

**Mandates of the Working Group on Arbitrary Detention; 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  
SYR 2/2015:

22 October 2015

Excellency,

We have the honour to address you in our capacity as First Vice-Chair of the Working Group on Arbitrary Detention; 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 Human Rights Council resolutions 24/7, 25/2, 25/18, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged enforced disappearance and consequent incommunicado detention of Mr. Bassel Khartabil**.

Mr. Bassel Khartabil is a Syrian technology professor and human rights activist. Prior to his arrest and detention in March 2012, he had engaged in peaceful advocacy for internet freedoms, including free expression through social media and information sharing. Mr. Khartabil was the subject of a previous communication sent to your Excellency's Government by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, on 21 September 2012, see A/HRC/22/67, case number SYR 8/2012. Also, Mr. Khartabil was the subject of the Opinion No.5/2015, which was rendered by the Working Group on Arbitrary Detention at its 72nd Session, on 21 April 2015, see A/HRC/WGAD/2015/5. The advance unedited version of the opinion was communicated to the Government on 13 May 2015. We regret that no response has been received by your Excellency's Government to these communications.

According to the information received:

On 26 December 2012, Mr. Bassel Khartabil was transferred to Adra Prison, having been disappeared and held incommunicado for over nine months following his arrest on 15 March 2012. After his arrival at Adra Prison, it was learnt that Mr. Khartabil had initially been held in Branch 215 of Military Security, before being transferred to Branch 248 of Military Security, where he was allegedly subjected to severe torture. It was also learnt that Mr. Khartabil had been brought before a military prosecutor on 9 December 2012, and charged with ‘spying for an enemy state’ under articles 272 and 284 of the Criminal Code.

On 3 October 2015, Mr. Khartabil was taken from his prison cell in Adra Prison, where he had been awaiting trial, and transferred to an unknown location. Mr. Khartabil’s family was not notified of the transfer, and prison authorities have allegedly refused to provide any information concerning his current whereabouts.

We express grave concern at the continued deprivation of liberty of Mr. Khartabil, contrary to the articles 10 and 19 of the UDHR, and articles 9, 14, and 19 of the ICCPR (as reiterated in paragraph 27 of the Opinion of the WGAD, No.5/2015). We are also gravely concerned that Mr. Khartabil was transferred out of Adra prison to an unknown location which amounts to an enforced disappearance. Further serious concern is expressed for the physical and mental integrity of Mr. Khartabil while detained incommunicado. Our concern in this regard is heightened in the light of the past allegations of torture of this person in 2012, which were the subject of a communication to your Excellency’s Government, to which we have received no response. We are also concerned at the length of time Mr. Khartabil has been held in pre-trial detention, and that the charges he faces may be solely based on his exercise of his right to freedom of expression and his peaceful and legitimate human rights activism.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above, in particular the fundamental principles embodied in the Universal Declaration of Human Rights and other international instruments regarding the right to life and security of the person, particularly as these refer to persons in detention or custody.

Among these instruments, the United Nations Declaration on the Protection of All Persons from Enforced Disappearances sets out necessary protections by the State, including, in articles 9, 10, and 12, the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, 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 to the maintenance in every place of detention of official up-to-date registers of all detained

persons. In these regards, appropriate investigations should be carried out in order to clarify the fate and the whereabouts of Mr. Khartabil, and to ensure that his human rights are protected while in custody. In addition, international human rights law provides that each Government has the obligation to protect the right to physical and mental integrity of persons, especially those held in detention. This right is set forth inter alia in the Universal Declaration on Human Rights (UDHR, Article 5), the International Covenant on Civil and Political Rights (ICCPR, Article 7), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, inter alia Articles 2, 4, 5 and 6) which were accessed to by Syria on 21 April 1969 and on 19 August 20014, respectively.

Finally, the allegations that the charges against Mr. Khartabil are connected to the peaceful exercise of his rights to freedom of opinion and expression and his legitimate human rights activities appear to be in contravention with 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, also known as the UN Declaration on Human Rights Defenders, and in particular with articles 1, 2 and 6 (a).

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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 person(s) in compliance with international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide information on the whereabouts of Mr. Khartabil. If his whereabouts are unknown, please provide details of any investigation or other queries as to his location which may have been carried out. If no such investigation has taken place, please explain why.
4. Please provide information concerning the legal grounds for the continued detention of Mr. Khartabil and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, accessed to by Syria in

1969, as well as with the the Opinion No.5/2015 rendered by the Working Group on Arbitrary Detention.

5. Please kindly indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

José Guevara  
First Vice-Chair of the Working Group on Arbitrary Detention

David Kaye  
Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression

Michel Forst  
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