

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

Ref.: AL SDN 6/2022
(Please use this reference in your reply)

29 August 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 50/17, 42/22, 44/5, 42/16, 43/16, 44/8, 45/10, 50/L.7 and 50/18.

In this connection, we would like to bring to the attention of the Sudanese military authorities information we have received concerning the **repeated allegations of sexual harassment and sexual abuse by the security forces against women and girls in the context of peaceful demonstrations, as well as of the continuous allegations of killing and injuring of individuals due to the use of unlawful and excessive force against peaceful protesters, and the use of lethal force; alleged arbitrary detention of activists, human rights defenders and individuals associated with the demonstrations, including of children; attacks on medical facilities obstructing the injured protesters access to health; and prolonged internet shutdowns to prevent access to information ahead of and during demonstrations.** Additionally, we would like to bring to your attention concerns related to the increase of sexual and gender-based violence against women in the conflict affected-areas, as the insecurity has increased since the military coup of 25 October 2021 in Sudan. We are concerned that these continuous violations, conducted with impunity, in addition to constituting serious human rights violations, also severely restrict the civic space and create a hostile environment for the participation in public affairs, especially for women and girls.

Along with other mandate holders, we previously wrote to the Sudanese military authorities on 4 February 2022 (UA SDN 2/2022) and on 7 December 2021 (UA SDN 6/2021), concerning similar allegations of human rights abuses committed by the security forces in response to the peaceful protests following the military coup of 25 October 2021. We acknowledge the reply from the Permanent Mission of the Republic of Sudan on 11 March 2022, regarding the case of alleged disappearance of women's rights activist Ms. Amira Osman, subject of UA SDN 2/2022. However, we

regret that we have not received yet response to the earlier communication, UA SDN 6/2021, which details allegations of systematic abuses and human rights violations in connection to the ongoing peaceful demonstrations opposing the military coup.

We remain deeply concerned by the continuation of repression and serious human rights abuses against individuals taking part in the ongoing peaceful protests and the increased sexual and gender-based violence against women which severely restrict their space and ability to participate in public life and in pressing political and security affairs.

According to the information received:

Continuous use of unlawful force, killings and injuries of peaceful protesters:

As of 1 July 2022, at least 113 people, including dozens of women and children, were allegedly killed and hundreds were injured by security forces in the context of the ongoing peaceful protests since the military coup of 25 October 2021.¹

Most recently, on 30 June 2022, mass peaceful demonstrations took place in Khartoum and in other cities. The protests marked the military coup in 1989 which brought to power the former Sudan long-term president Omar al-Bashir, and the third anniversary of his removal of power following the popular demonstrations in 2019. Hundreds of thousands of protesters across Sudan took to the streets, calling for civilian rule and for justice for those killed in the violent crackdown against peaceful protesters in 2019. The security forces reportedly fired stun grenades, tear gas and water cannons in an attempt to prevent the protesters from reaching the presidential palace in Khartoum. The security forces used live ammunitions against protesters in different cities. These allegations have been substantiated by civil society and medical sources as well as video footage shared on social media on the day. According to the medical sources, at least nine protesters were shot, including a 15-year-old boy. Most of those killed were shot in the chest, head, and back according to the same sources. Protesters were reportedly killed in Khartoum, Omdurman and Bahri. Over 300 were reportedly injured, including sustaining serious injuries, by live munitions, stun grenades, and tear gas.

Attacks on medical facilities and obstruction of access to health care:

According to medical sources, in the context of the peaceful protest on 30 June 2022, the security forces attempted to raid hospitals in Khartoum which were treating injured protesters. The security forces allegedly fired tear gas into at least one hospital.

Shutdown of internet and communications

During the demonstrations on 30 June 2022, the authorities imposed extended internet blackouts, which started at 8 a.m. local time and continued for 20 hours, significantly impacting the access to internet and communication in the country. Tele communications were also cut down in an attempt to curtail the

¹ See: <https://news.un.org/en/story/2022/07/1121882>

mobilisation for the demonstrations.

Arbitrary arrests and ill treatment of protesters, including children

In relation to the peaceful protests on 30 June 2022, the security forces allegedly arrested at least 355 protesters across the country, including at least 39 women and a considerable number of children. During the detention, women protesters were allegedly subjected to sexual harassment and abuse (see below); they were detained in Omdurman women prison for three days, after which most were released. The women detained in Omdurman prison were allegedly denied access to their families and lawyers, and those who were sick were denied access to essential medication. Police officers also allegedly mistreated the family members and the lawyers of the detained women, including physically abusing a female lawyer.

On 29 May 2022, the Sudanese authorities lifted the state of emergency, which was declared since the military coup on 25 October 2021. The emergency order issued by the military authorities granted the security forces immunity and restored the arrest powers to the General Intelligence Service (GIS), overturning a previous decision by the transitional government denying the agency arrest powers given their record of serious abuses. During the state of emergency, the security forces misused their extended powers to arrest and detain protesters, including children, and protest leaders and organiser. They were arrested either during protests, at their homes, or from hospitals. The authorities failed to respect the detained protesters' due process rights, keeping them often incommunicado and in circumstances of de facto enforced disappearance and many were ill-treated in detention, including subjected to sexual abuse. According to the United Nations Human Rights Office, between 25 October 2021 and 3 March 2022, more than 1000 people were arrested for opposing the military coup and demanding civilian rule at least 144 women, and 148 children.² While many have been released, some have been released on the condition that they do not to pursue a criminal accountability for the alleged violations, while the whereabouts of some remain unknown.

Acts of sexual and gender-based violence against women and girls

From November 2021 to January 2022, the United Nations Integrated Transition Assistance Mission in Sudan (UNITAMS) reported 30 cases, of sexual and gender-based violence, including conflict-related sexual violence, with 12 children amongst the victims.³

Acts of sexual and gender-based violence committed against women and girls in the context of the protests

Since the beginning of the anti-coup protests on 25 October 2021 until March 2022, there have been at least 13 cases of alleged rape and gang rape of women and girls by the security forces in relation to the protests.⁴ According to local doctors the figure is much higher. Majority of the incidents occurred during the protest on 19 December 2021. Women reported being sexually

² <https://www.ohchr.org/en/statements/2022/03/oral-update-situation-human-rights-sudan>

³ See S/2022/172.

⁴ [sg_report_on_unitams_s-2022-172.pdf \(unmissions.org\)](#)

assaulted by security forces, including army officers dressed in Sudanese armed forces uniforms, and by forces of the Sudanese Central Reserve Police, a militarized police unit which has been at the fore front of the violent repression of the protests in Khartoum.

In one of the incidents, a woman was reportedly gang-raped at a gunpoint by three members of the armed forces, as she attempted to flee from the security forces' violent crackdown of a largely peaceful protest on 19 December 2021. The army officers allegedly beat her severely and threatened to kill her if she resisted the rape. Afterwards, they took her clothes and left her naked on the street. As a result of the rape, she suffered serious physical injuries and psychological trauma and had to undergo surgery for her sexual and reproductive organs, as well as a psychological treatment. The victim filed charges at the local police station, but no investigation has opened as of now.

Following the protest on 14 March 2022, a young woman was allegedly dragged off a bus by members of the Central Reserve Police, after they had fired tear gas in the bus and beat the passengers. Six members allegedly of the Central Reserve Police gang-raped her. During the rape, the perpetrators held their guns at the woman's head and threatened to kill her if she resisted the rape or tried to draw attention. The rape was accompanied by racial slurs and degrading words, and she was left naked on the street.

According to the lawyers, four of the women who were raped filed complaints with police, but none has been followed with an investigation. Other nine women refused to take legal recourse due to fear of reprisal.

In addition, women reported facing systemic sexual harassment while taking part in protests and passing by on the streets during the demonstrations. There were reports of acts of sexual assault and violence committed by men dressed in plain clothes who seem to be "infiltrating" the demonstrations. Other incidents were reported in Khartoum where the security forces coerced women attending demonstrations to take off their clothes and publicly beat them to humiliate and punish their participation in the demonstrations.

Furthermore, women activists in detention have allegedly been subjected to sexual abuse and sexual violence. In relation to the protests on 30 June 2022, detained women reported of being beaten, verbally and sexually abused by the police officers during the arrest and transportation to the police station. According to the lawyers, two of the detained women reported being sexually abused and beaten by security forces upon arrival at the police station, leaving them in torn clothes and without shoes. The women have been traumatized and are undergoing psychological treatment.

In addition, women activists have been targeted with defamation through online and media, attacking the credibility and character of women human rights defenders, including by accusing them of consuming and using illicit drugs.

Conflict-related sexual violence against women and girls in conflict-affected areas

As reported by the UN Secretary General in March 2022, the ongoing political crisis has severely affected peacebuilding efforts and civilian protection.⁵ The security situation continued to deteriorate throughout the country, due in part to increased armed conflict, intercommunal clashes, tribal tensions and human rights violations, including conflict-related sexual violence, while women's participation in the peace and security processes has been hindered.

Since October 2021, women displaced in conflict-affected areas were reportedly raped by armed militias who attacked several camps hosting internally displaced persons (IDPs) in different areas of Darfur. In one incident, on 1 December 2021, during a militia attack on an IDP camp in West Darfur, at least five women were raped by armed militias. A few minor girls between the age of 4 years old to 16 were allegedly raped by armed militias in the IDP camps in North Darfur. There were also reports of women being kidnapped and tortured. These acts were committed in the context of armed attacks by militias and inter-communal violence, as a result of which men, women and children were killed and many were displaced.

