

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the situation of human rights defenders and the Working Group on discrimination against women and girls

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(Please use this reference in your reply)

4 February 2022

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the situation of human rights defenders and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 43/20, 42/22, 45/3, 43/16 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Ms. **Amira Osman**, a Sudanese woman human rights defender and women's rights activist, who has been reportedly arbitrarily arrested in Khartoum, on 22 January 2022, and subjected to enforced disappearance ever since with no information on her fate or whereabouts.

According to the information received:

Ms. Amira Osman Hamed Bilal (أميره عثمان حامد بلال), born on 31 December 1976 in Khartoum, is a prominent Sudanese woman human rights defender and the head of "No to Women Oppression Initiative". Since 2013, she has been at the forefront of women's rights activism, particularly in relation to the imposition of women's dress codes under Sudanese public order laws.

Reportedly, on 22 January 2022, at around 11.30pm, a group of approximately 30 armed men, wearing facemasks and civilian clothing, raided the family house of Ms. Osman, located in Riyadh neighbourhood in Khartoum, terrifying all her family members, including children. According to witnesses, around 6 to 7 security vehicles, identified as Toyota pickups, blocked all streets leading to the house and the security forces rushed into the house and abruptly arrested Ms. Osman without giving her the opportunity to change her clothes or take her medication. Suffering from a pre-existing medical condition causing partial paralysis and limiting her mobility without a cane, Ms. Osman requires ongoing treatment and medication.

During the arrest, Ms. Osman was not informed of the reasons for her arrest, the authorities who ordered the arrest, the affiliation of the forces carrying out the arrest, nor was she presented with an arrest warrant. She was subsequently taken to an unknown location.

On 23 January, Ms. Osman's family filed a legal complaint with the Eastern Division Prosecutor within Sudan's Public Prosecution, who initiated a procedure under the provisions of the Sudanese Criminal Act pertaining to offences against personal liberty, invasion of privacy, and the use of criminal force.

On the same day, Ms. Osman's family attempted to file another complaint with the police requesting to search for her and disclose her fate and whereabouts. The police reportedly refused to register the case and instead advised the family to seize the General Intelligence Service (GIS), saying they may have more information. Following the request to the GIS, Ms. Osman's family was informed that she was not being held by the security apparatus and could not be found in their records.

The fate and whereabouts of Ms. Osman allegedly remain unknown at the time of writing this letter.

In view of the broader wave of arbitrary arrests and detentions against dissidents and human rights defenders, and the reported raids by security forces of activists' houses¹, under the declared state of emergency, Ms. Osman is believed to have been arrested and currently held by official security forces or by groups affiliated with them.

We express our most serious alarm at the alleged arbitrary arrest and enforced disappearance of Ms. Osman by official security forces or groups acting with the State's consent or acquiescence, which may endanger her physical and mental integrity, as well as her life, and expose her to the risk of torture and other forms of ill-treatment. If confirmed, these allegations would constitute prima facie violations of fundamental human rights, including the right not to be arbitrarily deprived of liberty, not to be subjected to enforced disappearance, and possibly the right to life, and to be free from torture and other ill-treatment, under the International Covenant on Political and Civil Rights (ICCPR), the International Convention for the Protection of All Persons from Enforced Disappearances (ICPED), and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Sudan on 18 March 1986, and 10 August 2021 respectively. These allegations would also contravene Sudan's obligations under the African Charter on Human and Peoples' Rights (ACPHR) ratified on 18 February 1986.

We are drawing the attention of your Excellency's Government to article 9 of the Covenant, which provides that everyone has the right to liberty and security of person, and no one shall be subjected to arbitrary arrest or detention, or be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. In its General Comment n°35, the Human Rights Committee stated that enforced disappearances violate numerous substantive and procedural provisions of the Covenant and constitute a particularly aggravated form of arbitrary detention.² It also noted that extreme forms of arbitrary detention that are themselves life-threatening violate the rights to personal liberty and personal security as well as

¹ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=28032&Lang>

² CCPR/C/GC/35, para. 17.

the right to protection of life, in particular enforced disappearances.³ In addition, the Working Group on Arbitrary Detention has in the past concluded that being a human rights defender is a status protected by article 26 of the Covenant and, as a result, the deprivation of an individual based on his or her status as a human rights defender is arbitrary.⁴

We would like to remind your Excellency's Government that while enforced disappearance is a crime in itself, it can also amount to torture or other cruel, inhuman or degrading treatment or punishment, and is a serious violation of international law. The Committee against Torture⁵ and the Human Rights Committee⁶ have concluded that enforced disappearances may amount to torture and other forms of ill-treatment both with regard to the disappeared and with regard to their family members, due to the anguish and uncertainty concerning the fate and whereabouts of loved-ones. In this regard, we would like to further stress that the prohibition of torture and other ill-treatment is absolute and non-derogable, as codified in articles 2 and 16 of the CAT, allowing for no exception and must be respected under all circumstances.

The failure to acknowledge deprivation of liberty by state agents and refusal to acknowledge detention constitute an enforced disappearance and place the person concerned outside the protection of the law. In this regard, we would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly Resolution 68/156 (February 2014), which, "[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished".

We are further drawing your Excellency's Government's attention to the absolute and non-derogable prohibition against enforced disappearances as set out in the United Nations Declaration on the Protection of All Persons from Enforced Disappearances (articles 2 and 7). 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, articles 9-13, providing for 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 ensure that all involved in the investigation are protected against ill-treatment, intimidation or reprisal.

³ CCPR/C/GC/35, para. 55.

