

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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January 23, 2017

HE Omar Hassan Ahmadal-Bashir
Office of the President
People's Palace
PO Box 281
Khartoum, Sudan

Your Excellency:

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

Lawyers Rights Watch Canada (LRWC) is a committee of lawyers, students 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.

LRWC has been informed by reliable sources about the continuing judicial harassment against five human right defenders working at the Centre for Training and Human Development in Sudan (TRACKS), namely Mr. **Al Hassan Kheiry**, a computer technician, Ms. **Arwa Elrabie**, the Administration Manager, Ms. **Imany-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.

According to the information received, on January 19, 2017, the Khartoum Central Criminal Court decided to drop all charges against Al Hassan Kheiry, Arwa Elrabie and Imany-Leyla Raye. The court confirmed, however, that Messrs. Khalafalla Al-Afif Mukhtar and Midhat A. Hamdan would be prosecuted under Article 66 of the Criminal Code (dissemination of false information) and Article 14 (cyber-crimes). Khalafalla Al-Afif Mukhtar will also face charges under Article 7 of the Voluntary and Humanitarian Work (Organization) Act 2006 (receipt of foreign funds without informing the authorities). Mustafa Adam will be prosecuted under the Criminal Code Article 53 (espionage) and article 55 (possession and dissemination of official documents). The defendants' lawyers requested the release on bail of Messrs. Khalafalla Al-Afif Mukhtar, Mustafa Adam and Midhat Afifi Hamdam. However the request is still pending. This was the twentieth hearing since the opening of the trial on August 24, 2016. The next trial session has been scheduled for January 24, 2017 at 1:30 pm.

Messrs. Khalafalla Al-Afif Mukhtar, Mustafa Adam and Midhat Adidi Hamdan remain arbitrarily detained in Al-Huda prison in Omdurman, despite a United Nations Working Group on Arbitrary Detention (WGAD) decision (A/HRC/WGAD/2016) published 7 October 2016 recommending that Sudan immediately release the three men and provide reparation for the harm suffered by each as a result of their arbitrary detention. The WGAD determined that the arrest and detention of each man were arbitrary and in violation of Articles 9 and 19 of the Universal Declaration of Human Rights.

LRWC expresses concerns regarding the deteriorating health of Khalafalla Al-Afif Mukhtar, who suffers from a heart condition and does not have access to appropriate medical care in prison.

LRWC therefore urges the Sudanese authorities to release immediately and unconditionally Messrs. Khalafalla Al-Afif Mukhtar, Mustafa Adam and Midhat A. Hamdan and drop all the charges against them, since the prosecutions only aim at sanctioning their legitimate human rights activities. It also welcomes the court decision to drop all charges against Al Hassan Kheiry, Arwa Elrabie and Imany-Leyla Raye and thanks all those who have mobilized in their favour.

Finally, pending the release of Khalafalla Al-Afif Mukhtar, Midhat A. Hamdan and Mustafa Adam and the withdrawal of charges against all the named human rights defenders, LRWC urges the Sudanese authorities to ensure that the conditions of detention of the three above-mentioned human rights defenders are humane, and that all judicial proceedings against the six are carried out in full compliance with their rights to a fair trial, as protected under international law.

Intervention and Action Requested:

LRWC urges 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 legitimate 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 to the decision of the UNWGAD of August 2016;
- 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 the right to a fair trial as enshrined in Article 10 of the Universal Declaration of Human Rights and Article 14 of the International Covenant on Civil and Political Rights (ICCPR)

vii. 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

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