

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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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 situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 27/1, 25/18, 26/7, 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 arbitrary arrest and incommunicado detention of Mr. **Jdea Abdullah Nawfal** and Mr. **Omar Al-Shaar** in reprisal of their cooperation with the Office of the High Commissioner for Human Rights and participation in a United Nations workshop in Beirut, Lebanon, between 28 and 30 October 2014.

Mr. Jdea Abdullah Nawfal is the Director of the Centre for Democracy and Civil Rights in Syria, which aims to promote the culture of human rights in the Syrian Arab Republic. Mr. Omar Al-Shaar is a media activist and blogger.

According to the information received:

On 22 October 2014, Mr. Jdea Abdullah Nawfal, 63 years old, and Mr. Omar Al-Shaar, 42 years old, travelled to Beirut, Lebanon, in order to attend a human rights monitoring and documentation workshop organized by the Regional Office for the

Middle East of the Office of the High Commissioner for Human Rights (OHCHR).

On 31 October 2014, at approximately 4.30 p.m., Mr. Nawfal and Mr. Al-Shaar, while on their way back to the Syrian Arab Republic, were arrested and detained by Syrian security forces at the Lebanese-Syrian border crossing. They were held in an office at the Syrian immigration post for approximately eight hours until they were driven to the office of the Syrian State security intelligence agency in the area of Mazzeh, Rif Dimashq. It is reported that since their transfer to the security intelligence agency office in Mazzeh, they have been detained incommunicado and remain in detention to this date at an unknown location.

It is alleged that they have not been provided access to a lawyer or medical care. Information received indicates that Mr. Nawfal is diabetic and has a heart condition that requires medical attention.

Grave concern is expressed that the alleged arbitrary arrest, detention and enforced disappearance of Messrs. Jdeh Abdullah Nawfal and Omar Al-Shaar by Syrian security and intelligence services constitute acts of intimidation and reprisals for their cooperation with the United Nations, its mechanisms and representatives in the field of human rights, namely with OHCHR. Serious concern is also expressed about the psychological and physical integrity of Messrs. Nawfal and Al-Shaar, especially in light of the fact that they are detained incommunicado without access to a lawyer or medical assistance. Further concern is expressed that their arrest and detention might only be a first step towards more severe sanctions for their legitimate activities in the defence of human rights.

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.

Without expressing an opinion on whether or not the detention of Messrs. Nawfal and Al-Shaar is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of their liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR. The situation described above also seems to be in contradiction of the right to be assisted by a lawyer also set forth in the Basic Principle on the Role of Lawyers.

We would also like to refer to 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, in particular articles 1, 2, 5, 6, 9 and 12.

With respect to the alleged incommunicado detention, we would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly resolution 68/156, which, "[r]eminds all 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 dignity of the person and to ensure that secret places of detention and interrogation are abolished".

With regard to the allegation that Messrs. Nawfal's and Al-Shaar's fate or whereabouts are currently unknown and that they are detained in a unknown location, we would like to bring to your Excellency's Government's attention the rights and obligations set out in the United Nations Declaration on the Protection of All Persons from Enforced Disappearance, in particular articles 2, 3, 10 and 12.

Moreover, we would like to refer to rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners, which provides that, "[s]ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.

We would further like to refer to Human Rights Council resolution 12/2 that, *inter alia*, "condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights", and "calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights".

Furthermore, Human Rights Council resolution 24/24 calls on States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its mechanism and representatives in the field of human rights.

Finally, the 2014 report of the Secretary-General reiterates the Secretary-General's "firm position that any act of intimidation or reprisal against individuals or groups, or anyone linked to them, for cooperating with the United Nations, its representatives and mechanisms in the field of human rights is unacceptable and must be stopped." (para. 48, A/HRC/27/38).

The full texts of the human rights instruments and standards recalled above are available on 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 persons in compliance with international instruments.

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. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to the situation described above. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information on the whereabouts of Messrs. Nawfal and Al-Shaar and on the reasons why their relatives were not informed about their whereabouts.
4. Please provide detailed information on the legal ground for the arrest and detention of Messrs. Nawfal and Al-Shaar, and explain how these measures are compatible with the international human rights obligations of the Syrian Arab Republic, in particular those enshrined in the ICCPR. Please explain in particular why they are detained incommunicado, and do not have access to a lawyer.
5. Please kindly explain the legal procedures and grounds invoked for keeping Messrs. Nawfal and Al-Shaar in incommunicado detention, and how these measures are compatible with the international human rights obligations of the Syrian Arab Republic.
6. Please provide the full details of any measures taken to ensure the physical and psychological integrity of Messrs. Nawfal and Al-Shaar and to prevent acts of intimidation or reprisals against them for their legitimate activities in the promotion of human rights, including for their cooperation with the United Nations human rights mechanisms.
7. Please provide information on the measures taken to ensure access to medical care, particularly with respect to Mr. Nawfal and the absence of medical attention to his diabetic and heart condition.

8. Please kindly indicate what measures have been taken to ensure that human rights defenders in the Syrian Arab Republic 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, including arbitrary detention.

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.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Ariel Dulitzky
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

Michel Forst
Special Rapporteur on the situation of human rights defenders

Gabriela Knaul
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