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**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Working Group on Arbitrary Detention; 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.**

REFERENCE: UA G/SO 218/2 G/SO 214 (3-3-16) G/SO 214 (53-24)  
BHR 4/2014

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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 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, 17/2, and 25/13.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the alleged torture and other ill-treatment of Mr. **Ahmed al-Arab**, a 22-year old nurse student and political activist, and the alleged use of confessions extracted under duress during court proceedings.

According to the information received:

On 9 January 2014, Mr. Ahmed al-Arab was arrested in Hamad town by approximately 50 agents of the Ministry of Interior in civilian clothes. The agents were allegedly using a helicopter and several Jeeps of the Ministry of Interior. Mr. al-Arab had previously been arrested on several occasions. During his arrest, Mr. al-Arab was allegedly blindfolded and severely beaten. It is further alleged that he was forced to admit at gunpoint to smuggling and hiding weapons. Mr. al-Arab was then taken to the public prosecutor's office where the prosecutor allegedly threatened him with more torture if he did not confess to the charges brought against him. During two weeks, Mr. al-Arab was allegedly transferred back and forth between the Criminal Investigation Department and a prison in Riffa. Then he was transferred to Jaw Prison, where he remains in detention.

It is reported that during his detention and interrogation at the Criminal Investigation Department, Mr. al-Arab was severely beaten by security officers in order to obtain a confession and to reveal the whereabouts of the weapons. Security forces allegedly hung him up by his hands or twisted his arms behind his back in a painful manner; stripped him naked, and beat and sexually assaulted him, intentionally hitting him on particularly sensitive areas; placed a cloth on his face and poured water onto it to make him feel like he was drowning. This treatment reportedly continued for over a week during daytime. At night, Mr. al-Arab was reportedly moved to another detention facility in Riffa, where he was also hung up naked by his arms. There, the security officers reportedly poured ice on his body and threatened him and his family. As a result of this treatment, Mr. al-Arab reportedly gave a false confession regarding the concealment of the weapons but security officers did not find any weapons at the said location.

It is furthermore reported that the beating caused severe shoulder injury, which was not treated. As a result Mr. al-Arab is said to be unable to raise his arm and to experience numbness when hot or cold water is being run over his arm.

In addition, security officers allegedly threatened to hurt his family, to rape him or to shoot a bullet into his already injured leg, and to have his finger nails pulled out. The security officers allegedly subjected him to loud engine noise.

It is reported that after one week, Mr. al-Arab was placed in isolation in a cell where he was forced to stand for long periods of time. The cell was reportedly located next to cells where friends of Mr. al-Arab were detained. Security officers reportedly went back and forth between the cells, ill-treating prisoners to ensure that they would hear each other screaming.

On 29 January 2014, Mr. al-Arab was transferred to Jaw Prison, where he remains in detention. He is allegedly forced to sleep outside in the courtyard because there is no space for him and the other new prisoners in their designated cells.

Mr. al-Arab is said to continue to suffer from torture he was subjected to. He has not been medically examined and provided medical treatment. It is reported that he may suffer from a broken rib. It is furthermore alleged that during one month he was prohibited from receiving family visits and from seeing his lawyer. He allegedly remained in incommunicado detention from 9 to 21 January 2014. It is reported that only after a Member of Parliament intervened on the family's behalf, his relatives were able to visit him at Jaw Prison for 15 minutes. Before that visit, Mr. al-Arab was only able to communicate with his family through short telephone calls. The first telephone call took place on 21 January 2014.

It is reported that although Mr. al-Arab's lawyer was able to attend the court proceedings in his case, Mr. al-Arab was never brought before the court in person.

Very serious concern is expressed regarding Mr. Ahmed al-Arab's physical and psychological integrity in the light of the allegations that he was tortured during interrogation and detention in order to extract a confession of guilt. Further concern is expressed regarding the fairness of Mr. al-Arab's trial, in particular regarding allegations according to which forced confessions were being used against him, his limited access to a lawyer as well as not being tried in his presence. Concern is also expressed regarding the lack of medical treatment provided to him while in detention.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Ahmed al-Arab 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 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), which your government acceded to on 20 September 2006.

Furthermore, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. al-Arab. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR, the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to draw the attention of your Excellency's Government to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. We would also like to draw your Excellency's Government's attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States "(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate

with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.”

We would further like to draw the attention of your Excellency’s Government to article 15 of the CAT provides that, “Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” We also recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States “To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;”

Regarding the allegations that Mr. al-Arab was held in incommunicado detention, we would like to draw the attention of your Excellency’s Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that “Prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.”

We would also like to recall Rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners, which provides that, “(s)ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers. Furthermore, Rule 25(1) provides that, “(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed” (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977).

Regarding the alleged behaviour of the prosecutor, we would like to refer your Excellency’s Government to the Guidelines on the Role of Prosecutors, adopted by the

Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, and in particular following guidelines:

- Guideline 12, which states: "Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system."; and

- Guideline 16, which states: "When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice."

Regarding the allegations according to which Mr. al-Arab did not have access to his lawyer for about one month and could not attend his trial in person, we would like to refer your Excellency's Government to article 14(3) of the International Covenant on Civil and Political Rights, which states: "In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it."

The right to be assisted by a lawyer is also set forth in the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, in particular in the following principles:

- Principle 1, which states: "All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings";

- Principle 5, which states: "Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.";

- Principle 7, which states: “Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.”; and

- Principle 8, which states: “All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.”

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 rights of Mr. al-Arab 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 above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. al-Arab for his alleged torture and ill-treatment?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. al-Arab and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
4. Please provide the details, and where available the results, of any investigation, medical and judicial or other inquiries carried out in relation to allegations of torture and ill-treatment. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide the full details of any prosecutions which may have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators of torture and ill-treatment?
6. Please provide details of any measures taken to ensure that Mr. al-Arab has immediate access to medical care and treatment in Jaw Prison.

We undertake to ensure that your Excellency’s Government’s response will be available 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. al-Arab 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.

Mads Andenas  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Gabriela Knaul  
Special Rapporteur on the independence of judges and lawyers

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment