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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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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 independence of judges and lawyers; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (3-3-16)
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18 February 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 independence of judges and lawyers; and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 6/4, 8/6, and 7/36.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the sentencing of **Ms. Tal al-Mallohi**, a 19 year old high school student and blogger. Her blog (<http://talmallohi.blogspot.com>) contains poems and commentary on social and political issues. Ms. al-Mallohi does not belong to any political group.

According to information received:

On 27 December 2009, Ms. al-Mallohi was summoned to Damascus for interrogation by Syrian Arab Republic's State Security (Branch 279) relating to an article she published on her blog. She was immediately detained without charge. Two days later, on 29 December 2009, members of State Security reportedly went to Ms. al-Mallohi's house and confiscated her computer, CDs, books, and other personal effects. She was held in incommunicado detention at an undisclosed location without charge or access to her family for the first nine months of her detention. Her family was allowed to visit her once at Doma prison in Damascus on 30 September 2010.

On 5 October 2010, it was reported that Ms. al-Mallohi had been charged with spying for a foreign country. On 14 February 2011, Ms. al-Mallohi appeared before Damascus State Security Court in a closed trial, and was sentenced to five years of imprisonment for “divulging information to a foreign State.” The court did not disclose any evidence nor details of the reason behind the verdict. The State Security Court’s verdict is final and there is no possibility of appeal. Since 30 September 2010, other than during her court appearance, Ms. al-Mallohi is being held in solitary confinement in Doma prison.

Concern is expressed that Ms. al-Mallohi was held in incommunicado detention without charge for nine months, sentenced to five years of imprisonment on unclear charges, and now held in solitary confinement because of articles posted on her blog. While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency’s Government attention to the right to physical and mental integrity of Ms. Tal al-Mallohi.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Ms. Tal al-Mallohi is arbitrary or not we would like to appeal to your Excellency’s Government to take all necessary measures to guarantee her right not to be deprived arbitrarily of her 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 and articles 9 and 14 of the International Covenant on Civil and Political Rights.

With regard to our concerns that Ms. Tal al-Mallohi has been arbitrarily detained and sentenced to five years of imprisonment for articles posted on her blog, we would like to remind your Excellency’s Government of its obligation to guarantee the right to freedom of opinion and expression of all individuals, as set forth in article 19 of the International Covenant on Civil and Political Rights, 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.”

Moreover, in relation to Ms. Tal al-Mallohi's right to a fair trial, we would like to refer your Excellency’s Government to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985, and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985. In particular to principle 6, which provides that “The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.”

Additionally, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights, to which your Government is a party since 1969, and in particular Article 14 3), which states that "In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him" and "(c) To be tried without undue delay."

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Tal al-Mallohi 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 Ms. Tal al-Mallohi 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 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. Please provide detailed information regarding why Ms. Tal al-Mallohi has been convicted of "divulging information to a foreign State", and how it is compatible with international norms and standards on the right to freedom of opinion and expression.
3. Please provide information on the measures taken to ensure the safety of Ms. Tal al-Mallohi
4. Please indicate the remedies that have been made available to Ms. Tal al-Mallohi to protect her right to a fair trial.

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

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

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