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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 in the field of cultural rights ; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 Cultural rights (2009) G/SO 217/1 G/SO 214 (67-17) G/SO 214 (3-3-16) G/SO 214 (53-24)
SYR 2/2014

22 January 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur in the field of cultural rights; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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, 19/6, 16/16, 16/4, 17/2, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the case of Mr. **Akram Raslan**.

According to the information received:

Mr. Akram Raslan (hereinafter Mr. Raslan) is a national of the Syrian Arab Republic, born in 1974. He is a political cartoonist and works for Al-Fida newspaper in the city of Hama.

On 2 October 2012, he was arrested by the Syrian Military Intelligence while working in the office of Al-Fida newspaper. The intelligence officers did not produce an arrest warrant. The arrest occurred after he posted on Facebook political cartoons critical of President Bashar Al-Assad. Mr. Raslan had been previously arrested and detained for drawing caricatures of the President in 2011.

On 26 July 2013, Mr. Raslan was put on a secret trial and sentenced to life imprisonment on the account of “working against Syria’s Constitution, insulting the country’s president, incitement to sedition, promoting revolt against the public order, and undermining the prestige of the Syrian State”.

Mr. Raslan has been reportedly held incommunicado since his arrest and the information received indicates that he may be currently held in a military prison in Damascus. The lack of information about his fate and whereabouts has raised concern as to whether he is dead or alive.

While we do not wish to prejudge the accuracy of these allegations, we are expressing serious concern about Mr. Raslan’s whereabouts and fate and would welcome an official confirmation about his well-being and current place of detention.

In this connection, given that the whereabouts of Mr. Raslan are currently unknown, we would like to bring to your Excellency’s Government’s attention the provisions of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance, which set out necessary protection by the State, and in particular:

- article 2 (no State shall practice, permit or tolerate enforced disappearances);
- article 3 (each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction);
- article 6 (no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance);
- article 7 (no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances);
- article 10 (right to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest); and
- article 12 (right to the maintenance in every place of detention of official up-to-date registers of all detained persons).

Furthermore, we would like to draw the attention of your Excellency’s Government to paragraph 7.c of Human Rights Council Resolution 8/8 of 18 June 2008, which reminds all States that “Prolonged incommunicado detention or detention in secret

places may 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”.

Without expressing at this stage an opinion as to whether the detention of Mr. Raslan is arbitrary or not, we would also like to appeal to your Excellency's Government to ensure that he is allowed access to a defense lawyer of his choice to challenge the legality and fairness of his detention and trial, and to receive family visits while in prison, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights, and articles 9 and 14 of the International Covenant on Civil and Political Rights. In particular, regarding the alleged lack of an arrest warrant, 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: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him”. Article 9(2) of the International Covenant on Civil and Political Rights also states: “Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”

In connection with the allegation that Mr. Raslan was tried in secret, we would like to refer your Excellency's Government to article 14(1) of the International Covenant on Civil and Political Rights, which states: “[...] everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.” We also note that Principle 5 of the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985, and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, also states: “Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.”

We would also 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 addition, we would like to refer your Excellency's Government to article 15 of International Covenant on Economic, Social and Cultural Rights, recognizing the right of everyone to take part in cultural life. Under this provision, States Parties have undertaken to respect the freedom indispensable for creative activity. As stressed by the Special

Rapporteur in the field of cultural rights, all persons enjoy the right to freedom of artistic expression and creativity, which includes the right to freely experience and contribute to artistic expressions and creations, through individual or joint practice, to have access to and enjoy the arts, and to disseminate their expressions and creations. In particular, decision makers, including judges, when resorting to possible limitations to artistic freedoms, should take into consideration the nature of artistic creativity (as opposed to its value or merit), as well as the right of artists to dissent, to use political, religious and economic symbols as a counter-discourse to dominant powers, and to express their own belief and world vision. (A/HRC/23/34, paras. 85 and 89 d).

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. Raslan 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:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Raslan and how these measures are compatible with international norms and standards as stated above.
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 information on the fate and whereabouts of Mr. Raslan. If his fate and whereabouts are unknown, please provide the details on any investigation or other inquiries which may have been carried out. If no inquiries have taken place, or if they have been inconclusive, please explain why.

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 the above mentioned person are respected. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

We would like to bring to the attention of your Excellency's Government that should the sources submit the allegations concerning Mr. Akram Raslan as a case to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

Please accept, Excellency, the assurances of our highest consideration.

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

Farida Shaheed
Special Rapporteur in the field of cultural rights

Ariel Dulitzky
Chair-Rapporteur of the Working Group on Enforced or Involuntary
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Frank La Rue
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