While we do not wish to prejudge the accuracy of these allegations, we express serious concern at the security forces' repeated use of unlawful and excessive force against individuals exercising their rights to freedom of peaceful assembly, of association and of expression. We are deeply concerned by allegations regarding the continuous use by the security forces of live ammunition, stun grenades and indiscriminately and excessively firing of tear gas at protest sites, resulting in deaths and serious injuries of protesters and bystanders, including of women and children. We are also deeply concerned that the types of injuries inflicted on the protesters, impacting their upper parts of the body, including the head, chest and the back, suggest that the lethal force used against unarmed citizens is aimed to kill, rather than for achieving the legitimate law enforcement objective in self-defense or to defend others against the imminent threat of death or serious injury. Furthermore, we are concerned that the large number of injured protesters suggest the force used is largely indiscriminate and excessive. There is no indication that the lethal force has been used as a last resort and that preventative measures have been taken to minimize the harm. We recall that intentional lethal use of firearms may only be made when strictly unavoidable to protect life. Should lethal force be used, medical assistance should be provided as soon as possible when necessary.

These repeated incidents of use of unlawful force, despite calls of restraint by the UN experts and others, suggest a serious disregard by military authorities of Sudan's international human rights obligations, including *inter alia* respect to the right to life of its citizens, which constitutes a *jus cogens* and international customary law norm, as well as the right to freedom from torture or to cruel, inhuman or degrading treatment, and freedom to peaceful assembly. Excessive use of force against peaceful protesters is never justified, it is in disregard of the internationally recognized principles of legality, proportionality, necessity and precaution. We are deeply concerned also that Sudan military authorities continue deploying at the peaceful demonstrations the armed forces as well as militarized units such as the Central Reserve Police, who have been largely accused of repression and sexual abuse and

⁵ S/2022/172

rape of women in relation to the peaceful demonstrations. We reiterate our call for the authorities to ensure that military and militarized units are not deployed to police the demonstrations.⁶ As demonstrated through the continuous abuses against peaceful protesters in Sudan, these forces are unable and lack training in facilitating the exercise of the right to freedom of peaceful assembly.

We are also deeply concerned regarding allegations of continuous use of firearms and misuse of less lethal weapons with the aim to harm peaceful protesters. We are deeply concerned that tear gas has been weaponized to harm and wound peaceful protesters, but not for its strict purpose of crowd control to contain a widespread violence and when other less harmful means have failed. Large amount of tear gas has been used indiscriminately including in close areas, which is very dangerous and exposes individuals at a great harm, including of suffocating. We are deeply concerned at repeated reports of security forces firing tear gas in health facilities and the prevention of individuals injured as a result of repression of the protests from receiving health care. Such attacks endanger medical staff and patients and violate international humanitarian law relating to hospitals and safety zones.

Stun grenades also should never be used in the context of assemblies as they can lead to serious injuries. We would like to emphasize that Sudan has the positive obligation to ensure that certain human rights - including the non-derogable rights to life and the right not to be tortured or treated in an inhuman or degrading way - continue to apply in all circumstances including during states of emergency. These obligations extend to the protesters killed by Sudan forces during protests. In this connection, we further refer to the duty to conduct thorough, prompt and impartial investigations into and prosecute, and punish all violations of the right to life in line with the *Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Prevention and Investigation Principles)* and the *Revised Version of the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016))*.⁷

We are further concerned at the allegations of arbitrary arrests and detention without charge of individuals, including human rights defenders, in relation to their participation in the peaceful protests and their due process rights being violated. It is deeply concerning that many children have also been allegedly arbitrarily detained and placed at risk of ill-treatment and harm.

We are extremely alarmed at the numerous reports of acts of rape and other forms of sexual violence that have been committed by the army and security forces in relation to the demonstrations since 25 October 2021. Women protesters, activists and human rights defenders appear to have been particularly targeted for sexual abuse and violence, other forms of violence or threats of violence, intimidation, and defamation. These acts have a long-standing impact on women and girls as well as their communities, and appear to have been used as a deterrence for protests and a tool for shaming and punishment. Given the impact on conservative communities in Sudan, such acts against women and girls are also being used to discourage whole communities from taking part in peaceful demonstrations.

⁶ See A/HRC/50/42: Protection of human rights in the context of peaceful protests during crisis situations - Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule.

⁷ <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>.

We are deeply concerned at the continuous impunity for violations committed by security and military forces against peaceful protesters, including the sexual and gender-based violence committed against women, girls and women human rights defenders. Furthermore, we are deeply concerned at the lack of progress on the complaints filed by some of the rape survivors as well as their lack of access to health care facilities. We are also concerned that majority of women who were sexually assaulted have been obstructed access to justice due to a well-founded fear of reprisal. We are equally alarmed by the reported death threats against women activists and underline in this context that the right to personal security obliges States to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental actors.

We are also concerned at the lack of protection and remedy for women subjected to conflict-related sexual and gender-based violence, which constitutes a grave human rights violation. The repetition of sexual abuse and the lack of accountability for the alleged crimes have a chilling effect on women and girls to exercise their right to freedom of peaceful assembly and to participate in the public affairs, including in the peace and security processes.

We would like to remind the Sudanese authorities of their obligations to conduct thorough, effective, credible and transparent investigations of all human rights abuses, including sexual and gender-based violence in line with international standards, to bring perpetrators to account and provide reparations to the survivors.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 information on the measures taken to respect and protect human rights during the peaceful demonstrations – by ensuring no unnecessary force is used and preventing the use of excessive force, preventing inflicting harm on protesters, and ensuring that nobody is detained due to peaceful exercise of rights.
2. Please provide information on the measures taken to prevent the re-occurrence of violations and abuses in the context of the demonstrations, including vetting, to exclude law enforcement agents accused of human rights abuses, including sexual abuse and assault, in connection to the demonstrations, and reviewing the impact of the weapons used by security forces during the demonstrations.
3. Please provide information on the measures taken to ensure compliance of the law enforcement, responsible for the policing of the demonstrations, with the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by

Law Enforcement Officials. Please specify the targeting criteria used and the procedural safeguards employed to ensure that these law enforcement operations fully complied with international human rights law. In particular, please explain in detail and in relation to the incidents mentioned in this communication, how the proportionality of such actions and the protection of the life and physical and mental integrity of protesters were ensured.

4. Please provide information on the measures undertaken to investigate and prosecute those responsible, including at command level, for the killings and injuries in the context of the peaceful protest, as well as the allegations of sexual abuse and violence against women and girls in the context of the demonstrations, as well as the health care services provided to them. In this context, please also clarify whether investigations and forensic examinations of those allegedly killed during the protests were conducted in accordance with the *Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016)*. If no investigation was launched, please explain why.
5. Please provide information on the number of investigations conducted so far into different types of allegations of human rights abuses in the context of the demonstrations since 25 October 2021; of the number of arrests made in connection to these allegations, and the number of cases moved to the prosecution stage according to different types of abuses. If no investigations have been undertaken so far, please explain why not. Please provide disaggregated information in relation to gender and age group.
6. Please provide information on the measures undertaken to investigate and prosecute those responsible for the allegations of conflict-related sexual violence against women and girls.
7. Please provide information on the measures taken to provide the necessary rehabilitation, recovery, and redress for the victims of conflict-related sexual violence against women and girls.
8. Please provide any additional information on the measures that the Sudan authorities plan to take to prevent incidents of sexual abuse and violence against women and girls as well as death threats against women activists, including ensuring such acts are not used to dissuade women and girls to take part in public affairs, including in participating and organizing peaceful protests.
9. Please provide information on the measures taken by the military authorities to ensure victims of rape have the necessary access to justice, adequate protection, assistance and reparations, including access to mental and psychological care.
10. Please provide information as to the individuals that have been arrested and detained in the context of the 30 June 2022 peaceful protests. Please clarify the legal and factual basis for the arrest and detention of these individuals, and the charges made against them, and how this is

compatible with Sudan's obligations under international law.

11. Please provide information on measures taken to ensure that children are not unlawfully or arbitrarily deprived of their liberty, or subjected to torture or other cruel, inhuman or degrading treatment or punishment. In cases when the deprivation of liberty of children is envisaged, please specify measures taken to ensure that the deprivation of liberty is only used as a measure of last resort, and that special guarantees are provided in accordance with international human rights law, especially article 37 of the Convention on the Rights of the Child.
12. Please explain what measures have been taken to safeguard the fair trial and due process rights of all individuals detained, and how such measures are compatible with Sudan's international human rights obligations.

While awaiting a reply, we urge that all necessary interim measures be taken to immediately halt the alleged violations and prevent their recurrence. In this regard, the Sudanese military authorities should publicly condemn the violence against peaceful protestors, and immediately remove from managing the protests the military and security units and personnel allegedly involved in the commission of human rights violations, including sexual and gender-based violence.

We call as a matter of priority for the immediate, transparent and independent investigations to ensure accountability for all human rights abuses associated with the ongoing and past demonstrations. The Sudanese military authorities must take immediate steps to enable an environment in which all Sudanese people, including women and girls, can express their opinions safely, assemble and participate in the public affairs without intimidation or fear.

We also call on the Sudanese military authorities to take all necessary measures, including addressing the demands raised by the protesters, so that human rights of Sudanese citizens can be respected and protected in line with the international standards.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with the de-facto military authorities in Sudan to clarify the issue/s in question.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from the Sudan military authorities will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, the assurances of our highest consideration.

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mumba Malila
Vice-Chair of the Working Group on Arbitrary Detention

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Tlaleng Mofokeng
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Special Rapporteur on the independence of judges and lawyers

Fabian Salvioli
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of
non-recurrence

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

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

Annex

Reference to international human rights law and standards

The above mentioned allegations seem to contravene articles 2 , 6, 7, 9, 10, 14, 19, 21, 22, 24.1 of the International Covenant on Civil and Political Rights (ICCPR) ratified by Sudan on 18 March 1986; the Convention against Torture and other cruel, inhuman or degrading treatment or punishment, ratified by Sudan, on 10 August 2021; the Convention on the Rights of the Child, to which Sudan is a party since 2015; and the right to health enshrined in the International Covenant on Economic, Social and Cultural Rights, which Sudan ratified in 1986.

First, we would like to recall article 21 of the ICCPR, which recognizes the right to freedom of peaceful assembly. Article 21 of the ICCPR imposes a positive obligation on States parties to respect and ensure the exercise of the right to freedom of peaceful assembly without discrimination. As the Human Rights Committee noted in its General Comment No. 37, this requires States to allow such peaceful assemblies to take place without unwarranted interference and to facilitate the exercise of the right and to protect the participants. The General Comment No. 37 elaborates that article 21 also extends protection to actions performed offline as well as online such as participants' or organizers' mobilization of resources; planning; dissemination of information about an upcoming event; preparation for and travelling to the event; communication between participants leading up to and during the assembly; broadcasting of or from the assembly; and leaving the assembly afterwards. Moreover, the Human Rights Committee stresses that no one should be harassed or face other reprisals as a result of their presence at or affiliation with a peaceful assembly. (General Comment No. 37). Further the Human Rights Committee clarifies that a "peaceful" assembly stands in contradistinction to one characterized by widespread and serious violence. It further explains that isolated acts of violence by some participants should not be attributed to others, to the organizers or to the assembly as such; and that isolated instances of violent conduct "will not suffice to taint an entire assembly as non-peaceful, but where it is manifestly widespread within the assembly, participation in the gathering as such is no longer protected under article 21". Article 21 also provides protection to peaceful protests, as well as to a forms of a collective civil disobedience or direct action campaigns, provided that they are non-violent. (GC/37, para 16).

According to article 21, "no restrictions may be placed on the exercise of the right to freedom of peaceful assembly other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others." The onus is on the authorities to justify that any restrictions meet the requirement of legality, necessity and proportionality. As stated by the Human Rights Committee, "the imposition of any restrictions should be guided by the objective of facilitating the right, rather than seeking unnecessary and disproportionate limitations on it." and that "Restrictions must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect." (General Comment No. 37). Restrictions must also be "the least intrusive among the measures that might serve the relevant protective function". Blanket bans on peaceful assemblies are inherently disproportionate and are unlawful.

In this regard, we would like to refer to the most recent report to the Human Rights Council of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, that reiterates the importance of peaceful protests at all times, particularly in crisis situations, such as during political transitions. The Special Rapporteur urged States to ensure peaceful protests are facilitated and enabled as important tools for citizens to meaningfully participate in the public affairs and in shaping the decisions and policies that most affect the society in such critical situations. The Special Rapporteur stressed that the existence of a crisis do not justify unduly restrictions on peaceful protests and called on States to refrain from deploying the military in policing protests as it leads to serious human rights violations. (A/HRC/50/42, para 31). The Special Rapporteur further elaborated that, should in exceptional circumstances, where it is absolutely necessary for the military to be deployed in the context of protests, they must be under civilian command and oversight, have clearly defined responsibilities and be held accountable by civilian justice systems; and must be trained and comply with applicable law enforcement standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.(A/HRC/50/42, para 33). The most recent Human Rights Council Resolution on the promotion and protection of human rights in the context of peaceful protests, also states the importance of States to refrain, to the extent feasible, from “assigning military personnel or employing military equipment and techniques to perform such duties, while reaffirming that the State’s international obligations and commitments in relation to the use of force in the context of law enforcement also apply to the military when it is performing law enforcement duties, and that private personnel should respect internationally recognized standards”. (A/HRC/50/L.16).

Further, we would like to remind you of article 6 (1) of the ICCPR which provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life. The Human Rights Committee in elaborating on article 6 in its General Comment No. 36 (GC/36), stated that States parties are expected to take all necessary measures intended to prevent arbitrary deprivations of life by their law enforcement officials, including soldiers charged with law enforcement missions. These measures include appropriate legislation controlling the use of lethal force by law enforcement officials, procedures designed to ensure that law enforcement actions are adequately planned in a manner consistent with the need to minimize the risk they pose to human life, mandatory reporting, review, and investigation of lethal incidents and other life-threatening incidents, and the supplying of forces responsible for crowd control with effective ‘less-lethal’ means and adequate protective equipment in order to obviate their need to resort to lethal force. In particular, all operations of law enforcement officials should comply with relevant international standards, including the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169) (1979) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990); law enforcement officials should undergo appropriate training designed to inculcate these standards so as to ensure, in all circumstances, the fullest respect for the right to life. States parties should ensure that ‘less-lethal’ weapons are subject to strict independent testing and evaluate and monitor the impact on the right to life of weapons such as electro-muscular disruption devices (Tasers), rubber or foam bullets, and other attenuating energy projectiles, which are designed for use or are actually used by law enforcement officials, including soldiers charged with law enforcement missions (GC/36, paras 13 and 14). The General Comment 36 further provides that “States parties should not resort to “less-lethal” weapons in situations of

crowd control which can be addressed through less harmful means, especially situations involving the exercise of the right to peaceful assembly.” We recall that under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal.

