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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

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

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

**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; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (3-3-16)  
OMN 2/2012

10 August 2012

Dear Mr. Al-Kathairi,

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; and the Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 15/18, 16/4, 15/21, and 16/5.

In this connection, we would like to bring to your Government's attention information we have received concerning the **alleged arrest, detention and criminalization of human rights defenders**.

The alleged arrest and detention of activist Ms. **Habibah Al-Hinaee**, human rights lawyer Mr. **Yacob Al-Kharusi** and activist and blogger Mr. **Ismael Al-Mikbaly** on 31 May 2012 was the subject of a previous communication sent to your Government on 21 June 2012 by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of expression and the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers.

According to the information received:

On 5 June 2012, activists Messrs. **Isaac Al-Agbary** and **Kalfan Al-Badwawi** were reportedly arrested and detained. On 8 June, writers and bloggers Messrs. **Abdullah Hamad Mubarak Al-Kharusi**, **Ali Al-Saadi**, **Ali Al-Haji**, **Hassan Al-Ruqayhsi**, **Hamoud Saud Hamdan Al-Rashidy** and **Nabhan Al-Hanashi** were allegedly arrested.

On 11 June, a peaceful protest reportedly took place in front of the General Police Headquarters in Muscat, calling for the release of all detained human rights

defenders in Oman. It is alleged that security forces and anti-riot police arrested the protestors and transported them to Samail Central Prison, located approximately 90 km from Muscat. Those arrested reportedly included writer Mr. **Saeed Sultan Al-Hashemy**, radio presenter and broadcaster Ms. **Basma Al-Rajehy**, lawyer Ms. **Basma Al-Keumy**, writer and blogger Mr. **Bader Al-Jabery**, writer Mr. **Sama Essa**, bloggers Mr. **Fahad Al-Kharusi**, Mr. **Abdallah Al-Badi** and Ms. **Fatma Al-Bousaeedi**, journalists Messrs. **Nasir Saleh Al-Gailany** and **Mukhtar Mohamed Al-Hanaei**, poet Mr. **Mahmoud Hamad Al-Rawahy** and activists Messrs. **Khaled Saleh Al-Nawfaly**, **Khalid Al-Jabery**, **Omar Al-Khorousy**, **Abdullah Mohammed Al-Ghilany**, **Mohammed Al-Fazary** and Ms. **Mona Al-Gahoury**. Sources indicate that none of the accused had access to lawyers and family during their detention.

Following their arrest, Ms. Basma Al-Keumy, Ms. Basma Al-Rajehy and Mr. Saeed Sultan Al-Hashemy allegedly declared a hunger strike in protest at their detention. It is alleged that during her detention, Ms. Basma Al-Keumy did not receive medical care while suffering from acute respiratory illness..

On 25 June, the first public trial for eleven of the protestors arrested on 11 June took place at the Court of First Instance in Muscat, during which they were charged with the public offence of blocking a road. A second trial is reported to have taken place on 27 June, following which some of the defendants were allegedly released on bail.

On 26 June, the first closed trial of bloggers and writers Messrs. **Hamoud Saud Hamdan Al-Rashidy**, **Ali Hilal Al-Mikbaly** and **Mahmoud Hamad Thani Al-Rawahy** and poet Mr. **Abdulah Hamad Mubarak Al-Kharusi** reportedly took place. The defendants were allegedly accused of insulting the ruler of Oman, Sultan Qaboos, and of publishing insulting and defamatory material. On 9 July, Mr. Hamoud Saud Hamdan Al-Rashidy was reportedly sentenced to six-month imprisonment while the three other defendants were sentenced to one-year imprisonment and were temporarily released pending an appeal. All five were also reportedly sentenced to a fine of 200 Oman Riyals.

On 16 July, photographer and director Mr. **Mohammed bin Zayed bon Marhon Al-Habsi** and poet Mr. **Abdulla bin Mohammed bin Nasser Al-Araimi** were allegedly sentenced to one-year imprisonment for insulting the Sultan. Designer Mr. **Talib bin Ali Hilal Al-Ebri** and activists and students Mr. **Mohammed bin Khatir bin Rashid Al-Badi** and Ms. **Mona Suhail Hardan** reportedly received the same sentence, along with a further six-month imprisonment for violating the law on information technology. According to reports, all five persons were also sentenced to fines and were released on bail pending an appeal.

On 25 July, Messrs. **Ahmed Al-Ma'ammari**, **Awad Al-Sawafi**, **Abdullah Al-Abidi** and **Usama Al-Tawayya** were reportedly charged with insulting the Sultan and violating the law on information technology.

Concern is expressed that the alleged arrest, detention and sentencing of the abovementioned persons may be directly linked to the legitimate and peaceful exercise of their fundamental rights and freedoms, including the rights to freedom of opinion and of expression, and the rights to freedom of peaceful assembly and of association.

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 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 also deem it appropriate to make reference to the principle enunciated, *inter alia*, by the Commission on Human Rights in its Resolution 2005/38, which called upon all States to refrain from the use of imprisonment or the imposition of fines for offences relating to the media, which are disproportionate to the gravity of the offence and which violate international human rights law.

We would also like to appeal to your 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 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 call on your Government to take all necessary steps to secure the rights to freedom of peaceful assembly and of association in accordance with fundamental principles as set forth in article 20 of the UDHR which provides that “[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.”

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that “[c]alls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

In addition, we would like to refer to the thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/20/27), in which he called States to “ensure that no one is criminalized for exercising the rights to freedom of peaceful assembly...” (para. 84 (c)), and stated that “States should facilitate and protect peaceful assemblies, including through negotiation and mediation” (para. 89).

In this connection, we would like to refer your 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 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.
- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.
- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.
- article 12 paragraphs 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.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of the above-mentioned persons 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 the alleged victims?
3. Please clarify the legal basis for the arrest, detention and sentencing of the abovementioned persons, and how these measures are compatible with international norms and standards, as stated, inter alia, in the UDHR and the Declaration on Human Rights Defenders.
4. Please provide information on whether all detainees have access to family members, legal counsel and medical personnel.

We undertake to ensure that your 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 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 Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Mr. Al-Kathairi, 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  
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Maina Kiai

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