

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 the situation of human rights defenders

SAU 3/2011

7 April 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 the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 6/4, 7/36, and 7/8.

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 Saudi Arabia of **Mr. Mohammad Salih al-Bajadi**, a businessman and co-founder of a human rights organization, the Saudi Civil and Political Rights Association (ACPRA).

According to the information received:

In the evening of 21 March 2011, Mr. Mohammad Salih al-Bajadi, a 30 year old businessman and a co-founder of the Saudi Civil and Political Rights Association (ACPRA), was arrested at his home in the town of Buraidah in the province of al-Qassim, north of Riyadh. He was taken away by uniformed security force agents and individuals in plain clothes, allegedly members of the Ministry of Interior's General Intelligence. Following a home search, Mr. al-Bajadi's books, documents and laptop were confiscated. Mr. al-Bajadi was subsequently escorted to his office, where the same officials confiscated books, documents and another computer, having also filmed the premises of the office.

It is further reported that on 20 March 2011, Mr. al-Bajadi participated in a protest in Riyadh, outside the offices of the Ministry of Interior. Reportedly, he posted messages on the website *Twitter* prior to the protest. The protest lasted for a few hours and the protesters called for the release of prisoners, who have been detained for years in Saudi Arabia without charges or trial. A number of protesters have allegedly been arrested, including some women, who were subsequently released after fingerprinting statements confirming that they had attended the protest. The men who took part in the protest are still allegedly being held in detention.

Concern is expressed at the allegation that Mr. al-Bajadi's arrest and detention may be a direct consequence of the exercise of his right to freedom of expression in the form of messages posted on the website *Twitter* as well as his work in defence of human rights. Concern is also expressed at the physical and psychological integrity of Mr. al-Bajadi, who since 21 March 2011 has allegedly been held in incommunicado detention.

While we do not wish to prejudge the accuracy of these allegations, we wish to share our serious concern at the situation of Mr. Mohammad Salih al-Bajadi and to draw the attention of your Excellency's Government to the relevant international norms and principles applicable to this case.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Mohammad Salih al-Bajadi is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of Mr. Mohammad Salih al-Bajadi not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal in accordance with article 9 and 10 of the Universal Declaration of Human Rights (UDHR).

We would 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 UDHR, which provides that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

We would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of assembly, as recognized in article 20 of the Universal Declaration of Human Rights, which provides that "Everyone has the right to freedom of peaceful assembly and association."

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, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;

- article 6, point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all

human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

- 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; 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 Mr. Mohammad Salih al-Bajadi 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. Mohammad Salih al-Bajadi 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 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.

4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate whether compensation has been provided to the victim or the family of the victim.
6. Please provide information on the measures taken to ensure the safety of Mr. Mohammad Salih al-Bajadi.

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders