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**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 Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA.G/SO.218/2 G/SO.214 (67-17) G/SO.214 (53-24)
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1 July 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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, 16/4, 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 arrest and detention in Kuwait of Mr. Nasser Abul** relating to messages posted on his *Twitter* account.

According to the information received:

On 7 June 2011, Mr. Nasser Abul, a 26-year-old online activist, was summoned via a telephone call for interrogation by the State Security Police. He was arrested and accused of insulting the Bahraini and Saudi Arabian ruling families on his *Twitter* account. Mr. Nasser Abul was not allowed any contact with his family until after four days following his arrest. Nor was he allowed access to his lawyer, except during the interrogation session which lasted for 10 minutes.

We are informed that on 12 June 2011, Mr. Nasser Abul appeared before the Kuwaiti General Prosecution Office on state security charges, including "damaging the country's interests" and "severing political relationship with brotherly countries". Reportedly, his family and lawyer were not granted access to attend the hearing.

On 14 June 2011, Mr. Nasser Abul was taken to his family's home. His home was searched and his computer and phone were confiscated. It is reported that during the house search, Mr. Nasser Abul informed his mother about the alleged ill-treatment sustained during the first two days of his detention, including insults, threats and being forced to sleep in a permanently lit cell. It is alleged that Mr. Nasser Abul continues being held in detention at the State Security facility.

Concern is expressed at the allegation that Mr. Nasser Abul's arrest and detention may be a direct result of his exercise of the right to freedom of opinion and expression in form of messages of a *Twitter* account critical of the Bahraini and Saudi Arabian ruling families. Further concern is expressed about the physical and mental integrity of Mr. Abul in view of the allegations that he was subjected to ill-treatment during the first two days of his detention.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Nasser Abul is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), and articles 9 and 10 of the Universal Declaration of Human Rights (UDHR). We would further 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 the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context and with respect to the allegations indicating that Mr. Abul was subjected to ill-treatment during the first two days of his detention, including insults, threats and was forced to sleep in a permanently lit cell, 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 like to draw the attention of your Excellency's Government to principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 which states that, "A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world [...]". We would further like to draw your attention to rule 37 of the Standard Minimum Rules for the Treatment of Prisoners adopted on 30 August 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which provides that "Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits."

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.

We urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Nasser Abul 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 Mr. Nasser Abul 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?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide information on the legal basis for the detention of Mr. Nasser Abul and how this is compatible with the norms and standards contained inter alia in the ICCPR and UDHR.
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 this case. 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 provide information on the measures taken to ensure the safety of Mr. Nasser Abul.

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.

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

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

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

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
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