

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

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 Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: AL G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (33-27) G/SO 214 (53-24)
SYR 1/2013

21 February 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolution 16/4, 16/5, 17/5, and 16/23.

In this context, we would like to draw the attention of your Excellency's Government to information we have received regarding the alleged torture and death of Mr. **Ayham Moustafa Ghazzoul** by Air Force Intelligence in Mezze, Syrian Arab Republic.

Mr. Ayham Ghazzoul was the subject of a previous communication, dated 8 May 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 opinion and expression, the Special Rapporteur the situation of human rights defenders, 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 in relation to concerns, inter alia, as to why he was to be prosecuted by a military court and had been brought before a military prosecutor (JUA SYR 5/2012, 8 May 2012). A reply to this communication is still awaited from your Excellency's Government.

According to the information received:

Mr. Ayham Ghazzoul, a Syrian citizen, was a human rights activist from Deir Atteih city. It is reported that Mr. Ayham Ghazzoul was well known for his

peaceful human rights activities, particularly his work to defend the freedom of expression in the Syrian Arab Republic. Mr. Ayham Ghazzoul was a member of the Syrian Center for Media and Freedom of Expression.

It is reported that Mr. Ayham Ghazzoul was first arrested and held incommunicado by Air Force Intelligence on 16 February 2012, during a raid on the Syrian Center for Media and Freedom of Expression offices in Damascus, together with 15 other persons, including leading human rights defender and head of the Syrian Center for Media and Freedom of Expression, Mazen Darwish. He was reportedly released after spending 87 days in detention.

According to the information received, on 5 November 2012, members of the pro-Government National Students Union kidnapped Mr. Ayham Ghazzoul at the entrance of Damascus University, together with two other students. Following the unlawful arrest, National Students Union members severely beat Mr. Ayham Ghazzoul before handing him over to Air Force Intelligence in Mezza. It is reported that while in detention, Air Force Intelligence members subjected Mr. Ayham Ghazzoul to torture and other severe forms of cruel, inhuman, and degrading treatment. According to the information received, Mr. Ayham Ghazzoul suffered internal bleeding as a direct result of the torture, and subsequently died on 9 November 2012, four days after his arrest.

It is alleged that Mr. Ayham Ghazzoul was targeted and killed because of his peaceful activities in the defence of human rights in the Syrian Arab Republic, including his involvement with the Syrian Center for Media and Freedom of Expression.

In light of the information received, we are gravely concerned about the death of Mr. Ayham Ghazzoul while in custody as a direct result of acts of torture and other severe forms of cruel, inhuman and degrading treatment. Concern is also expressed regarding the allegations that Mr. Ayham Ghazzoul was targeted and killed because of his involvement with the Syrian Center for Media and Freedom of Expression and human rights defender.

Without in any way implying any conclusion as to the facts of the case, we would like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. Ayham Ghazzoul. 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 Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), that your Excellency's Government acceded to on 21 April 1969, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) acceded by your Excellency's Government on 19 August 2004.

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 your Excellency's Government's attention to article 4 of the Convention Against Torture which requires States Parties to ensure that all acts of torture are offences under its criminal law and to make the offences punishable by appropriate penalties. In this regard we would also like to draw your attention to article 12 of the Convention Against Torture, 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 Convention Against Torture, which requires States Parties to prosecute suspected perpetrators of torture. We would also like to draw your Excellency's Government's attention to paragraph 3 of Resolution 2005/39 of the Commission on Human Rights which, "Stresses in particular that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and takes note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture;"

With regard to the subsequent death of Mr. Ayaham Ghazzoul, we would like to refer your Excellency's Government to article 6(1) of the ICCPR, stating that every human being has the right not to be arbitrarily deprived of his or her life. In this regard the Human Rights Committee has said that "The protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6 (1) is of paramount importance. The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities."

We would like to further draw the attention of your Excellency's Government to the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, which refer to the duty to investigate, prosecute and punish violations of the right to life. In particular, Principle 9 stipulates that there shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, while Principle 18 provides that "Governments shall ensure that persons identified by the investigation as having participated in extra-legal,

arbitrary or summary executions in any territory under their jurisdiction are brought to justice”.

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 International Covenant on Civil and Political Rights, 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.”

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 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.

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:

1. Are the facts alleged in the summary of the case accurate?

2. Has a complaint been lodged on behalf of the alleged victim or his relatives?

3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please indicate whether compensation has been provided to the family of the victim.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government, in the event that your investigations support or suggest the above allegations to be correct, to ensure the accountability of any person responsible of the alleged violations. 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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

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