Regarding the use of force and firearms, we would like to refer to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which require that “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” Principle 5 also stipulates that “Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment; (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.” Any use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination applicable to articles 6 and 7 of the ICCPR, and those using force must be accountable for each use of force.

In addition, the compilation of practical recommendations for the proper management of assemblies (A/HRC/31/66) recalls that the use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force. Any use of force must comply with the principles of necessity and proportionality (para. 57).

Given the reported death threats against women human rights defenders by law enforcement personnel, we would like to refer your Excellency’s Government to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65, according to which it is incumbent upon States to provide “effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats”. We would further like to refer to Human Rights Committee General Comment no. 35 which states that the right to personal security obliges States to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. It further notes that States must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury.

We would like to remind Sudanese military authorities that States have a duty to investigate all cases where authorities have used firearms or potentially lethal force. Such investigations must be undertaken in accordance with relevant international standards, including *Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Prevention and Investigation Principles)* and the *Revised Version of the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016))*⁸ and must be independent, impartial, prompt, thorough, effective, credible and transparent. This

⁸ <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>.

principle was reiterated by the Human Rights Council in Resolution 17/5 on the “Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions” (OP 4). The Council added that this includes the obligation “to identify and bring to justice those responsible ... to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and prevent the recurrence of such executions.” According to the Minnesota Protocol, “investigators and investigative mechanisms must be, and must be seen to be, independent of undue influence” at all stages and must be “independent of any suspected perpetrators and the units, institutions or agencies to which they belong” (para. 28). An autopsy should be performed, and if it is not done, the reason should be justified in writing and subject to judicial review (para. 25). In performing this autopsy, the Minnesota Protocol’s detailed guidelines on autopsies should be followed (paras. 73-250). In addition to an autopsy, an effective and thorough investigation would require the collection of “all testimonial, documentary and physical evidence” (para. 24). Moreover, investigations must “seek to identify not only direct perpetrators but also all others who were responsible for the death, including, for example, officials in the chain of command who were complicit in the death. The investigation should seek to identify any failure to take reasonable measures which could have had a real prospect of preventing the death. It should also seek to identify policies and systemic failures that may have contributed to a death, and identify patterns where they exist” (para. 26).

Also we would like to remind the Sudan military authorities that the killing and causing serious injury of protesters, including the sexual abuse and rape of women, contravenes the absolute and non-derogable prohibition against torture and other cruel, inhuman or degrading treatment or punishment, according to international human rights law and jus cogens norms. Article 7 of the ICCPR states that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. The Convention against Torture, article 2, paragraph 2, provides that the prohibition against torture is absolute and non-derogable, and that no exceptional circumstances, such as a state of war or threat thereof, internal political instability or any other public emergency, may be invoked by a State Party to justify acts of torture in any territory under its jurisdiction. The Committee Against Torture, in its General Comment No. 2, on the Implementation of article 2, clarifies that States parties bear international responsibility for the acts and omissions of their officials and others, including agents, and others acting in official capacity or acting on behalf of the State, in conjunction with the State, under its direction or control; and that accordingly, States are obliged to prohibit, prevent and redress torture and ill-treatment in all contexts of custody or control. Furthermore, the Committee Against Torture explains that in cases of State authorities failure to prevent and protect victims from gender-based violence, such as rape, from non-State actors, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible for consenting to or acquiescing in such impermissible acts (CAT/C/GC/2, para 18).

Furthermore, in his report to the General Assembly, the Special Rapporteur on Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment reiterated States’ obligations in the context of policing protests, indicating that “individuals cannot lose their protection against torture and other cruel, inhuman or degrading treatment or punishment under any circumstances whatsoever, including in the context of violent riots or unlawful protests”. The Special Rapporteur further noted that the “failure to take all precautions practically possible in the planning, preparation and conduct of law enforcement operations with a view to avoiding the unnecessary, excessive or otherwise unlawful use of force contravenes the State’s positive obligation to prevent acts of cruel, inhuman or degrading treatment or punishment within its jurisdiction.” (A/72/178, paras 15 and 62 (c)).

Acts of rape and sexual violence violate several core human rights, such as the right to life, the right to security, freedom from torture or other ill-treatment, and the right to non-discrimination, equality and equal protection under law. Rape and sexual violence suffered at the hands of agents of the State, such as police or military officers, are considered to constitute an act of torture under international human rights law. International criminal law recognizes that rape committed in a systematic or widespread manner may amount to crime against humanity, and when committed in the context of an armed conflict, a war crime.

Regarding the acts of rape and sexual violence of women in conflict affected areas, we would like to stress that many acts of gender-based violence, including rape and any other form of sexual violence, are strictly prohibited by international humanitarian law and constitute a grave breach of the Geneva Conventions. When committed in the context of armed conflict, such acts are prohibited through (i) grave breaches provisions such as art. 147 of the Fourth Geneva Convention and art. 85 of Additional Protocol I, which prohibit torture, inhuman treatment, and willfully causing great suffering or serious injury to body and health; (ii) Common art. 3, which prohibits violence to life and person, cruel treatment and torture, and outrages upon personal dignity; and other provisions, such as art. 27 of the Fourth Geneva Convention, Arts. 75-77 of Additional Protocol I and art. 4(2) of Additional Protocol II, which explicitly prohibit attacks against women, including rape, enforced prostitution and any form of indecent assault.

