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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (56-23) G/SO 214 (33-27)
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 16/4, 22/20, and 17/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the detention and prosecution of Mr. **Raef Badawi** on charges of insulting Islam and "apostasy", an offence that carries the death penalty in Saudi Arabia.

According to the information received:

On 17 June 2012, Mr. Raef Badawi, a 35 year old blogger and activist, was arrested in Jeddah after organizing a conference to mark the "day of liberalism". The conference, which had been initially scheduled to take place in Jeddah on 7 May 2012, was banned by the authorities. Following his arrest, Mr. Badawi was detained in a prison in Briman, in Jeddah. A trial against Mr. Badawi started in July 2012 before the General Court in Jeddah. The charges against him relate to a number of articles he has written and published on his blog site and social media deemed to be insulting to Islam.

On 21 January 2013, the General Court, which has competence over "apostasy" cases, decided that it did not have jurisdiction to decide on the case as it found Mr. Badawi had not insulted Islam and that the charge of "apostasy" was not

founded. It referred the case to the Criminal Court in Jeddah. Following this decision, the General Prosecutor maintained the charge of “apostasy” against Mr. Badawi and appealed against the decision before the Appeal Court to determine whether the Criminal Court in Jeddah or another tribunal, in particular the General Court in Jeddah, should hear the case. The Court of Appeal in Jeddah referred the case to the Criminal Court.

On 29 July 2013, the latter convicted Mr. Badawi of a series of offences, including insulting religious authorities by creating and managing the online forum “Saudi Arabian Liberals”, insulting religious symbols in his Twitter and Facebook posts, criticizing the Commission for the Promotion of Virtue and Prevention of Vice (also known as the “religious police”), and criticizing officials who spoke against allowing women to sit in the Shura Council. The Court convicted Mr. Badawi under the information technology law of “founding a liberal website”, “adopting liberal thought” and of insulting Islam. Mr. Badawi was sentenced to seven years and three months in prison, and 600 lashes. The Criminal Court also ordered that the online forum, reportedly created to foster political and social debate in Saudi Arabia, be shut down.

Mr. Badawi’s lawyer appealed the decision arguing that the case was dealt with by a temporary judge who was biased and had advocated for Mr. Badawi to be punished for “apostasy”. On 11 December 2013, the Court of Appeal ruled that the case should be reviewed again, dropped the apostasy charges, and sent it back before the Criminal Court in Jeddah. However, on 25 December 2013, a newly-appointed judge in the Criminal Court remanded Mr. Badawi to the General Court on charges of “apostasy”, stating that the lower court was not qualified to deal with the case as the charges related to “apostasy”, an “offence” that carries the death penalty in Saudi Arabia.

The case is currently being reviewed by the Court of Appeal in Jeddah, which will decide whether to send the case back to the Criminal Court or to examine it itself. If convicted of “apostasy”, Mr. Badawi could face the death penalty. According to Mr. Badawi’s lawyer, the trial has been marred by irregularities causing him to contest the judicial impartiality in the case. A request to release Mr. Badawi pending trial was denied.

Concern is expressed that the detention and charges brought against Mr. Badawi represents an ongoing practice of prosecution against persons who publicly express opinions deemed critical of Islam. Concern is also expressed that Mr. Badawi may face the charge of apostasy, an offence that carries the death penalty, as a result of the peaceful expression of his opinions concerning religious matters.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification on the information drawn to our attention and share our concerns in relation to the present circumstances in light of the applicable international human rights norms and standards.

Without expressing at this stage an opinion on the facts, we would like to refer your Excellency's Government to the fundamental principles set forth in the Universal Declaration of Human Rights, in particular article 18, which guarantees the right to freedom of religion or belief; article 3 which provides that everyone has the right to life, liberty and security of person; and article 19 that provides that "[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

The right to life has been interpreted by the United Nations Human Rights Committee to mean that the death sentence may only be imposed in respect of offences that result in the intentional loss of life. Article 1 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides that "In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences."

We are also drawing your attention to article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty which provides that "Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial (...)". Without full respect for due process guarantees capital punishment constitutes summary or arbitrary execution.

Furthermore, we recall the principles set forth in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief. Article 6 (d) and (i) of the Declaration provides that the right to freedom of thought, conscience, religion or belief includes the freedom "to write, issue and disseminate relevant publications in these areas" and "to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels."

We would further like to draw your Excellency's Government attention to Human Rights Council resolution 19/8 which urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end "(b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief.."

Moreover, paragraph 9 of the same resolution and General Assembly resolution 66/168 paragraph 12 urge States “ (g) To ensure, in particular, [...] the right of all persons to seek, receive and impart information and ideas in these areas”, (i) “To ensure that all public officials and civil servants, including members of law enforcement bodies, and personnel of detention facilities, the military and educators, in the course of fulfilling their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief...”, and (l) “To prevent any distinction, exclusion, restriction or preference based on religion or belief that impairs the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis...”.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the human rights of Mr. Badawi in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the cases accurate?
2. Has a complaint been lodged by or on behalf of Mr. Badawi?
3. Please provide information concerning the legal grounds for the arrest and detention of the afore-mentioned persons and how these measures are compatible with international norms and standards. Please provide a copy of the relevant laws and articles.
4. Please provide information on the court proceedings and how they are in compliance with international standards of fair trial.
5. Please indicate which measures your Excellency’s Government has adopted to respect and protect the freedom of religion or belief in Saudi Arabia in compliance with international human rights norms and standards.

We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Raef Badawi 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.

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions