

REDRESS

Ending torture, seeking justice for survivors

Mr Fabian Salvioli
UN Special Rapporteur on the promotion of truth, justice, reparation
and guarantees of non-recurrence
Geneva
Switzerland

1 June 2020

Dear Mr Salvioli,

I am writing on behalf of REDRESS to express our deep concern about the possibility of the release of individuals suspected and convicted of serious human rights abuses, including torture, in light of the COVID-19 health emergency. While we strongly support measures to protect detained individuals' rights to health and personal integrity, COVID-19 must not be a pretext for the unjustified release of those facing charges or unserved sentences for serious international crimes.

International standards

REDRESS supports complementary adherence to the rights of victims of serious human rights violations to obtain justice and reparation, alongside the rights of detained persons to personal integrity and safe and healthy conditions of detention.

On 29 April 2020, you made a statement insisting that measures adopted to protect against COVID-19 in prisons should not lead to impunity for serious human rights violations.

While recalling the duty to prevent violations of the rights of those deprived of their liberty, by "avoiding overcrowding and ensuring hygiene and sanitation in prisons", you noted that these individuals usually enjoy conditions of detention which avoid mass contact for security reasons. Measures such as relocation and, in the last resort, temporary house arrest, may be adopted if the personal integrity and right to health of the detainee cannot be ensured in prison or through other measures.

You also reiterated in an accompanying Information Note that "[u]nder no circumstances are amnesties, pardons, exemptions from criminal liability or benefits in the enforcement of a sentence applicable" for persons convicted of international crimes.

REDRESS would like to express its support for this position and draw to your attention two situations of particular concern.

Former Sudanese President Omar Al-Bashir

On Wednesday 27 May 2020, the Public Prosecutor of the Attorney-General's office issued a statement outlining recent health measures taken in respect of former regime members currently in detention, including transferring a number of detainees to hospital or into

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quarantine.

Previously, on Monday 29 April 2020, former Sudanese President Omar Al-Bashir requested a release or transfer to house arrest, following reports of a coronavirus outbreak in Kober prison where he is currently detained. The request was made through his legal team to the Attorney-General's office. Supporters of Al-Bashir protested outside the prison, and some have reportedly attended the Attorney-General's office to demand his release.

Al-Bashir is currently serving a two-year sentence for corruption and illicit financial gains. The ICC issued arrest warrants against Al-Bashir in 2009 and 2010, on charges of genocide, crimes against humanity and war crimes. Yet, Al-Bashir remained at large until April 2019. He is also facing serious charges in Sudan for crimes committed in Darfur and investigations into his crimes are ongoing. In view of the upcoming anniversary of the 3 June massacre in Khartoum, REDRESS would like to restate the importance of securing justice for survivors of serious human rights violations.

In making any decision regarding Al-Bashir's detention and in light of the gravity of the allegations against him, it is fundamental that the Sudanese authorities ensure that he remain in custody at all times, while protecting his physical integrity. REDRESS welcomes the efforts which the Attorney-General's office appears to be making in striking a balance between the rights of victims and those of detainees, and to ensure the health of all prisoners in its custody.

Al-Bashir's detention is essential to ensure that he will face trial for the crimes with which he is charged. It is also key to allowing effective investigations to continue, and to protect victims and witnesses, and their right to justice and reparation.

Former Chadian President Hissène Habré

On Monday 6 April 2020, a Senegalese judge granted Hissène Habré a two-month release from prison. Habré is serving a life sentence for crimes against humanity, war crimes and torture, as ordered by the Extraordinary African Chambers (EAC) in 2016 and confirmed on appeal in 2017. His legal team had requested his release, arguing that the risk of his being infected with the coronavirus was high in jail.

REDRESS urges the Senegalese courts to ensure that Habré returns to prison after this temporary release ends on 6 June 2020. Any pardon or a permanent release would breach the rights of his victims to justice and would exacerbate the suffering they are still experiencing. Habré is yet to pay the reparations ordered by the EAC and owed to his victims, despite more than four years having now passed since he was convicted.

Conclusion

REDRESS is committed to ensuring that the goals of justice and accountability for the crimes of Habré's and Al-Bashir's regimes do not remain unrealised.

REDRESS calls upon you, as UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, to take note of these situations and to encourage the Sudanese and Senegalese authorities to adhere to the international standards referred to above.

Yours sincerely,



Rupert Skilbeck

Director, REDRESS