

**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 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 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.

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 (53-24)
SYR 13/2011

30 August 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 rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; 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, 15/21, 16/5, and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the harassment, arrest and detention against Messrs. **Ahmed Tomeh, Wael Al-Hamada, Abdel Rahman Al-Hamada, Mohamed Najti Tayara, Walid Al Bunni** and his two sons, **Mu'ayad Al Bunni and Iyad Al Bunni**, and **Ms. Handai Zahlout**.

Mr. Ahmed Tomeh is a member of the General Secretariat of the National Council of the Damascus Declaration for Democratic National Change and has reported on human rights violations committed in the city of Der Al-Zor.

Messrs. Wael Al-Hamada and Abdel Rahman Al-Hamada are the husband and brother in law of human rights lawyer Ms. Razan Zeitouneh, respectively. They were the subjects of a communication dated 26 May 2011, sent by 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. We regret that to date we have not received a response to this communication by your Excellency's Government.

Mr. Mohamed Najati Tayara is former Vice-President of the Syrian Association for Human Rights and a human rights activist. He has been the subject of previous communications dated 26 May 2011 and 4 August 2011 sent to your Excellency's Government by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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. We regret that to date we have not received a response to these communications by your Excellency's Government.

Mr. Walid Al Bunni is a member of several organisations, including the Syrian Organisation for Human Rights, the Founding Committee for the National Dialogue Forum and the Committees for the Revival of Civil Society. Mr. Al Bunni was the subject of previous communications dated 1 January 2008, 4 February 2008 and 31 October 2008 sent to your Excellency's Government by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on the situation of human rights defenders. We acknowledge receipt of the response transmitted by your Excellency's Government dated 1 July 2008 to the communications sent in January and February of 2008. However, we regret that to date we have received no response to the communication dated 31 October 2008.

Ms. Handai Zahlout is an agricultural engineer and has worked on women's rights in the Syrian Arab Republic. She has coordinated protests and has posted information online regarding the situation in the Syrian Arab Republic.

According to the information received:

On 8 August 2011, Mr. Walid Al-Bunni was arrested allegedly by members of the Intelligence Agency at his home in Al Tal, Damascus together with his two sons, Mu'ayad Al Bunni (18) and Iyad Al Bunni (19). It is reported that Iyad was released the same day. However, the fate and whereabouts of Mr. Al Bunni and his son Mu'ayad remain unknown. If these allegations are confirmed, these cases may amount to enforced disappearances.

On 4 August 2011, Ms. Handai Zahlout was reportedly arrested by security forces in Jaramana, approximately 10 kilometres southeast of Damascus. She is currently being detained at the Political Security detention centre at Al Fayha'a, Damascus.

According to information received, during her detention she was forced to witness a friend being tortured in an attempt to obtain confessions from Ms. Zahlout regarding her role in the protests and her online activities.

On 2 August 2011, Mr. Mohamed Najati Tayara, who has been in detention since 12 May 2011, was subjected to a physical assault in the central prison of Homs. It is alleged that Mr. Tayara was one of eight prisoners assaulted by members of the Syrian security forces after they participated in a sit-in protest against their arbitrary detention. According to information received, Mr. Tayara suffered severe bleeding as a result of the attack.

On 31 July 2011, Mr. Wael Al-Hamada was reportedly released on bail after two and half months of detention. Charges of “affiliation to a secret society” and having “initiated sectarianism” remain pending against him. Mr. Abdel Rahman Al-Hamada was released on 27 June 2011, following his arrest on 30 April 2011. Mr. Rahman Al-Hamada was reportedly detained incommunicado and subjected to ill-treatment in the facilities of the Air Force Security and the prison of Adra. He is allegedly facing charges of “weakening national sentiment” and “conveying within Syria false information that could hinder the morale of the nation” pursuant to articles 285 and 286 of the Syrian Criminal Code.

On 5 July 2011, Mr. Ahmad Tomeh was reportedly arrested by security forces while working at his medical centre near Der Al-Zor. It is alleged that he was held for a month in incommunicado detention before being released. It is not known whether any charges have been brought against him.

Concern is expressed regarding the physical and psychological safety of the aforementioned human rights defenders and their relatives in light of the fact of the arrests, on-going detention and harassment to which they have been subjected to in recent months. Further concern is expressed that the situation of the aforementioned human rights defenders and the acts of intimidation suffered by them and their families may be linked to their legitimate human rights work.

Without expressing at this stage an opinion on the facts of the cases and on whether the detention of the aforementioned human rights defenders and their relatives 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 articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

In relation to the allegations according to which the fate and whereabouts of Mr. Walid Al-Bunni and his son, Mr. Mu'ayad Al Bunni, 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, 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 should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the aforementioned human rights defenders and their relatives. 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 UDHR, the ICCPR, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

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 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.”

In addition, we would like to draw the attention of your Excellency’s Government to article 12 of the CAT, 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 CAT, which requires State parties to prosecute suspected perpetrators of torture.

In this regard, we would also like to draw your Excellency’s Government’s attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States “(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, 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 and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.”

Furthermore, we would like to draw the attention of your Excellency’s Government to article 15 of the CAT, which provides that, “Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.”

We also recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States “To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;”

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.”

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 like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, which provides that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

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 the following provisions of the Declaration:

- article 5, points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations;

- 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;

- article 9, para. 1 which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as

referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights; 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 the aforementioned human rights defenders and their relatives 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 aforementioned human rights defenders and their relatives 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 cases accurate?
2. Please provide information on the fate and whereabouts of Mr. Walid Al-Bunni and his son, Mr. Mu'ayad Al Bunni. 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 queries have taken place, or if they have been inconclusive, please explain why.
3. Has a complaint been lodged by or on behalf of the aforementioned victims?

4. Please provide the details, and where available the results, of any investigation, 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 details of the basis for the detention and legal charges brought against the aforementioned human rights defenders, including their relatives.
6. Please provide any details of protection measures put in place to ensure the physical and psychological security of the aforementioned individuals.

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. Walid Al-Bunni and his son, Mr. Mu'ayad Al Bunni 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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Jeremy Sarkin
Chair-Rapporteur of the Working Group on Enforced or Involuntary
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