Regarding the detention of individuals in the context of peaceful protest, we would like to refer to article 9 of the ICCPR, which states that everyone has the right to liberty and security of person, and that no one shall be arbitrarily arrested or detained. Upon arrest, an individual has the right to be promptly informed of the reasons for his or her arrest and be brought promptly before a judge or released. As reiterated in the jurisprudence of the Working Group on Arbitrary Detention as well as the Human Rights Committee's General Comment 35, arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the ICCPR is arbitrary, including in relation to the right to freedom of opinion and expression (art. 19), freedom of assembly (art. 21), and freedom of association (art. 22). Further, in accordance with article 9 of the ICCPR, anyone who is arrested must be informed, at the time of arrest, of the reasons for his or her arrest and must be promptly informed of any charges against him or her. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. In that regard, the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court state that the right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation. We also wish to draw your attention to article 14 of the ICCPR, which enshrines the right of all persons to have adequate time and facilities to prepare their defence and to communicate with a legal representative of their own choosing. We wish to remind your Excellency's Government that the right to legal assistance applies from the moment of deprivation of liberty and across all settings of detention.⁹ As reiterated by the Working Group on Arbitrary Detention, and as enshrined in principle 9 of the Basic Principles and Guidelines, legal counsel should be able to carry out its functions effectively and independently, free from fear of reprisal, interference, intimidation,

⁹ A/HRC/45/16, para. 51.

hindrance or harassment.¹⁰

We would like to recall that article 19 of the ICCPR protects the right to freedom of opinion without interference, and the right to freedom of expression, including the right of everyone to seek, receive and impart information and ideas of all kinds, through any media of communication. The international human rights law holds that restrictions to freedom of expression must pursue a legitimate aim, which could be the respect of the rights or reputations of others, to protect national security or the public order (*ordre public*), or public health or morals. As stipulated by the Human Rights Committee in its General Comment 34 however, restrictions imposed on the exercise of freedom of expression must not put in jeopardy the right itself, must conform to the strict tests of necessity and proportionality, must be appropriate to achieve their protective function and must be the least intrusive instrument amongst those which might achieve their protective function (CCPR/C/GC/34).

Pursuant to article 19(1), the right to hold opinions without interference is absolute, and is a right to which no exception or restriction is permitted. Further, all forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature. It is incompatible with paragraph 1 to criminalise the holding of an opinion, and similarly, it is in violation of paragraph 1 to harass, intimidate, stigmatize, arrest, detain, put on trial or imprison a person for the opinions they may hold (CCPR/C/GC/34, para. 9).

We would like to remind Sudanese authorities that blanket internet shutdowns violate human rights law, namely the rights to freedom of expression and to peaceful assembly and freedom of association. Internet shutdowns fail to reach the established test for restrictions to the right to freedom of opinion and expression under article 19(3) of the ICCPR, as well as for restrictions on the freedom of peaceful assembly and of association under articles 21 and 22(2) ICCPR. With regard to internet access, we also recall that the same rights that people have offline must also be protected online, see e.g. CCPR/C/GC/34 para. 12, UN General Assembly resolution 68/167, Human Rights Council resolutions 26/13 and 32/13, as well as the Report by the Special Rapporteur on the Freedom of Expression A/HRC/35/22 paras. 76 and 77. In this regard, we would further like to draw your attention to Human Rights Council Resolution 32/13, which “condemn[ed] unequivocally measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and calls upon all States to refrain from and cease such measures”.

Regarding addressing the acts of violence against women and girls in Sudan, we recall that the Declaration on the Elimination of Violence against Women adopted by the General Assembly resolution 48/104 of 20 December 1993, which defines violence against women in article 2 as encompassing, but not limited to, physical, sexual and psychological violence. The Declaration states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, *inter alia*, (a) the right to life; (b) the right to equality; (c) the right to liberty and security of person; and (d) the right to equal protection under the law (article 3). In article 4 (g), the Declaration notes the responsibility of States to work to ensure that women subjected to violence receive specialized assistance, such as rehabilitation, assistance in childcare, treatment, counselling, and health and social services,

¹⁰ A/HRC/45/16, para. 54.

facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation.

In addition, we wish to draw the attention to the thematic reports of the Working Group on Discrimination against Women and Girls' reports to the Human Rights Council (A/HRC/23/50), revealing that 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 human rights 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 is sometimes condoned or perpetuated 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.

