

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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May 11, 2016

HE Omar Hassan Ahmad al-Bashir
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Via Email : moj@moj.gov.sd

Ibrahim Mahmoud Hamid
Ministry of Interior
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Khartoum, Sudan
Via Email: ministry@mfa.gov.sd

Your Excellencies:

Re: Arbitrary Arrest and Detention of Human Rights Defender Nabeel Adib Abdallah and University Students

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 Thursday, May 5, 2016 the National Intelligence and Security Services (NISS) agents raided and broke into the office of prominent lawyer and rights activist Mr. Nabeel Adib Abdallah and arrested several university students. No other information about the arrests, or removal of the property of Mr. Nabeel Adib Abdallah has been provided, nor has information about specific charges been provided. It is our view that Mr. Nabeel Adib Abdallah and the several students have been targeted with harassment and arrest because of activities relative to work in human rights and that this is part of the overall pattern of suppression and harassment of human rights activists in Sudan that we continue to document.

We note that the arrest and detention of these students 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 these students and that pending their release, ensure that they are not tortured or otherwise ill-treated, or put at risk of death and that they are given prompt access to adequate

medical care. If Mr. Nabeel Adib Abdallah has likewise been arrested we request that he, likewise be immediately and unconditionally released.

We also remind you that the ICCPR and the UDHR require that the detainees be released pending trial unless a competent court has ruled on the basis of a review of evidence, that their 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 their 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 accused 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 the detainees as their detention is arbitrary since it only aims at sanctioning their legitimate human rights activities;
2. Withdraw the above noted charges against the detainees and ensure against further charges unless and until there is credible evidence establishing reasonable grounds to believe that the detainees have committed a criminal act;
3. Guarantee in all circumstances the physical and psychological integrity of the detainees, including by ensuring they have access to medication;
4. Put an end to any kind of harassment, including at the judicial level, against the detainees, as well as of all human rights defenders in Sudan, and ensure in all circumstances that they are able to carry out their human rights work 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 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”;

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.

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 release of the detainees and 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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