

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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October 5, 2016

HE Omar Hassan Ahmad al-Bashir
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Ministry of Interior
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Your Excellencies:

Re: Arbitrary Arrest, Detention, Prosecution and Judicial Harassment against Human Rights Defenders Al Hassan Kheiry, Arwa Elrabie, Imani-Leyla Raye, Khalafalla Al-Afif Mukhtar, Midhat A Hamdan

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, and I am writing to you to ask that you intervene with respect to proceedings involving the above named individuals.

Background information:

The Observatory has been informed by reliable sources about the judicial harassment against five human rights defenders working at the Centre for Training and Human Development in Sudan (TRACKS), namely Mr. **Al Hassan Kheiry**, a computer technician, Mrs. **Arwa Elrabie**, the Administration Manager, Ms. **Imani-Leyla Raye**, a student volunteer, Mr. **Khalafalla Al-Afif Mukhtar**, the Director, and Mr. **Midhat A Hamdan**, a trainer, as well as against the Director of Zarqa Organisation for Rural Development (ZORD) who had delivered training for TRACKS, Mr. **Mustafa Adam**, as well as the arbitrary detention of the last three.

On March 26, 2015, approximately ten plain-clothed National Intelligence and Security Services (NISS) agents raided TRACKS' premises, during the last day of training on "social responsibility and active citizenship". No search warrant was presented and computers and documents belonging to TRACKS were confiscated.

On April 16, 2015, Mr. **Adil Bakheit**, member of the Board of Trustees of the Sudan Human Rights Monitor (SHRM) was arrested and charged with "joint acts in the execution of criminal conspiracy, criminal conspiracy, undermining the constitutional system, waging war against the State, calling for opposition to public authority by use of violent or criminal force, publication of false news, and impersonating a public servant". The offences of waging war against the state and undermining the constitutional system carry the death penalty.

In May 2015, **Mr. Khalafalla Al-Afif Mukhtar** was charged with a number of crimes, including "criminal conspiracy", "undermining the constitutional system" and "waging war against the State" and later released on bail.

On June 3, 2015, Mr. Adil Bakheit was released on bail.

In February 2016, the State Crimes Prosecution Office dropped the criminal case.

On February 29, 2016, NISS officers raided for the second time TRACKS offices without any warrant and brought the staff present in the premises to the police station in order to interrogate them for 12 hours on TRACKS' activities, including on their relation to KACE. Moreover, the NISS officers severely threatened, verbally abused and ill-treated them for hours.

On May 22, 2016, **Messrs. Khalafalla Al-Afif Mukhtar, Mustafa Adam and Midhat A Hamdan, Al Hassan Kheiry, Ms. Arwa Elrabie and Ms. Imani-Leyla Raye** and three other TRACKS staff **Ms. Nudaina Kamal**, accountant, **Mr. Khuzaini El Hadi** and **Mr. Al Shazali Ibrahim Al Sheikh** were summoned to the NISS Department in Khartoum. Only two of them were questioned and further threatened in relation to their personal activities, including their activism and sources of income, while others were kept waiting before all the individuals summoned were placed in custody pending further investigations.

Ms. Nudaina Kamal was released shortly after her arrest on the same day. Ms. Arwa Elrabie and Ms. Imani-Leyla Raye were released on bail on May 30; Messrs. Hassan Kheiry, Khuzaini El Hadi and Al Shazali Ibrahim Al Sheikh on June 7, 2016.

On August 15, 2016, Messrs. Khalafalla Al-Afif Mukhtar, Mustafa Adam and Midhat A Hamdan were transferred to Al Huda prison after spending almost three months in a narrow cell with poor ventilation and access to food, no access to medication and limited access to toilet at the State Prosecution office and were charged for the same offences.

Furthermore, Mr. Khalafalla Al-Afif Mukhtar, Ms. Arwa Elrabie, Ms. Nudaina Kamal and Mr. Adil Bakheit are also facing the similar charges in another court case related to another raid conducted at TRACKS' offices on March 26, 2015. The case was dropped on February 2016 by

the State Crimes Prosecution Office, and re-opened by the same on August 15, 2016. Their first hearing should have taken place on August 24, 2016 but has already been postponed three times and no date for the next hearing has been set yet.

Intervention and Action Requested:

Lawyers Rights Watch Canada asks you and the authorities of Sudan to:

- i. Release immediately and unconditionally Messrs. Khalafalla Al-Afif Mukhtar, Mustafa Adam and Midhat A Hamdan and guarantee in all circumstances their physical and psychological integrity;
- ii. Drop all charges against Messrs. Khalafalla Al-Afif Mukhtar, Mustafa Adam, Midhat A Hamdan, Al Hassan Kheiry, Arwa Elrabie and Imani-Leyla Raye, as they only aim at sanctioning their human rights activities;
- iii. Put an end to any kind of harassment, including at the judicial level, against them, as well as against all human rights defenders in Sudan, and ensure in all circumstances that they are able to carry out their activities without hindrances;
- iv. Conform in any circumstances with the provisions of the UN Declaration on Human Rights Defenders, in particular its articles 1 and 12.2;
- v. Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Sudan.

Thank you, in advance, for your consideration of our requests for intervention and action.

Yours Very Truly,



Joe Hoffer
Sudan Monitor, Lawyers Rights Watch Canada

Copied to:

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