

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

Ref.: AL SDN 4/2024  
(Please use this reference in your reply)

25 November 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 52/4, 51/8, 53/12 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the arrest, sentencing, and detention of Mr. Montaser Abdullah.**

Mr. Montaser Abdullah is a lawyer and human rights defender, whose work has centred on offering legal assistance for gender-based violence and delivering legal support to survivors of such crimes.

Concerns regarding the arrest and alleged arbitrary detention of human rights defenders were raised in several previous communications sent to your Excellency's Government by special procedures mandate holders, including [SDN 1/2023](#), [SDN 3/2022](#), [SDN 2/2022](#), and [SDN 4/2021](#). We regret that no response has been received from your Excellency's Government.

According to the information received:

Mr. Montaser Abdullah was the legal representative of the Defence Committee for the accused leaders of Tagadom in complaint No. 1613/2024. Mr. Abdullah was representing the team that defends the 17 members of the Tagadom Coordination Committee, including its chair, former Prime Minister Dr. Abdalla Hamdok, against accusations by the National Committee for Investigating Crimes and Violation of National Laws and International Humanitarian Law. The indicted were accused of undermining the constitutional order, waging war against the state, crimes against humanity, genocide and war crimes in accordance with the Sudanese Criminal Act of 1991. The charges also include terrorist crimes, running terrorist organizations and seizing aircraft" under the Counter-Terrorism Law of 2001. Some of these offenses carry death penalty as punishment.

On 21 May 2024, Mr. Montaser Abdullah submitted a request to the Public Prosecution in Port Sudan to review the charge sheet so that he could prepare his defence. Since that date, he reported his office being under surveillance by authorities. Namely, some of his relatives alerted being sent photos capturing Mr. Abdullah's entry and exit from his office.

On 5 September 2024, Mr. Abdullah was arrested by two Red Sea Security Cell officers upon arrival in his office from the Court. He was arrested on the spot and taken to the Security Cell premises without the presentation of any arrest warrant. After several hours, he was released from detention but was instructed to return the next day. On 6 September, upon his return, he was informed that he would need to come back again on 7 September. Complying with these instructions, he presented himself the next day and was taken into custody. During his detention, he was reportedly forced by the authorities to waive his right to immunity as a lawyer while performing in his professional role. He remained in detention without interrogation and was incommunicado until 3 October 2024.

On 3 October 2024, Mr. Abdullah, while under guard supervision, was brought before a judge in the Criminal Court of the Red Sea State's judiciary in Port Sudan. Mr. Abdullah was charged with under article 53 of the Sudanese Criminal Code 1991, related to espionage and collaboration with a foreign state or its agents. Sentencing under article 53 can lead to life imprisonment or the death penalty, depending on the gravity of the offence. Mr. Abdullah refused to confess, claiming that he had not committed a crime.

Following this, Mr. Abdullah was transferred to Port Sudan Central Prison, where he is currently detained. Mr. Abdullah has reportedly been held alongside five other individuals in a cell measuring 2 by 2 meters. He has not been permitted to leave this cell, even to use the toilet. Furthermore, Mr. Abdullah has reportedly endured continuous beatings at the hands of the authorities in the prison. He has been forced to remain unclothed inside the cell.

Without prejudging the accuracy of the information received, we wish to express our deep concern at the arrest and alleged arbitrary detention of Mr. Montaser Abdullah in Port Sudan prison. There are serious concerns that such actions may be in retaliation for the legitimate human rights activities of Mr. Abdullah as a defence lawyer.

Furthermore, the treatment to which Mr. Montaser Abdullah has allegedly been subjected to, if confirmed, would be in contravention with the State's obligations to treat arrested and detained persons with dignity and humanity, in line with articles 7 and 10 of the ICCPR and the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment set forth in article 7 of the ICCPR, as well as articles 1, 2, and 16 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), ratified by Sudan in 2021.

We wish to recall that according to international standards, States must guarantee that those who practice law can do so free from intimidation, obstacles, harassment, or interference. The free exercise of the legal profession contributes to ensuring access to justice, oversight of state power, protection of due process and judicial guarantees.

According to the UN Basic Principles on the Role of Lawyers, governments have the duty to ensure that legal professionals are able to perform all of their functions without intimidation, hindrance, harassment or improper interference,

including threats of prosecution or administrative, economic or other sanctions for any action taken in accordance with their recognized professional duties, standards and ethics (principles 16 and 17).

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 any additional information you may have on the above-mentioned allegations, notably the factual and legal grounds for the arrest and detention of Mr. Montaser Abdullah and how these measures are compatible with international norms and standards.
2. Please provide detailed information on the treatment of Mr. Addullah in prison, including the overall detention conditions in which he has been held, and whether there has been any investigation and/or prosecution opened with regard to this and the allegations of torture and/or other cruel, inhuman or degrading treatment or punishment, and the outcomes of any such proceedings.
3. Please provide information on the steps taken to ensure that all human rights defenders in Sudan can carry out their legitimate human rights work in a safe environment, including in exercising their right to freedom of opinion and expression as well as their right to freedom of peaceful assembly and of association in times of crises, free from any form of threats, harassment, detention or ill-treatment, or any other form of undue restrictions.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government 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.

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(s) responsible for the alleged violations.

Further, 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 the case 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 urgent appeal and the regular procedure.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government 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, Excellency, the assurances of our highest consideration.

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Ganna Yudkivska  
Vice-Chair on communications of the Working Group on Arbitrary Detention

Margaret Satterthwaite  
Special Rapporteur on the independence of judges and lawyers

Alice Jill Edwards  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

## Annex

### Reference to international human rights law

In relation to the above-mentioned allegations, we would like to refer your Excellency's Government to articles 7, 9, 10 and 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Sudan on 18 March 1986, which prohibits torture and other cruel, inhuman or degrading treatment or punishment and provide that persons deprived of their liberty are to be treated with dignity and humanity, as well as liberty from arbitrary arrest and detention, and the right to freedom of opinion and expression.

We also refer to articles 1, 2, and 16 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), ratified by Sudan in 2021 and recall that attached to the prohibition on torture and other cruel, inhuman or degrading treatment or punishment are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute suspects, to punish those responsible and to provide remedies to victims. Victims are to be protected from reprisals or intimidation during said investigations and they have an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible.<sup>1</sup>

Article 9 of the ICCPR provides that no one shall be subjected to arbitrary arrest or detention or deprived of their liberty except on such grounds and in accordance with such procedure as are established by law. In this regard, we wish to emphasize that in accordance with the jurisprudence of the Working Group on Arbitrary Detention, enforced disappearances constitute a particularly aggravated form of arbitrary detention. Further, as stated in the jurisprudence of the Working Group on Arbitrary Detention and in general comment no. 35, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, is arbitrary.

Article 19 of the ICCPR guarantees the right of all persons to freedom of expression, encompassing the freedom to seek, receive and information and ideas of all kinds. Any restrictions on freedom of expression must be strictly limited and meet the high threshold set out in article 19 (3) of the Covenant, following which any limitations must be determined by law and conform to the strict tests of necessity and proportionality. As underlined by the Human Rights Committee in its general comment no. 34, attacks on persons because of the exercise of their freedom of expression, including in the form of arbitrary arrest, cannot under any circumstance be compatible with article 19. As highlighted by the Committee, persons engaged in gathering, analysing and reporting on human rights are frequently subjected to such acts of intimidation because of their activities.

We would also like to refer to the Basic Principles for the Treatment of Prisoners, adopted without vote by the General Assembly resolution 45/111 on 14 December 1990, which provides that all prisoners shall be treated with the respect

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<sup>1</sup> For a full explanation on the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and the related States' obligations to criminalize, investigate and prosecute crimes of torture and other ill-treatment, see Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/77/502); and Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Good practices in national criminalization, investigation, prosecution and sentencing for offences of torture (A/HRC/52/30).

due to their inherent dignity and value as human beings (principle 1). It also states that prisoners shall have access to health services available in the country without discrimination on the grounds of their legal situation (principle 9).

We would equally like to refer to Rule 1 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which provides that all prisoners shall be treated with the respect due to their inherent dignity and value as human beings. Under the rule 24(f), the provision of health care for prisoners is a State's responsibility, free of charge, without discrimination and at the same level as the health care services provided in the community.

Finally, we would like to refer to the fundamental principles set forth in 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, we would like to refer to articles 1 and 2 of the Declaration, 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 would further wish to stress the following articles of the Declaration:

- article 9, paragraph 5, which holds that States shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction; and
- article 12, paragraph 2, holding that States shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in the Declaration.