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HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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; and the Special Rapporteur on freedom of religion or belief

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

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (56-23)
IDN 13/2012

30 November 2012

Excellency,

We have the honour to address you in our capacities 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; and Special Rapporteur on freedom of religion or belief pursuant to Human Rights Council resolutions 15/18, 16/4, and 14/11.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding possible blasphemy charges against Mr. **Mirza Alfath**.

According to information received:

Mr. Mirza Alfath is a law lecturer at Universitas Malikussaleh in Lhokseumawe, Aceh. He has been voicing some criticisms concerning the implementation of the Sharia Law on his Facebook page, using the pseudo name Mirzanovic Afathenev.

On 3 July 2012, Mr. Alfath reportedly wrote on his Facebook: "Sharia Law has obviously a lot of weaknesses and shortcomings. It is no longer feasible for today's modern and advanced society. Sharia law is only suitable for the era when people were still lacking of knowledge and science [...]." The post had allegedly caused Mr. Teuku Zulkhairi, a Muslim activist, to react by writing a letter to Serambi, the largest daily newspaper in Aceh, on the morning of 20 November 2012 complaining that Mr. Alfath had insulted Islam.

It is reported that the letter was soon distributed in Lhokseumawe and provoking anger of some people. On the same day in the evening, an angry mob reportedly went to Mr. Alfath's house, throwing stones and planning to attack him. The police came allegedly to secure Mr. Alfath but he was taken into police custody where he remains to the present day. The police reportedly maintained that it was best for Mr. Alfath's own safety that he remained in police custody. It was also

reported that Mr. Alfath's older brother, in the name of the family, apologized to the Aceh society on 21 November 2012.

Concerns are expressed at the violation of Mr. Alfath's rights to freedom of religion or belief and freedom of opinion and expression. Concern is also expressed at the possible blasphemy charges against Mr. Alfath.

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 present circumstances in light of the applicable international human rights norms and standards.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned person is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee Mr. Alfath's 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).

We would also like to recall the rights guaranteed by article 18 of the UDHR and of the ICCPR that your Excellency's Government has acceded on 23 February 2006.

We would further like to draw your attention to the 1981 Declaration of the General Assembly Art. 1 (1): "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." Art. 1 (3): "Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others."

Furthermore, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Additionally, we also wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that article 19, paragraph 3 of the ICCPR provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on (i) [...] expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

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. Mirza Alfath 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 accurate?
2. Have complaints been lodged with regard to Mr. Alfath's attack or arrest?
3. Please provide information concerning the legal grounds for the arrest of Mr. Alfath and how this measure is compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR, including the right to freedom of religion or belief and freedom of opinion and expression.

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. Mirza Alfath 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.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

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