

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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April 28, 2015

HE Omar Hassan Ahmad al-Bashir
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People's Palace
PO Box 281
Khartoum, Sudan

Mohamed Bushara Dousa
Ministry of Justice
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Via email : moj@moj.gov.sd

Ibrahim Mahmoud Ahmed
Ministry of Interior
PO Box 873
Khartoum, Sudan
Via email: ministry@mfa.gov.sd

Your Excellencies:

Re: Arbitrary Arrest, Detention and Prosecution of Human Rights Defender Adil Bakheit

Lawyers Rights Watch Canada (LRWC) is a committee of lawyers and academics who campaign internationally for advocacy rights, advocates in danger, and on rule of law issues and engage in legal research and education about international human rights law. I am a lawyer and a partner of a law firm in Canada, Cohen Highley LLP.

On March 26th, 2015 the laptop of Mr. Adil Bakheit was confiscated by the National Intelligence and Security Services NISS during a raid. Mr. Adil Bakheit is a human rights defender and a member of the Board of Trustees of the Sudan Human Rights Monitor (SHRM) On 16 April 2015 Mr. Bakheit was arrested and interrogated by the NISS about communications with Tracks for Training and Human Development (Tracks), a group that provides human rights and capacity building instruction to NGOs. He is still detained in the Al Awasat police station. We understand that Mr. Adil Bakheit has been charged under the 1991 Criminal Act with “criminal joint acts in execution of criminal conspiracy”, (Article 21), “criminal conspiracy” (Article 24), “calling for opposition to public authority by use of violence or criminal force” (Article 63), “publication of false news” (Article 66), “impersonating a public servant” (Article 93), “offences against the State undermining the constitutional system” (Article 50), and “waging war against the State” (Article 51). Two of these charges carry the death penalty.

LRWC shares the opinion of Amnesty International that Mr. Adil Bakheit has been targeted with arrest and prosecution “solely for his work in human rights and that this is part of the overall pattern of suppression and harassment of human rights activists in Sudan that the organisation has been documenting.”

We note that the arrest and detention of Mr. Adil Bakheit violates the *International Covenant on Civil and Political Rights* (ICCPR) to which Sudan is a party, the *Universal Declaration of Human Rights*, the *Declaration on Human Rights Defenders* and other international law instruments binding on Sudan as a member of the United Nations.

The purpose of this correspondence is to request that Sudan immediately and unconditionally release Adil Bakheit and that pending his release, ensure that he is not tortured or otherwise ill-treated, or put at risk of death and that he is given prompt access to adequate medical care.

We also remind you that the ICCPR and the UDHR require that Mr. Adil Bakheit be released pending trial unless a competent court has ruled on the basis of a review of evidence, that his release would trigger a substantial risk of flight, reoccurrence or interference with evidence *and* there is no alternative to detention that would prevent such. To our knowledge there has been no hearing, as required by the ICCPR, to determine these matters. That failure alone renders his detention arbitrary.

The legal duty of states to honour rights to liberty and the presumption of innocence and adhere to the above noted principles regarding pre-trial release has been affirmed on many occasions by courts and tribunals including by the United Nations Human Rights Committee. The HR Committee has stated, in relation to the *ICCPR*, that “bail should be granted, except in situations where the likelihood exists that the accused would abscond or destroy evidence, influence witnesses or flee from the jurisdiction of the state party.”¹ The mere assumption by the State party that the author would interfere with the investigations or abscond if released on bail does not justify an exception to the rule in article 9, paragraph 3 of the *ICCPR*.²

LWRC urges you to:

1. Immediately and unconditionally release Mr. Adil Bakheit as his detention is arbitrary since it only aims at sanctioning his human rights activities;
2. Withdraw the above noted charges against Mr. Adil Bakheit and ensure against further charges unless and until there is credible evidence establishing reasonable grounds to believe that Adil Bakheit has committed a criminal act;
3. Guarantee in all circumstances the physical and psychological integrity of Mr. Adil Bakheit, including by ensuring Mr. Bakheit's access to his medication, as well as of all human rights defenders in Sudan;
4. Put an end to any kind of harassment, including at the judicial level, against Mr. Adil Bakheit, as well as of all human rights defenders in Sudan, and ensure in all circumstances that he is able to carry out his activities without hindrances;
5. Conform in any circumstances with the provisions of the UN Declaration on Human Rights Defenders, in particular its Article 1, which states that “everyone has the right, individually or in association with others, to promote the protection and realization of human rights and fundamental freedoms at the national and international levels”, and its

¹ HR Committee: Communication No. 526/1993, *Hill v. Spain*, at para. 12.3.

² HR Committee: Communication No. 1178/2003, *Aleksander Smantser v. Belarus*, at para. 10.3.

article 12.2 which provides that “the State 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 his or her legitimate exercise of the rights referred to in the present Declaration”;

6. Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Sudan.

LRWC is hopeful you will ensure prompt and thorough investigations of the allegations outlined above and take steps necessary to implement the remedies required including withdrawal of the above noted charges. Your confirmation of receipt of this correspondence and actions to be taken would be appreciated.

Yours Very Truly,



Joe Hoffer
Sudan Monitor, Lawyers Rights Watch Canada

Copied to:

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