we urge your Excellency's Government and the authorities in Khartoum to take all necessary measures to prevent the execution of Mr. Moussa Mohammed, which would, on the facts available to us, constitute a violation of applicable international human rights standards. We further appeal to the Sudanese authorities to commute the death sentence against the aforementioned individual.

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 person in compliance with the above international instruments.

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, when relevant to the case under consideration:

1. Are the facts alleged in the summary accurate?
2. Please confirm the legal grounds for the arrest of Mr. Moussa Mohammed and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
3. Please provide information on how the trial of Mr. Moussa Mohammed, including the revision of his sentence, respected the fundamental principles of fair trial and due process.

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 guarantee that the rights and freedoms of Mr. Moussa Mohammed 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.

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
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