Further, in its thematic report on Women deprived of liberty (A/HRC/41/33), the Working Group on Discrimination against Women and Girls has expressed that women who seek to participate in political, economic, social or cultural leadership in their communities or nations may be acting in defiance of stereotypes obliging women to stay quiet and invisible and defer to male governance. They may thus be stigmatized, or even criminalized or confined, to prevent them from speaking out or taking action. For example, violence or confinement may be used to stifle and punish women politicians, or those who have an active voice in public, for transgressing traditional gender norms. Women human rights defenders, perceived as challenging traditional notions of family and gender roles in society, are increasingly at risk of facing criminalization and detention as a result of their legitimate public activism. 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. The Working Group recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders, and eliminate any laws or policy measures designed to criminalize the public roles of women.

Regarding addressing the abuses against children, we would like to refer to the Convention on the Rights of the Child. According to the Convention, States parties have the obligations of due diligence and prevention of violence and other violations of human right; obligation to investigate and punish those responsible; as well as provide access to redress human rights violations. We would like to remind the Sudanese authorities that the arbitrary detention of children constitutes a violation of article 37 of the Convention on the Rights of the Child. In particular, article 37(b) of the said Convention prohibits the unlawful or arbitrary detention of children and provides that the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time. This was reiterated in the Human Rights Committee's General Comment No. 35, which stated that "children should not be deprived of liberty, except as a measure of last resort and for the shortest appropriate period of

time, taking into account their best interests as a primary consideration with regard to the duration and conditions of detention, and also taking into account the extreme vulnerability and need for care of unaccompanied minors.” Further, in accordance with article 37(c) of the Convention on the Rights of the Child, states must ensure that every child deprived of liberty is treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.

In addition, we would 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 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 the prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, as well as 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.

We would like to remind the Sudan military authorities that attacks on health-care facilities, including by firing tear gas directly into hospitals and deliberately obstructing health-care workers’ access to protest sites, violate medical neutrality protected under international law. As stated by the Committee on Economic, Social and Cultural Rights, general comment No. 14, States have a non-derogable obligation to ensure access to health care and ensure effective protection for health-care workers at all times, and must refrain from interfering directly or indirectly with the enjoyment of the right to health. The Committee further stated that the right to health is important for and dependent on the exercise of the right to freedom of peaceful assembly.

Further regarding the right to health, including regarding people deprived of their liberty, we would like to remind article 12, coupled with article 2.2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which enshrines the right of everyone, including people prisoners and detainees, to the enjoyment of the highest attainable standard of physical and mental health. This includes an obligation on the part of all States parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination. Accordingly, States have the obligation to refrain from denying or limiting equal access for all persons, including prisoners or detainees, to health preventive, curative and palliative services (Committee on Economic, Social and Cultural Rights (Committee), General Comment No. 14, para. 34).

In this connection, we would like to refer your Excellency's Government to the General Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation” (Basic Principles for the Treatment of Prisoners. Principle 9).

Furthermore, the UN Standard Minimum Rules for the Treatment of Prisoners (“Mandela Rules”) adopted unanimously by the UN General Assembly

(A/RES/70/175) establish that “[s]ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers” (Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2)). In this vein, prisoners are entitled to the same standards of health care that are available in the community, free of charge and without discrimination (rule 24.1) and prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals (rule 27.1).

In addition, the Committee on Economic, Social and Cultural Rights in its General comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), clarified that States must ensure that all individuals have access to justice and to meaningful and effective remedy in instances in which the right to sexual and reproductive health is violated, such as adequate, effective and prompt reparation in the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, as appropriate. States have also responsibilities to investigate, prosecute and provide remedied to victims whose right to sexual and reproductive health are violated by third parties.

Finally, we would like to remind the military authorities in Sudan of the positive obligation imposed by the Covenant on States parties “to respect and to ensure” all the rights in the Covenant (art. 2 (1)); to take legal and other measures to achieve this purpose (art. 2 (2)); and to pursue accountability, and provide effective remedies for violations of Covenant rights (art. 2 (3)). The General Comment 31, further states that with failure of the State to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant, especially for violations recognized as criminal, such as torture and similar cruel, inhuman and degrading treatment (article 7), summary and arbitrary killing (article 6) and enforced disappearance. (GC 31, paragraph 8). It also provides that under article 7 of the ICCPR, States Parties should take positive measures to ensure that private persons or entities do not inflict torture or cruel, inhuman or degrading treatment or punishment on others within their power.

Additionally, General Comment 37 on assemblies, reiterated the obligations of States “to investigate effectively, impartially and in a timely manner any allegation or reasonable suspicion of unlawful use of force or other violations by law enforcement officials, including sexual or gender-based violence, in the context of assemblies. Both intentional and negligent action or inaction can amount to a violation of human rights. Individual officials responsible for violations must be held accountable under domestic and, where relevant, international law, and effective remedies must be available to victims.” (General Comment 37, paragraph 90).

The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, stating that States have obligations to provide equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms. As set by the Basic Principles, reparations can be in the forms of restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in

relevant laws and practices, as well as bringing to justice perpetrators of human rights violations, while considering the situation of vulnerability of certain groups.