

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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ARE 3/2015:

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 24/7, 25/2, 25/18, 26/7, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding the alleged arbitrary and incommunicado detention, as well as the potential torture or cruel, inhuman or degrading treatment, of Mr. Nasser bin Ghaith, a United Arab Emirates national. Mr. bin Ghaith was the subject of previous communications sent on 26 April 2011 (see A/HRC/18/51, case ARE 4/2011); on 27 September 2011 (see A/HRC/19/44, case ARE 6/2011); on 25 November 2011 (see A/HRC/19/44, case ARE 8/2011); on 7 November 2012 (see A/HRC/24/21 and A/HRC/22/67, case ARE 7/2012); and on 20 June 2013 (see A/HRC/25/74, case ARE 3/2013).

According to the information received:

On 18 August 2015 at 2.00 p.m., Mr. Nasser bin Ghaith, a United Arab Emirates national born on 9 June 1968, economist and academic residing in Dubai, was arrested while he was leaving his office in Abu Dhabi. He was then taken to his house, where 13 State Security officers in plain clothes searched his house for

four and a half hours and allegedly seized evidence (in the form of memory sticks) that allegedly does not belong to Mr. bin Ghaith. Thereafter, Mr. bin Ghaith was taken to an unknown location and his fate and whereabouts remain unknown to date.

It is reported that Mr. bin Ghaith may have been taken to a secret detention place controlled by the State Security Apparatus. The reason for his arrest remains unknown to this date and his family was not informed of any charges brought against him. It is alleged the arrest may be linked to his tweeting activity about the two-year anniversary of the violent dispersal of the protest camp in Rabaa al-Adaweyya Square in Cairo in Egypt in August 2013. Mr. bin Ghaith is allegedly in fragile health, has high blood pressure and colon problems and is currently undergoing medical treatment.

Mr. bin Ghaith had been previously arrested on 10 April 2011 and detained together with four other freedom of expression and democracy activists, known as the “UAE 5”, for having signed an online petition calling for a democratic reform of the Federal National Council. After their conviction, Mr. bin Ghaith and the others were released in November 2011 under a presidential pardon.

Grave concern is expressed about the alleged arbitrary arrest and incommunicado detention of Mr. bin Ghaith, in particular as his fate and whereabouts are currently unknown. Further serious concern is expressed regarding the physical and psychological integrity of Mr. bin Ghaith, in particular as he is held in incommunicado detention which puts him at high risk of torture or other ill-treatment. Concern is also expressed about the health condition of Mr. bin Ghaith, especially because his condition requires regular medication. We are also concerned that the aforementioned developments may be directly related to his work in defense of human rights, in particular his online activity commenting on the violent dispersal of the protest camp in Rabaa al-Adaweyya Square in Cairo by the army and the police on 16 August 2013 and exercising his right to freedom of expression.

While we do not wish to prejudice the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to these issues brought forth by the situation described above.

Without expressing at this stage an opinion on the facts of the case and on whether the deprivation of liberty of Mr. bin Ghaith is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 13 and 14 of the Arab Charter on Human Rights, ratified by the UAE in 2008.

Moreover, we would like to remind your Excellency's Government that prolonged incommunicado detention in secret places can facilitate the perpetration of torture or other cruel, inhumane or degrading treatment or punishment and can in itself constitute a form of such treatment (see paragraph 27 of General Assembly Resolution 68/156). In this context, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the UAE accessed on 19 July 2012.

The legitimate exercise of the right to freedom of expression is of central importance in the effective functioning of a democracy. We would like to appeal your Excellency's Government to take all necessary measures to guarantee the right to freedom of expression and opinion in the United Arab Emirates, in accordance with article 19 of the UDHR and article 32 of the Arab Charter on Human Rights.

The Human Rights Council, in paragraphs 3 and 5 of its Resolution 12/16, has expressed its concern at the violation of human rights, including extrajudicial killing, arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence and censorship against those who seek to promote their rights, including writers and human rights defenders, and has called upon States to take all necessary measures to put an end to violations of these rights and bring those responsible to justice.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6 and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response to the initial steps taken by your Excellency's Government to safeguard the rights of Mr. bin Ghaith in compliance with international instruments.

As it is our responsibility, under the mandates provided to use by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and comment which you may have on the above mentioned allegations.
2. Please provide detailed information on the fate and whereabouts of Mr. bin Ghaith.

3. Please provide information concerning the legal grounds for the arrest and detention of Mr. bin Ghaith and explain how these measures are compatible with international and regional norms and standards as stated, inter alia, in the UDHR and the Arab Charter on Human Rights.
4. Please provide information relative to the measures taken to ensure the physical and psychological integrity of Mr. bin Ghaith.

While awaiting your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. bin Ghaith are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts. In particular, we urge that the fate and whereabouts of Mr. bin Ghaith be immediately clarified and his family notified.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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