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**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 Chair-Rapporteur of the Working Group on Arbitrary Detention; 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 situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

REFERENCE: UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (53-24)  
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26 May 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; 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 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 15/18, 16/16, 16/4, 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 detention of **Mr. Najati Tayara** and **Mr. Mazen Adi**; incommunicado detention of **Mr. Mohamed Yassim Al-Hamwi** and **Mr. Amjad Baiazy**; and possible enforced disappearance of **Mr. Wael Al-Hamada**; **Mr. Abdel Rahman Al-Hamada**; **Mr. Mohammed Hasan al-Labwani**; **Mr. Hassan Abd al-Adhim**; **Mr. Omar Qashaash**; and **Mr. Yasser Al-Khayyat** in connection with the demonstrations taking place in Syria.

According to the information received:

**Mr. Wael Al-Hamada**, a 35 year-old human rights activist, was arrested at his workplace in Damascus on 11 May 2011. His fate and whereabouts are unknown. He is the husband of Ms. Razan Zeitouneh, a human rights lawyer, who is currently allegedly in hiding from the Syrian security forces.

Mr. **Abdel Rahman Al-Hamada**, a 22-year-old student, had been arrested by agents from the intelligence services dressed in civilian clothing on 30 April 2011 to force his brother Mr. Wael Al-Hamada to surrender. Mr. Al-Hamada was not presented with an arrest warrant. His fate and whereabouts remain unknown.

Mr. **Najati Tayara**, a prominent lawyer, the Vice-President of the Syrian Human Rights Association, human rights campaigner and former political prisoner, was also arrested at a checkpoint on 12 May 2011, in Homs. Mr. Tayara is currently being held at the central prison of Homs together with other detainees in a cell of 100 square metres, (mostly participants in the demonstrations). It is reported that his arrest is linked to the fact the day before he had denounced the military incursion into residential neighbourhoods of the city of Homs. According to the information received, on 20 May 2011, he was presented before a judge on charges of weakening the State's national sentiments.

Mr. **Amjad Baiazy**, a Syrian citizen who had worked with *Médecins Sans Frontières* in 2007 and had acted as an international observer and interpreter for the International Mission for Iraqi Elections in 2005, was arrested at Damascus International Airport on 12 May 2011, while boarding a flight to the United Kingdom. Since his arrest he has had no contact with his family. Allegedly, he is currently being held in detention by State Security, a branch of the Syrian security police in Damascus.

Mr. **Mohammed Hasan al-Labwani**, a brother-in-law of prisoner of conscience Mr. Kamal al-Labwani who is currently serving a 12-year prison term, was arrested at his home on 2 May 2011, in the town of al-Zabadani, near Damascus. According to some detainees who were held with him and released on 4 May 2011, Mr. Mohammed Hasan al-Labwani has been tortured. He suffers from a pituitary tumour. His fate and whereabouts remain unknown.

Mr. **Hassan Abd al-Adhim**, aged 79, and Mr. **Omar Qashaash**, aged 85, were arrested on 28 and 30 April 2011, respectively, for statements they had allegedly made to the media in support of the protests. Mr. Hassan Abd al-Adhim is a lawyer and the Secretary General of the Democratic Arab Socialist Union Party in Syria. He was arrested at his office in Damascus by State Security. Reportedly he suffers from diabetes, for which he needs regular medication. Mr. Omar Qashaash was arrested in Aleppo and is the leading member of the Syrian Democratic People's Party and a long-standing union activist. Their current fate and whereabouts remain unknown.

Mr. **Mohamed Yassin Al-Hamwi**, a 65-year-old political activist, was arrested on 1 May 2011, by Military and Security agents at his house. He was taken to the Air

Force Intelligence Branch where he is currently held in incommunicado detention. Following the arrest in 2005 of his son, Haytham Al-Hamwi, also a political activist, Mr. Mohamed Al Hamwi founded the Committee of the families of prisoners of opinion and conscience with other activists. He had already spent six months in detention in 2005 for “spreading false information that weakens national sentiment”.

Mr. **Yasser Al-Khayyat**, a 26 year-old student who is head of the Damascus University Group, a Syrian website which focuses on relaying medical knowledge and promoting scientific research, was arrested with his co-workers on 11 May 2011. He was allegedly blindfolded and taken to a security detention centre. While his co-workers were released, his fate and whereabouts remain unknown. Through his website, Mr. Al-Khayyat allowed students to express their views on the current events in Syria. It is feared that this may have been the sole basis for his arrest and detention.

