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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 Chair-Rapporteur of 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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 torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) Health (2002-7) G/SO 214 (107-9) G/SO 214 (53-24)
SYR 10/2011

10 August 2011

Excellency,

We have the honour to address you in our capacity as 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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 torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/16, 16/4, 15/22, 15/21, 16/5 and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the arrest and possible enforced disappearance of Mr. **Mohamed Jamal Al Tahhan**. Mr. Al Tahhan, 54 years, resident in Aleppo, is a political activist and a member of the Arab Writer's Union as well as of the Federation of Arab Journalists.

According to the information received:

On 19 July 2011, Mr. Al Tahhan was allegedly arrested at his home, located at Hay Al Kawakibi, Al Assady Street, Al Miridyan, Aleppo, by two agents of the Aleppo Air Intelligence Branch dressed in civilian clothing. Reportedly, after the arrest, Mr. Al Tahhan was taken to an unknown location. The source alleges that the arrest and possible enforced disappearance of Mr. Al Tahhan could be related to his political activities, including his participation in the demonstrations that have been taking place in the Syrian Arab Republic. His family requested information at the Aleppo Air Intelligence Branch, but the officials refused to

provide any information on Mr. Al Tahhan's fate and whereabouts. The source expresses concern that Mr. Al Tahhan suffers from prostate cancer and high blood pressure and that he is not being provided the appropriate medication.

If the above mentioned allegations are confirmed, this case may amount to an enforced disappearance.

Serious concern is expressed about the physical and psychological integrity of Mr. Mohamed Jamal Al Tahhan due to his severe health condition and the fact that his current fate and whereabouts are unknown. Further concern is expressed that his arrest and possible disappearance may be directly related to his work defending human rights, in particular his participation in the demonstrations that called for democratic reforms.

In relation to the allegations according to which the fate and whereabouts of Mr. Mohamed Jamal Al Tahhan are unknown, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which sets 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 9 (right to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty);
- 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).

We would also like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that "[...] detention in secret places can 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 and to ensure that secret places of detention and interrogation are abolished.”

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) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In light of the allegations that Mr. Mohamed Jamal Al Tahhan suffers from prostate cancer and high blood pressure and that he is not being provided the appropriate medication, we would also like to highlight to your Excellency’s Government the obligations under the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Principle 24 specifically provides that “[a] proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.”

We would also like to draw attention to the obligations incurred by your Excellency’s Government under article 12 of the International Covenant on Economic, Social and Cultural rights, which was ratified by the Syrian Arab Republic on 12 April 1969. Article 12 of the Covenant requires that health facilities, goods and services are available and accessible without discrimination to everyone. General Comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights has confirmed that denial or limitation of equal access to preventive, curative and palliative health services to prisoners or detainees represents a violation of the State obligation to respect the right to health.

In addition, 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.”

Furthermore, we would also like to appeal to your Excellency’s Government to take all necessary steps to ensure the right to freedom of assembly, as recognized in article 20 of the UDHR, which provides that “Everyone has the right to freedom of peaceful assembly and association.”

We would also 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 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; 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 urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Mohamed Jamal Al Tahhan 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.

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. Mohamed Jamal Al Tahhan 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. Please provide information on the fate and whereabouts of Mr. Mohamed Jamal Al Tahhan. If his fate and whereabouts are unknown, please provide the details on any investigation or other queries which may have been carried out. If no queries have taken place, or if they have been inconclusive, please explain why.
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. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators? 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.

We would like to bring to the attention of your Excellency's Government that should the source submit the above mentioned allegation concerning Mr. Mohamed Jamal Al Tahhan as a case to the Working Group on Enforced or Involuntary Disappearances, it 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.

Jeremy Sarkin
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the highest
attainable standard of physical and mental health

Maina Kiai
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