⁴ See, for example opinions No. 24/2021, No. 48/2017, No. 50/2017 and 19/2018; and A/HRC/36/37, para. 49.

⁵ See, for example, conclusions and recommendations on the second periodic report of Algeria (A/52/44, para. 79), on the initial report of Namibia (A/52/44, para. 247) and on the initial report of Sri Lanka (A/53/44, paras. 249 and 251).

CCPR/C/50/D/440/1990 (24 March 1994), para. 5.4.

In this regard, we would also like to remind your Excellency's government of its obligation to launch and conduct the search for the disappeared person without delay and at its own initiative with independence and impartiality, and in an efficient, safe, coordinated manner. While the search is a continuing obligation, it should also take into account a differential approach, be governed by public policy and be part of a comprehensive strategy that respects the right of victims, counsel or any person with a legitimate interest to participate in the search for the disappeared, and uses information appropriately in line with the Guiding Principles for the Search for Disappeared Persons of the Committee on Enforced Disappearances (CED/C/7).

We are further concerned that Ms. Osman alleged arbitrary arrest and enforced disappearance may be in retaliation for her women's rights activism. In such case, her disappearance would also constitute a violations of article 19 (2) of the ICCPR, article 6 of the ACHPR, and article 12(2) of the Declaration of Human Rights Defenders. This latter provides that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone 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. The enforced disappearance has a chilling effect also on those pursuing the enjoyment of their rights, as it not only violates their rights, but it also has an adverse impact on the rights of the people who relied on the disappeared person to represent them, and the rights of the wider community (A/HRC/30/38/Add.5 para. 37, 40).

We also wish to express serious concerns that the arbitrary arrest and enforced disappearance of Ms Amira Osman appears to have taken place in the context of a pattern of violence against women human rights defenders and activists, sending a chilling effect through civil society in the country.

In addition, we would like to draw the attention of your Excellency's Government to the thematic report of the Working Group on Discrimination against women's reports to the Human Rights Council (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life.

Women human rights defenders, perceived as challenging traditional notions of family and gender roles in society, (A/HRC/40/60, para. 28), are increasingly at risk of facing criminalization and detention as a result of their legitimate public activism (see A/HRC/16/44 and Corr.1). In a number of States, women who work specifically to combat gender stereotypes and advance women's rights are most likely to be targets for criminal persecution and imprisonment. Certain laws, including

“complicity” laws, and “public order” laws or even anti-terrorism laws, may be particularly instrumentalized to target women human rights defenders. In some countries, forms of public expression dominated by women, such as religious observances (for example, how they are dressed) related to “disfavored” or minority faiths, are criminalized or are grounds for restricting access to essential services.

In addition, we wish 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 and 2 stating 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, as well article 12, paragraphs 2 and 3, providing that the State shall take all necessary measures to ensure the protection of everyone 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.

Finally, we would like to draw your attention General Assembly Resolution 68/181 whereby States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves. (OP5, 19 and 20)

We are issuing this appeal in order to safeguard the rights of Ms. Osman from irreparable harm and without prejudicing any eventual legal determination.

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 and, in particular, her rights to life and personal integrity, of Ms. Osman in compliance with international law.

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 urgently provide information on the fate and precise whereabouts of Ms. Osman.

3. Please provide information on the steps taken by the relevant authorities to investigate the allegation of enforced disappearance of Ms. Osman in order to ascertain her fate and whereabouts and to ensure the protection of her human rights including, most notably, her rights to life, to liberty, to personal security, and to physical and moral integrity.
4. Please provide detailed information on steps taken to determine the current state of health of Ms. Osman and any other measures foreseen to prevent any serious or irreparable harm to her personal integrity and to ensure that she has access to the medications and other medical treatment required by her health conditions.
5. If Ms. Osman was deprived of her liberty, please provide information on the factual and legal grounds for her arrest and detention, and how the lack of information surrounding her arrest and detention, which amounts to incommunicado or secret detention since 22 January 2022, is compatible with the international human rights obligations of Sudan.
6. If arrested, please explain why Ms. Osman was not brought before a judge immediately upon arrest, to determine the legality and legitimacy of her arrest and placement in detention; why her place of detention was not revealed; and why her family and a lawyer chosen by the latter were not informed about it;
7. If she was arrested and detained, please clarify which authorities did order so, which authorities carried out her abduction, and what measures are foreseen to hold those responsible for her abduction, arbitrary detention and enforced disappearance to account.
8. Also please provide information on the measures taken to guarantee that Ms. Osman is immediately authorized to communicate with and be visited by her family, counsel, or any other person of her choice and is brought without delay before a judicial authority, so that the latter can decide on the lawfulness of her deprivation of liberty.
9. Please explain what measures have been taken to ensure that all human rights defenders in Sudan, in particular those working on women's rights, can carry out their peaceful and legitimate activities without any fear of threat, of arbitrary arrest and detention, disappearance, or any other restrictions.

While awaiting a reply, we urge that all necessary measures be immediately taken to ascertain the fate and whereabouts of Ms. Osman and prevent any irreparable damage to her life, security and physical and mental integrity, as well as measures to stop and prevent the reported pattern of arbitrary arrests and detention of human rights defenders and activists in Sudan, since the military takeover and the announcement of the state of emergency, in October 2021. In addition, we urge that, in the event that the investigations support or suggest the allegations to be correct, to ensure the

accountability of any person(s) responsible for the alleged violations.

We would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit specific cases relating to the circumstances outlined in this communication through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and to 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.

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Melissa Upreti
Chair-Rapporteur of the Working Group on discrimination against women and girls