

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

Mandate 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 extrajudicial, summary or arbitrary executions; 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; 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) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (33-27) G/SO 214 SYR 7/2011

17 June 2011

Excellency,

We have the honour to address you in our capacity as 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 extrajudicial, summary or arbitrary executions; 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; 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 pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/16, 8/3, 16/4, 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 worsening of the situation in Syrian Arab Republic in relation to the demonstrations that have been taking place across the country since 15 March 2011.

In the communication dated 30 March 2011, the Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 appealed to your Excellency's Government to seek clarification concerning the excessive use of force by security forces, including live ammunition resulting in the death of several individuals (the list of individuals reportedly killed during the March protests was enclosed), wounding of hundreds of civilians, as well as arrest and secret detention of several individuals. Grave concern has been expressed concerning the use of live fire and excessive force resulting in the growing number of deaths and injuries. Further concern was expressed for the physical and psychological integrity of the individuals who have reportedly been detained in relation to their peaceful activities and legitimate exercise of their freedom of opinion and expression. To date, no response has

been received in relation to the circumstances regarding the cases of the persons named therein.

On 9 June 2011, the UN High Commissioner for Human Rights issued a press statement, where she condemned the Syrian authorities' unrelenting violent crackdown on peaceful protestors across the country, and called on your Excellency's Government to respond to her repeated requests to allow a fact-finding mission to visit the Syrian Arab Republic, as required by the Human Rights Council. She also expressed particular concern about reports of civilians fleeing the north-western town of Jisr al-Shughour in the wake of recent threatening statements by Government officials.

According to the new information received:

Following the crackdown by the security forces of the protests in Daraa, resulting in at least several hundred deaths, we have been informed about the deaths of 49 individuals, killed during the protests that have taken place throughout the Syrian Arab Republic between 8 and 11 April 2011. The list of 48 individuals reportedly killed during these protests, is annexed (Annex A).

Furthermore, we have received reports about the excessive use of force by members of the Syrian security forces and the military against peaceful demonstrators during the protests of 15 and 17 April 2011, and demonstrations that took place from 22 to 26 April 2011, in Latakia, Bab Houd, Damascus, Izra, Barzah, Hama, Sa'aba, Jableh, Harf el Hourani, and neighbouring suburbs of Daraa, resulting in the deaths of at least 240 individuals, including 10 minors. The list of 240 individuals allegedly killed during the reported period is annexed (Annex B).

We have been informed about large-scale sweep operations by the security forces on 25 April 2011, in Daraa and neighboring towns, using military tanks. We have received reports according to which during the protests Syrian authorities have routinely denied wounded protesters access to medical assistance by preventing ambulances from reaching the wounded, and on several occasions opening fire on medical personnel or rescuers who tried to carry the wounded away. Reportedly, Mr. **Moataz Bellah Shaar** died as the security forces prevented ambulances from rescuing him in time when he was shot. He had been taken to hospital in a critical condition and his life could not be saved. Furthermore, we have received reports according to which security forces took control of most of the hospitals in Daraa and detained the wounded who were brought in. We have received reports according to which many of those injured have been allegedly abducted from hospitals by Syrian intelligence services and their fate and whereabouts remain unknown. Furthermore, we have been informed that on 8 April 2011, Al Hareth hospital refused to receive Mr. **Gassan Khalifa**, where he was transferred after having been shot. It is claimed that Mr. Khalifa's family have transferred him to Homs Military Hospital where doctors have reportedly examined him and requested him to leave the hospital. Mr. Khalifa's family later announced that he had died.

We have been informed about a further worsening of the situation in the Syrian Arab Republic in the context of demonstrations between 27 and 29 April 2011. Due to excessive use of force by law-enforcement and members of Syrian security forces and the military, further 219 individuals were killed. The list of individuals reportedly killed during the protests between 27 and 29 April 2011, is provided in Annex C.

Reportedly, on 6 May 2011, the army and the security services, using armored vehicles and tanks, surrounded Banyas and the neighborhoods of Bab al-Sba` and Baba Amr in Homs. It is reported that security forces detained hundreds of boys and men from Banyas. In the early hours of 7 May 2011, the security forces had reportedly stormed the Baba Amr neighborhood in Homs, destroying a number of shops and homes, and killing several residents.

By 12 May 2011, army and security forces had reportedly deployed military vehicles, including tanks, in Da`al, Tafas, Inkhil, al-Hara, and Jasem, and proceeded to carry out mass arbitrary arrests of suspected protesters.

We have received reports that at least 436 individuals may have been arbitrarily arrested by members of the Syrian security agents during protests in the period between 9 April and 2 May 2011. It is alleged that detainees, many of them children had been subjected to torture, including beatings with sticks, twisted wires, other devices, and electric shocks. Some were tortured on improvised metal and wooden “racks” and, in at least one case, a male detainee was raped with a baton. The list of individuals reportedly arbitrarily arrested is enclosed in Annex D.

