

Mandates of 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 torture and other cruel, inhuman or degrading treatment or punishment; and the Independent Expert on the situation of human rights in the Sudan

REFERENCE:
UA SDN 9/2016

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Excellency,

We have the honour to address you in our capacity as 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 torture and other cruel, inhuman or degrading treatment or punishment; and Independent Expert on the situation of human rights in the Sudan, pursuant to Human Rights Council resolutions 27/1, 25/2, 24/5, 25/13, and 33/26.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of arbitrary arrest and enforced disappearance of 24 Sudanese political activists and opponents by the Sudanese National Intelligence Service (NISS) between 4 and 27 November 2016 namely, Abdelgayoum Awad Elseed Mohamed (عبد القيوم عوض السيد بدر محمد), Abdallah Shamselkon Abdallah Mohamed (عبدالله شمس الكون عبدالله محمد), Abu baker Yousef Babikir (ابوبكر يوسف بابكر), Ahmed Abu Zaid Ahmed (أحمد ابوزيد احمد), Awad Aldaw Khalifa (عوض الوضو خليفة), Dia El-Din Hussein Al Siddig (ضياء الدين حسين صديق), Ibrahim El Sheikh Abdel Rahman (جلال مصطفى), Jafar Al Sadig (جعفر الصادق), Jalal Mustafa (جلال مصطفى), Khalid Omer Yousef (خالد عمر يوسف), Khalid Sayed Nouri (خالد سيد نوري), Mastoor Ahmed Mohamed Adam (مستور أحمد محمد آدم), Mohamed Dia El-Din (محمد ضياء الدين), Munzer Abu al-Maali (منذر ابو المعاليا), Nour Aldeen Babikir (نورالدين بابكر), Nour El-Deen Salah Mahmoud (نورالدين صلاح محمود), Omer Kamal (كمال عمر), Omer Yousef El Digair (عمر يوسف الدقير), Siddig Yousef (صديق يوسف), Seeda Sharif (سيدة شريف), Suliman Khalifa Dinary (سليمان خليفة ديناري), Tarig Abdel Majeed (طارق عبد المجيد), Yassin Salah Shashoog (ياسين صلاح شاقوق) and Ahmed Al Dhi Bushara (أحمد الضي بشارة).

According to the information received:

Between 4 and 27 November 2016, the above mentioned 24 political activists and members of the Sudanese Congress Party, the Reform Now Movement, the National Consensus Forces (NCF) and the Congress of Independent Students, were arbitrarily arrested by the Sudanese National Intelligence Service (NISS). Their whereabouts remain unknown since then. 19 other Sudan Congress Party

(SCoP) members were also reportedly arrested and released during the same period. They were reportedly protesting against the new austerity measures carried out by the Sudanese government on 3 November 2016, which resulted in the rise in fuel, electricity, transport, food, and medicine costs. In response to the protests, the government deployed security forces across the capital city and arrested several political activists. It was further reported that the constitutional amendments passed by Parliament on 5 January 2015 accorded sweeping powers to the NISS, providing it with unlimited discretion to interfere in political, economic and social issues.

On 4 November 2016, at 4 p.m., **Khalid Omer Yousef** (خالد عمر يوسف), a 37 year old civil engineer and Deputy Chairman of the Sudanese Congress Party, was arrested at his home in Al-Geraif suburb by the Sudanese NISS.

On 5 November 2016, at 12 p.m., **Abdallah Shamselkon Abdallah Mohamed** (عبدالله شمس الكون عبدالله محمد), a 32 year old engineer and Deputy Media Secretary of the SCoP, was arrested at his home in Khartoum 3 Suburb, by the Sudanese NISS.

On 6 November 2016 at 8 p.m., **Abdelgayoum Awad Elseed Mohamed** (عبد القيوم عوض السيد بدر محمد), a 57 year old businessman and Chairman of the SCoP Central Council, was arrested in Khartoum North Al-Shaabia, by the Sudanese NISS.

On 7 November 2016, five members of the Sudanese Congress Party (SCoP) were arrested by the Security forces: **Ibrahim El Sheikh Abdel Rahman** (ابراهيم الشيخ عبدالرحمن), a 60 year old businessman and member of the SCoP Central Council, was arrested in Al Mughtarbeen, Khartoum North; **Mastoor Ahmed Mohamed Adam** (مستور أحمد محمد آدم), a 37 year old employee and SCoP Secretary General, was arrested at the entrance of the Party headquarters in Khartoum North; **Abu baker Yousef Babikir** (ابوبكر يوسف بابكر), a 37 year old employee and member of the SCoP Media, Khartoum Branch, was arrested at his home in Khartoum 3 suburb; **Nour Aldeen Babikir** (نورالدين بابكر), 32 year old, electronics engineer and member of the SCoP Media Secretariat, Khartoum Branch, was arrested at his home in Khartoum 3 suburb; **Yassin Salah Shashoog** (ياسين صلاح شاقوق), 28 year old employee, was arrested at his home in Khartoum 3 suburb.

On 8 November 2016, two members of the Sudanese Congress Party were arrested by the Sudanese NISS: **Suliman Khalifa Dinary** (سليمان خليفة ديناري), a 31 year old, businessman and Deputy Chairman of the SCoP Khartoum Branch, was arrested at his home in Kalakla suburb, Khartoum 3; **Ahmed Abu Zaid Ahmed** (أحمد ابوزيد احمد), a 32 year old accountant and Chairman of Sharg Alneel SCoP Branch, was arrested at al-Haj Yousef bus terminal in Khartoum North.

On 8 November 2016, four members of the Reform Now Movement were arrested by the Sudanese NISS; **Khalid Sayed Nouri** (خالد سيد نوري), **Jafar Al Sadig**

(جعفر الصادق), were both arrested at their homes in Khartoum. **Dia El-Din Hussein Al Siddig** (يقضياء الدين حسين صد) and **Awad Aldaw Khalifa** (عوض الضو خليفة), were both arrested at al-Haj Yousef bus terminal in Khartoum North after they attended a public forum against the new economic policy.

On 9 November 2016, two individuals were arrested by the Security forces: **Nour El-Deen Salah Mahmoud** (نور الدين صلاح محمود), a 36 year old electronics engineer and Chairman of the Khartoum Branch, Sudanese Congress Party was arrested at his home and **Omer Kamal** (كمال عمر), a 24 year old student, Member of the Congress of Independent Students, was arrested in Khartoum 3 while he was visiting friends.

On 10 November 2016 at 5 p.m., **Omer Yousef El Digair** (عمر يوسف الدقير), a 56 year old civil engineer, SCoP Chairman, was arrested at his home in Omdurman by the Sudanese NISS.

On 23 November, four leaders of the National Consensus Forces, **Siddig Yousef** (صديف يوسف), **Mohamed Dia El-Din** (محمد ضياء الدين), **Tarig Abdel Majeed** (طارق عبد المجيد), and **Munzer Abu al-Maali** (منذر ابو المعاليا), were requested to report to NISS office. Their whereabouts remain unknown since then.

On 26 November 2016, **Ahmed Al Dhi Bushara** (احمد الضي بشارة), a 25 year old sports commentator, was arrested by the Sudanese NISS at his home in Omdurman. It was reported that he released a number of online videos expressing his objection to the new government economic austerity measures since early November.

On 27 November 2016, two members of the SCoP, **Seeda Sharif** (a woman, سيدة شريف) and **Jalal Mustafa** (جلال مصطفى), were both arrested at their homes.

It is alleged that all the above mentioned individuals have been detained without arrest warrants, have not been presented before a judge nor have they been granted access to a legal counsel. It is further alleged that they are currently held in unknown locations. Furthermore, no acknowledgement by the Ministry of Justice of the arrest of these individuals has been made so far, nor any information in relation to on-going investigations regarding their enforced disappearance has been provided to their families.

Grave concern is expressed about their physical and psychological integrity of these persons and about the fact that their fate and whereabouts are currently unknown, a situation which places them at great risk of torture and other ill-treatment.

Furthermore, concern is expressed about the fact that, under the 2010 National Security Act, National Intelligence and Security Services officials may detain suspects

for periods of up to a total of four and a half months without judicial supervision. In addition, concern is also expressed at the constitutional amendments passed by Parliament on 5 January 2015, that accorded sweeping powers to the NISS, provides it with unlimited discretion to interfere in political, economic and social issues. These measures and their implementation grant the authorities discretion to target actors and actions that they deem critical or dissenting, thereby limiting the rights to freedom of expression, association and peaceful assembly of individuals and in particular of political activists.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to these issues brought forth by the situation described above.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the individuals named above 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 14 of the International Covenant on Civil and Political Rights (ICCPR) , ratified by Sudan on 18 March 1986. In addition, we would like to refer your Excellency's Government to principle 7 of the Basic Principles on the Role of Lawyers according to which, all arrested, detained or imprisoned persons shall have access to lawyer within 48 hours of detention.

Moreover, we would like to remind your Excellency's Government, that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture or other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, as well as their possible disappearance. In this context, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the Government of Sudan signed on 04 June 1986.

We appeal to your Excellency's Government to take all necessary steps to secure the rights to freedom of expression, and freedom of association and peaceful assembly, as guaranteed by articles 19, 21 and 22 of the ICCPR. Restrictions on the rights to freedom of expression and freedom of association must meet the high threshold of articles 19 and 22, that is, be provided by law, and necessary in order to achieve a legitimate objective as set out in the provisions. In this respect we reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on states to refrain from imposing restrictions on discussion of government policies and political debate; peaceful demonstrations or political activities and expression of opinion and dissent.

In relation to the allegation that the fate and whereabouts of the 24 political activists are currently unknown, we would also like to draw attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance. In particular, the prohibition to practice, permit or tolerate enforced disappearance (article 2), the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3), the right 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 and the obligation to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (article 10), and the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 12). We wish also to recall that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7).

We would also like to refer to 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6 and 12.

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

We would also like to bring to the attention of your Excellency's Government that should sources submit the allegations of enforced disappearance mentioned in this communication as cases to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by a separate correspondence.

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 in compliance with international instruments.

As 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 observations on the following matters:

1. Please provide any information and comment which you may have on the above mentioned allegations.
2. Please provide information on the fate or whereabouts of the 24 above mentioned individuals, including details of their place of detention and of the grounds for their detention

3. Please indicate what measures are taken to ensure that accurate information on the detention of these persons, including the grounds for their detention and the precise location of their place or places of detention, including transfers, are made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information.

4. Please explain how the above-mentioned measures comply with international legal standards, especially with the CAT and articles 9, 14, 19, 21 and 22 of the ICCPR; and with the United Nations Declaration on the Protection of All Persons from Enforced Disappearance, in particular its articles 2,3, 7, 10 and 12.

5. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.

6. Please provide information concerning the measures taken to ensure the physical and psychological integrity of the above-mentioned individuals.

7. Please provide information about measures taken to bring the constitutional amendments of 5 January 2015 into line with Sudan's obligations under international human rights law.

While awaiting a reply, we respectfully urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations. In particular, we urge that the fate and whereabouts of the above mentioned 24 individuals, be immediately clarified and their families notified.

Your Excellency's Government's response 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.

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