

**Mandates of the Working Group on Arbitrary Detention; 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; and the Independent Expert on the situation of human rights in the Sudan**

REFERENCE:  
UA SDN 2/2019

28 March 2019

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Independent Expert on the situation of human rights in the Sudan, pursuant to Human Rights Council resolutions 33/30, 36/6, 34/18 and 39/22.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arrest, enforced disappearance and arbitrary detention of Mr. Osman Mirghani.

Mr. Mirghani is a journalist and editor-in-chief of the newspaper Al-Tayyar. Al-Tayyar is an independent newspaper, founded in 2009 by Mr Mirghani, which frequently reports on allegations of corruption and embezzlement of government funds. The newspaper was temporarily shut down by the National Intelligence and Security Service (NISS) on 21 February 2012, after publishing information about the assassination of Darfur rebel leader Khalil Ibrahim.

We have previously raised our concerns in a joint urgent appeal (SDN 1/2019) sent on 15 February 2019 to your Excellency's government regarding the situation emanating from the period of December 2018 to present, in particular regarding the excessive use of force by security forces and the crackdown on protesters, human rights defenders and journalists. We acknowledge receipt of the response of your Excellency's government, dated 20 February 2019.

According to the information received:

On 22 February 2019, around 10:30 am agents of the National Intelligence and Security Service arrested Mr. Mirghani in Khartoum, at the offices of the Al-Tayyar newspaper. No arrest warrant was presented and Mr. Mirghani's family and lawyer were not notified. Mr. Mirghani was then taken to an unknown location.

Mr. Mirghani remained forcibly disappeared until the week of 11 March 2019, when his family was informed about his place of detention and was able to visit him at the detention centre near Shandi station, in Khartoum North. No formal charges have been filed against Mr. Mirghani yet. [REDACTED]

The alleged arbitrary arrest and detention of Mr. Mirghani reportedly happened shortly after he was interviewed by Sky News Arabia network. During this interview, he discussed the ongoing protests in Sudan and said that they could prompt the removal from office of the current President.

It is reported that exceptional measures, including prior approval of the articles to be published, have been imposed by the NISS for several months in relation to a number of newspapers. These exceptional measures were allegedly lifted on 17 March with regard to certain newspapers but reportedly remain in force regarding Al-Tayyar.

On 6 February 2019, the President of the Republic issued an order to the NISS to release all journalists, some of whom were subsequently released, but others were rearrested again.

A state of emergency has been in effect since 22 February 2019 and was subsequently endorsed by Sudan's National Legislature on 11 March for six months. It has serious consequences for the exercise of fundamental human rights and freedoms, including the large number of journalists and protesters arrested without charges and held incommunicado for extended periods.

While we do not wish to prejudge the accuracy of these allegations, we wish to express grave concerns about the alleged short term enforced disappearance, and the arbitrary arrest and detention of Mr. Osman Mirghani. We are particularly concerned that his arbitrary arrest and detention may be directly linked to his work as a journalist. The arbitrary detention and enforced disappearance of journalists is both an interference with the rights of journalists, as well as with the rights of the public to have access to information, and violates the provisions of article 19 of the International Covenant on Civil and Political Rights (ICCPR). We express further concerns that no official charges have been filed against him yet. The alleged arbitrary arrest and detention of Mr. Mirghani would be inconsistent with article 6 (1) of the (ICCPR) on the right to life, as well as article 9 (1, 2, 3, 4) regarding the right to liberty and security of person, and the right not to be arbitrarily deprived of one's liberty.

We also refer to United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which establishes that no State shall practice, permit or tolerate

enforced disappearances. The Declaration also proclaims that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. In particular, the Working Group recalls that the Declaration sets out the necessary protection by the State, in particular articles 9, 10, and 12, which relate to the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to the maintenance in every place of detention of official up-to-date registers of all detained persons.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 person(s) 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 additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information about the legal basis for the arrest and detention of Mr. Mirghani, and the charges, if any, filed against him, as well as their compatibility with articles 9 and 14 of the ICCPR.
3. Please provide information about the physical and mental condition of Mr. Mirghani, in particular in light of his existing health condition.

While awaiting a reply, we 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.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no

way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Bernard Duhaime  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
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