We have received further reports about the arrest by security forces and the possible enforced disappearance, allegedly during the same period, of Mr. **George Sabra**, 64 years old, a political activist and a member of the Syrian Democratic People’s Party; Mr. **Ahmed Maetouk**; Mr. **Abdulrahman Al-Hamada**, 22 years old; and Mr. **Fayez Sarah**. The fate and whereabouts of the above mentioned individuals remain unknown. If confirmed, these allegations may amount to enforced disappearances.

We have also received reports concerning the circumstances of the case of Mr. **Hamza Al-Khatib**, a 13-year-old boy, who went missing on 29 April 2011, after participating in a demonstration in Saida, and his fate and whereabouts was unknown until 24 May 2011, when his mutilated body was returned to his family. It is alleged that the body of the 13-year-old bore scars of brutal torture, including bruises and burns to his feet, elbows, face and knees. The 13-year-old boy reportedly also had bullet wounds. According to our sources, on the same day, Mr. **Mohammed Al-Shari**, 15 years old, was reportedly arrested in Daraa, subjected to torture and killed on an unknown date.

Serious concern is expressed about the use of live fire and excessive force resulting in the growing number of deaths and injuries during the protests that took place throughout the country in April and May 2011. Grave concern is expressed about the execution of several protesters, including two juveniles which may be linked to their peaceful activities and legitimate exercise of their freedom of opinion and expression. Further concern is expressed for the physical and psychological integrity of the individuals who have reportedly been detained in relation to their peaceful activities and legitimate exercise of their freedom of opinion and expression, and their freedom of peaceful assembly, and for the fact that their fate and whereabouts remain unknown.

Without expressing at this stage an opinion on the facts of the cases and on whether the detention of the persons listed in Annex D 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), articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

We would like to emphasize that the ICCPR to which the Syrian Arab Republic acceded to on 21 April 1969, provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6).

With regard to the alleged deaths and injuries which may have resulted from the excessive use of force, we wish to stress that, under international law, excessive use of force and firearms is not permitted when policing peaceful assemblies. We would like to remind your Excellency's Government of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990). In particular, principle 12 provides that "everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the UDHR and the ICCPR, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14." Principle 13 states that "In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary", and principle 14 states that "In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary."

We would also like to draw your Excellency's Government's attention to principle 4 which provides that "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms." Furthermore, principle 5 provides that "Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use

and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.”

Additionally, the use of excessive use of force by both security forces must be investigated by your Excellency’s Government in line with Basic Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions which require States “to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, ...to grant adequate compensation within reasonable time to the victims or their families and to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and to prevent the recurrence of such executions” (para. 4).

In relation to the allegations that the fate and whereabouts of Messrs. George Sabra, Ahmed Maetouk, Abdulrahman Al-Hamada, and Fayez Sarah 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 Disappearance which sets out necessary protection by the State, including in:

- 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).

Furthermore, we would like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which "reminds all States that [...] 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 dignity of the person and to ensure that secret places of detention and interrogation are abolished."

Furthermore, with respect to the allegations according to which many demonstrators, including children, had been subjected to torture by armed security services agents and individuals in plain clothes, including beatings with sticks, twisted wires, other devices, and electric shocks, and that some were tortured to death, 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, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the 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 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 to article 7 of the Convention against Torture, which requires State parties to prosecute suspected perpetrators of torture. We would like to draw your Excellency's Government's attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and to take 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."

Additionally, given our concern that the allegations mentioned above are linked to their legitimate exercise of their right to freedom of opinion and expression, 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."

We would also 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".

With regard to the allegations received indicating that peaceful protesters, including human rights defenders and activists, have been prevented from claiming 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;

- 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.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) (of the Special Representative of the Secretary-General on the situation of human rights defenders) and in particular to paragraph 98 which states that “in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials”.

We urge your Excellency’s 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 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 the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandate 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 cases accurate?
2. Please provide the legal grounds for the arrest and detention of the individuals listed in Annex D. Please indicate how these are compatible with international norms, specifically with those contained in the ICCPR.
3. Please provide information on the fate and whereabouts of Messrs. George Sabra, Ahmed Maetouk, Abdulrahman Al-Hamada, and Fayez Sarah. If their fate and whereabouts are unknown, please provide the details on any investigation or other queries which may have been carried out. If no enquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide the full details of any prosecutions that have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators including those who authorized the use of excessive force?
5. Please provide information on the measures taken to ensure the safety of peaceful demonstrators and on measures taken to ensure compliance with international standards on the use of force by law enforcement officials.
6. Please indicate whether compensation will be provided to the victims or the families of the victims.

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 allegations concerning Messrs. George Sabra, Ahmed Maetouk, Abdulrahman Al-Hamada, and Mr. Faye Sarah 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 my highest consideration.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of
association

Margaret Sekaggya

Special Rapporteur on the situation of human rights defenders

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment