

Mandates of the Special Rapporteur on the situation of human rights defenders; 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:
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; 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 34/5, 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 regarding the intimidation of women human rights defenders Ms. Lana Awad and Ms. Aida Abdel Qader by unidentified individuals, and the investigation underway into Ms. Awad, after she published an article about the COVID-19 virus in North Darfur.

Ms. Lana Awad and Ms. Aida Abdel Qader are women human rights defenders, journalists and bloggers who write on a number of human rights issues as part of their journalistic work, including women's rights. Through their membership of the Darfur Journalists Association, they have attended a number of human rights events organized by the United Nations and monitor local issues relating to human rights. Through their active blogs, they write opinion pieces on Government policy and current affairs in Sudan in general, and Darfur in particular. Up until today, Ms. Lana Awad worked for the Ministry for Health of North Darfur state.

According to the information received:

On 26 May 2020, Ms. Lana Awad and Ms. Aida Abdel Qader wrote a piece of investigative journalism for Darfur 24, which was also posted on the Facebook page "Voluntary Media Development Centre", which is run by the two women human rights defenders. The report focused on the situation of the COVID-19 virus in the city of Al Fasher, finding that there was a significant shortage of personal protection equipment (PPE) for health workers and criticising the Government for high death rates from the virus in the city, particularly among the elderly.

On 27 May 2020, the Ministry of Health of North Darfur state issued a statement claiming the article was an attempt to spread disinformation. Ms. Lana Awad was

suspended from her post at the Ministry and an internal investigative committee was established to look into the issue. Media News Agency of North Darfur published an article that day which falsely implied that it was written by Ms. Lana Awad. It appeared to show the woman human rights defender admitting the information in her investigative article was wrong.

On 29 May 2020 Ms. Awad and Ms. Aida Abdel Qader received a number of phone calls from unidentified individuals who threatened that the Military Intelligence Agency in north Darfur would arrest and torture them. Later, officials from the Military Intelligence personally called Ms. Awad and requested that she appear before the Military Intelligence office, which she refused.

On 31 May 2020, at 9:00 pm, as Ms. Awad and Ms. Abdel Qader made their way to the market in their car, two Military Intelligence officers stopped the two women and they were again asked to present themselves to the office of the Military Intelligence Agency in North Darfur. When they refused, they were both threatened by the officers. They reported the incident later that day to the office of the Public Prosecutor. On the same day, the Federal Minister of Culture and Information made a public statement on the Ministry's Facebook page informing that he had contacted the two defenders to show support and also called the Governor of North Darfur to follow up on the news regarding the alleged harassment against journalists by security forces for publishing media articles on the health situation in north Darfur. He also advised against security forces involvement in cases regarding allegations of the spread of false information, a matter that should be dealt through legal means.

On 3 June 2020, the Ministry of Health of North Darfur lodged a complaint under article 47 of the Criminal Procedures Act, requesting that Ms. Awad appear before the Al Awsat police station in Al Fasher for questioning.

On 7 and 9 June 2020, Ms. Awad presented herself at the Al Awsat police station with her lawyer for questioning. She was allegedly asked to disclose her sources of information for the article, which she refused.

On 10 June 2020, the case file was submitted to the Informatics Offences Prosecution Office in Al Fasher to make a decision on her case. The Informatics Offences Prosecution Office announced that it was reviewing the complaint submitted regarding Ms. Awad. The case could be dismissed or the defender could be charged with "defamation" and "spreading false news". The Ministry of Health annulled its own investigation and transferred its files to the Informatics Offences Prosecution Office.

On 13 June 2020, Ms. Abdel Qader went to purchase new tyres for the car that she and Ms. Awad share. While she was out, Ms. Awad received a threatening phone call from an unidentified individual who asked why she was not out buying tyres with Ms. Abdel Qader.

On 14 June 2020, Ms. Abdel Qader received a call from an unknown individual asking questions about her children. Later in the day, the two women human rights defenders found that the tyres on their vehicle had been slashed.

On 15 June 2020, Ms. Awad was called in for questioning to the Information Offences Prosecution Office in line with the complaint filed by the Ministry for Health. She was asked to prepare witnesses while the Prosecution Office decides whether to file or dismiss the case.

At the time of writing, both Ms. Awad and Ms. Abdel Qader are receiving regular threats by phone and in person. Officers of the Military Intelligence Agency allegedly continue to follow them.

Without prejudging the accuracy of the allegations, we are deeply concerned that the physical and psychological integrity of Ms. Lana Awad and Ms. Aida Abdel Qader, may be at significant risk. We are particularly concerned by reports that they have been followed by members of the Military Intelligence Agency and have received threatening phone calls from unidentified individuals who knew personal information and the movements of the defenders. We request your Excellency's Government to ensure that the two women human rights defenders are not arbitrarily deprived of their right to life and liberty in, in line with articles 6 and 9 of the International Covenant on Civil and Political Rights (ICCPR), which was acceded to by Sudan on 18 March 1986.

Furthermore, we would like to express our concern regarding the investigation into Ms. Lana Awad for the article she wrote on COVID-19 in the city of Al Fasher. We are concerned that Ms. Awad could face charges for the legitimate exercise for her right to freedom of expression, related to her human rights activities. We remind your Excellency's Government that 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 Declaration of Human Rights Defenders, asserts the right to study and old opinions on the observance of human rights and freely publish information and draw public attention to those matters (Article 6).

This is codified in international human rights law by article 19 of the ICCPR, guaranteeing freedom of opinion and expression, including 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. Any restrictions

on freedom of expression must be strictly limited and meet the high threshold set out in article 19(3) of the ICCPR. Any limitations must be determined by law and must conform to the strict test of necessity and proportionality must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

We would also like to recall articles 2, 6, 9, 16, 17, 21 and 22 of the ICCPR which guarantee the right to life, to liberty and security of the person, to freedom from arbitrary arrest and detention, the right to be recognized everywhere as a person before the law, as well as the rights to privacy and freedom of association.

We would also like to refer to articles 1 and 2 of the Declaration of Human Rights Defenders which state that everyone has the right 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.

We furthermore recall your Excellency's Government that in his report to the 40th Session of the Human Rights Council, the then Special Rapporteur on the situation of human rights defenders highlighted how on top of the vulnerabilities that all human rights defenders face, women human rights defenders face risks and obstacles that are gendered, shaped by norms about who women are or how they ought to be. In addition to this report, we would like to remind your Excellency's Government of the respective Resolutions of the General Assembly GA Res 68/181 as well as of the Human Rights Council Res 31/32 expressing particular concerns about systemic and structural discrimination and violence faced by women human rights defenders. States should take the appropriate measures to ensure their protection and to integrate a gender perspective into their efforts to enabling a safe environment for human rights defenders.

We would also like to refer to Sudan's obligations under article 12 (right to health) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Sudan ratified on 18 March 1986. The right to health is an inclusive right (General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, E/C.12/2000/4, para 11) closely linked, and dependent on, other rights, including the right of access to information (para 3). The right to health encompasses the right to request, receive and disseminate information and ideas about health related issues (para 12.b.iv); violations of the right to health result from, inter alia, the deliberate withholding or misrepresentation of information vital to health protection or treatment (para. 50). In addition, under the right to health, States should respect, protect, facilitate and promote the work of human rights advocates and other members of civil society with a view to assisting in the realisation of this right (para. 62).

We would further like to draw your Excellency's Government's attention to articles 2 and 16 of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), which South Africa ratified on 10 December 1998, which impose obligations on States Parties to prevent occurrences of torture or ill-treatment. We would like to bring to your attention article 5 of the Code of Conduct for Law Enforcement Officials, which states that "no law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment". Furthermore, we would like to recall that "States have a duty to prevent and redress unjustifiable use of force in law enforcement" (CCPR/C/GC/35, para. 9).

The full texts of the human rights instruments and standards recalled above are available on 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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the legal and factual basis of the charges faced by Ms. Lana Awad and Ms. Aida Abdel Qader, along with information regarding how this is compatible with human rights law.
3. Please provide detailed information about, and where available results of, any investigation underway into the threats and attempted arbitrary arrest of Ms. Awad and Ms Qader, including information on what protection measures have been taken to secure the physical integrity of the two women human rights defenders. If no inquiries have taken place, please explain why, and how this is consistent with Sudan's international human rights obligations.
4. Please provide information on what legal and practical measures are in place in Sudan to ensure that human rights defenders, particularly women human rights defenders, can carry out their work in a safe and enabling environment, as well as the procedures in place that ensure that human rights defenders are afforded the proper protection and/or remedy in the event that their life or work is under threat.

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.

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.

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