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PROCEDURES SPECIALES DU
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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 promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (89-15)
SAU 1/2013

1 February 2013

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 rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 15/18, 16/4, 15/21, 16/5, and 16/7.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received **regarding the allegedly arbitrary arrest and detention of Ms. Al Kharboush and her three children as well as of approximately 60 male protesters**. Ms. Al Kharboush and her children were protesting against the **allegedly arbitrary arrest, detention and ill-treatment in detention inflicted upon Mr. Anas Hamad Al Kharboush in Al Tarfiya prison, her husband and their father**. We therefore take this opportunity to also draw attention to **information received concerning Mr. Al Kharboush case**.

According to the information received:

On 24 September 2012, a peaceful demonstration gathering more than 100 persons took place around Al Tarfiya prison. This demonstration aimed to protest against the allegedly arbitrary detention of the protestors' family members who

have reportedly been, for most of them, imprisoned for years without charge or judicial proceedings and allegedly subjected to ill-treatment.

According to reports, Police Emergency Forces told demonstrators that their message had been heard and that their demands would be looked into, and further pressured them to leave the place. Nonetheless, as soon as they left the place, Police Emergency Forces allegedly followed them and arrested about 60 male protesters. Moreover, Police Emergency Forces reportedly confined the other protesters, including women and children, to a desert area outside the prison, where they were kept without food or water for close to a day.

Ms. Al Kharboush and her three children, who took part in this peaceful demonstration, were reportedly arrested. While two of her children, X, aged 10, and Y, aged 14, were released after 12 hours of detention, Z, aged 17, was allegedly held in detention for four days. It is reported that three persons arrested in the context of this protest would still be in detention.

On 29 October 2006, Mr. Anas Hamad Al Kharboush was allegedly arrested in front of Ar Rass Mosque by the Saudi Security Services. He was taken handcuffed and blindfolded in a car to an unknown destination. Mr. Al Kharboush's family remained without any information of the place of his detention for 40 days after his arrest.

In March 2007, it has been reported that Mr. Al Kharboush was transferred to Al Malz prison in Riyadh, located 400 km away from their place of residence, thus impeding his family from visiting him. Afterwards, in December 2007, he was allegedly moved once more to Al Hayer prison and eventually returned to Al Tarfiya prison on 12 February 2008. Sources indicate that he is still detained therein without any charges having been brought against him.

According to reports, Mr. Al Kharboush was beaten several times during several interrogations. After his arrival at Al Tarfiya prison in February 2008, he was allegedly kept for five months in solitary confinement. It is reported that Ms. Al Kharboush was eventually authorized to visit her husband on 7 December 2012 for less than an hour.

Concern is expressed about the detention conditions of Mr. Al Kharboush. Concern is further expressed about the detention of Ms. Al Kharboush and her three children as well as of approximately 60 individuals, which could be related to their legitimate exercise of their fundamental freedoms of peaceful assembly and of expression.

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

right not to be deprived arbitrarily of their 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).

We would also like to bring to the attention of your Excellency's Government Article 7 (c) of the International Convention on the Elimination of all forms of Discrimination against Women, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in 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, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We would also like to refer to article 19 of the UDHR which 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.”

We would further like to refer your Excellency’s Government to article 20 of the UDHR which provides that “[e]veryone has the right to freedom of peaceful assembly and association”

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 the above-mentioned persons in compliance with the above international instruments.

Moreover, as 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, we would be grateful for 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 Kharboush or his family members; and by or on behalf of the aforementioned 60 male protesters?
3. Please specify which measures have been taken to ensure the physical and psychological integrity of Mr. Al Kharboush as well as of the other detainees in Al Tarfiya prison.
4. Please confirm the legal grounds for the arrest and detention of Ms. Al Kharboush and her children, and of the abovementioned 60 male protesters and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR.
5. Please explain which measures have been taken to ensure the physical and psychological integrity of those exercising their right to freedom of peaceful assembly.

We undertake to ensure that your Excellency’s Government’s response is 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 the above mentioned persons 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
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