

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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November 9, 2016

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Your Excellencies:

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

Lawyers Rights Watch Canada (LRWC) is a committee of lawyers and others 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, once again, that you intervene with respect to proceedings involving the above named individuals.

Background information:

The Observatory and LRWC have been informed by reliable sources about the continuing 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**, and of the arbitrary detention of the last three.

According to the information received, on October 22, 2016, the trial against the six human rights defenders resumed before the Khartoum Central Criminal Court on charges under the 1991 Criminal Act of “criminal conspiracy” (Article 21), “undermining the constitutional system” (Article 50), “waging war against the State (Article 51), and “espionage” (Article 53). Such offences are classified as crimes against the State and carry the death penalty. Messrs Midhat A Hamdan and Mustafa Adam are also facing charges under Article 14 of the Information Crime Law. These charges relate to accusations of producing, setting, sending, storing or promoting indecent content through internet, computer or alike that affect public order or morals. They carry sentences of imprisonment up to ten years and a fine.

During the hearing on October 22, the Prosecutor again showed evidence allegedly found on the Defendants’ laptops and without any relevance to the proceedings. The evidence involved reports about workshops and training sessions on the human rights situation in Sudan, as well as on the rights and protection of human rights defenders under international law.

In his final attempt to portray TRACKs and its members as working against the Sudanese State, the Prosecutor blamed the organization and its work for the “negative opinion” the international Criminal Court (ICC), the United Nations (UN) and the European Union (EU) have of the Sudanese President, Omar al-Bashir, and for the economic sanctions adopted against Sudan. According to the prosecutor, *“TRACKs activities are responsible for the demise of the State”*.

The Prosecutor has also focused part of his intervention on a former member of Al-khatim Aldan Center for Enlightenment (KACE), who is neither physically in Sudan, nor a member of TRACKs or part of this case. In spite of these elements, and without any evidence provided, the Prosecutor nonetheless argued that TRACKs was “working alongside him to support the military opposition in Darfur”. The Defendants’ lawyers are scheduled to cross-examine on the evidence on November 10, 2016.

The Observatory and LRWC express particular concern regarding the ongoing arbitrary detention of Mr. Khalafalla Al-Afif Mukhtar, as his health condition is deteriorating: he suffers from a heart condition and he does not have access to the appropriate medical care. Messrs. Mustafa Adam and Midhat A Hamdan also remain arbitrarily detained.

The Observatory and LRWC urges the authorities to release immediately and unconditionally Messrs. Khalafalla Al-Afif Mukhtar, Mustafa Adam and Midhat A Hamdan and drop all charges against them and in the meantime, ensure that the conditions of detention of these three human rights defenders are humane. It is also requested that all judicial proceedings against the six are carried out in full compliance with their rights to pre-trial release, the presumption of innocence and fair trial by a competent, independent and impartial tribunal, as recognized and guaranteed by the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples Rights and other instruments. The only activities that form the basis of the charges against the people named in this letter are their legitimate and peaceful exercise of protected rights to free expression and “to promote and strive for the protection and realization of human rights.”

The Observatory and LRWC firmly condemn the above-mentioned judicial harassment, which is the latest evidence of an increasing pattern of judicial harassment launched by the authorities targeting civil society organizations and human rights defenders in Sudan.

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 peaceful exercise of internationally protected rights;
- 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 to the UN Working Group on Arbitrary Detention of 7 October 2016 (A/HRC/WGAD/2016) determination that the arrest and detention of the people named constituted violations of the UDHR and the ICCPR and that those remaining in detention should be immediately released;
- v. Conform in any circumstances with the provisions of the UN Declaration on Human Rights Defenders, in particular its articles 1 and 12.2;
- vi. 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, once again, for your consideration of our requests for intervention and action.

Yours Very Truly,



Joe Hoffer
Sudan Monitor, Lawyers Rights Watch Canada

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