Mr. **Mazen Adi**, a 58 year-old leading figure of the opposition and member of both the People’s Democratic Party and the National Democratic Gathering, was arrested on 10 May 2011, in Damascus. We are informed that he was arrested because of his participation in several media interviews in the past couple of days. He is currently being held at the detention centre of the Syrian political security services in Damascus.

Following alleged threats, home searches and persecutions, many human rights activists, lawyers and students have gone into hiding from the Syrian security forces, including Messrs. Haytham al-Maleh, Hind al-Labwani, Omar al-Labwani, Jwan Yousef Khorshid, and Walid al-Bunni.

Concern is expressed that the detention of Mr. Najati Tayara; Mr. Mazen Adi; Mr. Mohamed Yassim Al-Hamwi; and Mr. Amjad Baiazy, and the possible enforced disappearance of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; and Mr. Yasser Al-Khayyat may be solely based on their legitimate human rights activities or participation in the demonstrations in Syria.

While we do not wish to prejudge the accuracy of these allegations, we wish to share our serious concern at the situation of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Najati Tayara; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; Mr. Mohamed Yassim Al-Hamwi; Mr. Amjad Baiazy; Mr. Yasser Al-Khayyat; and Mr. Mazen Adi, and to draw the attention of your Excellency’s Government to the relevant international norms and principles applicable to these cases.

Without expressing at this stage an opinion on the facts of the cases and on whether the detention of Mr. Najati Tayara; Mr. Mazen Adi; Mr. Mohamed Yassim Al-Hamwi and Mr. Amjad Baiazy 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) and article 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's Government's attention to the right to physical and mental integrity of the aforementioned persons.

With regard to the allegation that some detainees have been subjected to torture, we would like to draw your Excellency's Government's attention 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".

Concerning the allegations of unknown fate and whereabouts of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; and Mr. Yasser Al-Khayyat, which may amount to enforced disappearances, 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 the necessary protection by the State, including in:

- article 1 (any act of enforced disappearance places the persons subjected thereto outside the protection of the law and it constitutes a violation of the rules of international law guaranteeing, *inter alia*, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life);
- article 2 (no State shall practice, permit or tolerate enforced disappearances);
- article 5 (enforced disappearances render their perpetrators and the State or State authorities which organize, acquiesce in or tolerate such

disappearances liable under civil law, without prejudice to the international responsibility of the State concerned in accordance with the principles of international law);

- 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 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);

- article 12 (right to the maintenance in every place of detention of official up-to-date registers of all detained persons).

Similarly, we would like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that "Prolonged incommunicado detention or 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".

Further, we would like to draw your Excellency's Government's attention to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that "Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture".

We would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with

the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.”

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 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.”

In addition, we wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that article 19, paragraph 3 of the ICCPR provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Provided that the allegations received concern mostly the situation of human rights defenders and activists, including human rights lawyers, as well as people associated to them and their activities, and that allegations indicate that their situation may be connected to their legitimate work in defense of human rights and fundamental freedoms,, 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 urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Najati Tayara; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; Mr. Mohamed Yassim Al-Hamwi; Mr. Amjad Baiazy; Mr. Yasser Al-Khayyat; and Mr. Mazen Adi, are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible for 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. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Najati Tayara; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; Mr. Mohamed Yassim Al-Hamwi; Mr. Amjad Baiazy; Mr. Yasser Al-Khayyat; and Mr. Mazen Adi, 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? If so, please provide details on the measures taken to determine the fate and whereabouts

of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; and Mr. Yasser Al-Khayyat, as well as their physical and mental condition. If their fate and whereabouts are still unknown, please provide 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.

2. Please provide the legal basis for the arrest and detention of Mr. Najati Tayara; Mr. Mazen Adi; Mr. Mohamed Yassim Al-Hamwi and Mr. Amjad Baiazy and explain how they are compatible with the provisions of the UDHR and ICCPR.
3. Has a complaint been lodged by or on behalf of the aforementioned persons?
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please indicate whether compensation has been provided to the victims or the family of the victims.
7. Please provide information on the measures taken to ensure the safety of the aforementioned persons.

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 also like to bring to the attention of your Excellency's Government that should the source submit the above mentioned allegations concerning Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; and Mr. Yasser Al-Khayyat as cases 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.

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