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**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

REFERENCE: UA G/SO 218/2 G/SO 214 (53-24)  
YEM 3/2013

13 August 2013

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 15/18 and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding alleged torture, incommunicado and secret detention of **Mr. Muhammad Ahmad Naji Obayd Al Haribi** in a secret prison in Sana'a and the Yemeni Intelligence Service's National Security headquarters' Al Qala'a prison.

According to the information received:

On 9 November 2012, Mr. Muhammad Ahmad Naji Obayd Al Haribi, a 26-year-old student living in Hubayl Al Raidah, Halimayn District, Governorate of Lahej, Yemen, was arrested at the Al Anad checkpoint between Lahej and Aden. It is reported that Mr. Al Haribi was traveling by bus when the bus was stopped at the Al Anad checkpoint by members of the local security forces, military police, and political security. It is further reported that the agents did not possess a judicial warrant for Mr. Al Haribi's arrest.

Reportedly, Mr. Al Haribi's family was informed about the arrest by a civilian. It is reported that after several unsuccessful attempts to discover Mr. Al Haribi's whereabouts, it was discovered that he was detained in a secret prison in Sana'a, located below the Republican Palace, before being transferred to Yemeni Intelligence Service's National Security headquarters' Al Qala'a prison in Al Bakiriya street, Sana'a. It is alleged that Mr. Al Haribi was detained incommunicado for 33 weeks, until 14 July 2013. According to the information

received Mr. Al Haribi was never brought before a judge and subjected to torture and ill-treatment during the 33 weeks he spent in detention.

Furthermore, it is reported that the Intelligence Service's National Security headquarters' Al Qala'a prison was created at the beginning of the 20th century to detain political detainees, a practice that allegedly persists until today. The prison is allegedly shrouded with enhanced surveillance and nobody is allowed to visit, not even the members of Yemen's Prosecutor's office. It is furthermore reported that most of those detained in the Al Qala'a prison leave with serious and permanent injuries, some have allegedly even lost their mind as a result of long periods of detention, torture and other cruel and inhuman or degrading treatment. It is reported that detainees are shackled in their cells.

It is reported that Mr. Al Haribi is an activist with the Southern Yemeni secessionist movement, which demands secession of southern Yemen as it was the case before the unification in 1990. It is also reported that on several occasions prior to his arrest on 9 November 2012, Mr. Al Haribi was approached by Government authorities seeking to employ him as a confidential informer, which he refused. It is also reported that Mr. Al Haribi was arrested on two prior occasions, in 2006 and 2010 by political security agents. It is reported that in 2010, he was arrested in the Salah Eddine region and subsequently beaten, tortured, and injected with a substance that affected his memory. He was released after a few days and needed medical treatment to recover.

According to the information received, on 10 July 2013, Mr. Al Haribi was taken to Taz, Yemen by security agents, where he remained until his family learned of his whereabouts from an unknown source. According to the information received, Mr. Al Haribi was only found after four days by family members in a popular market in Taz in a state of psychological breakdown, anxiety and displaying visible signs of physical abuse.

It is also reported that a medical report confirmed that Mr. Al Haribi was repeatedly beaten and electrocuted on different parts of his body during his detention. It is additionally reported that Mr. Al Haribi's medical report states that he did not receive the necessary medical treatment for his injuries, and fractures have consequently healed in abnormal positions. It is further alleged that Mr. Al Haribi was injected with harmful substances during the time he was detained.

Serious concern is expressed regarding Mr. Al Haribi's physical and psychological integrity in the light of the allegations that he was tortured while detained incommunicado for 33 weeks in a secret prison in Sana'a and the Yemeni Intelligence Service's National Security headquarters' Al Qala'a prison. Further concern is expressed about the information received indicating that Mr. Haribi's detention was arbitrary.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Muhammad Ahmad Naji Obayd Al Haribi was 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 10 of the Universal Declaration of Human Rights (UDHR), and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), acceded by your Excellency's Government on 9 February 1987.

We should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. Al Haribi. We would 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 UDHR, the ICCPR, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded by your Excellency's Government on 5 November 1991.

In this context, 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 your Excellency's Government's attention to article 2(2) of the CAT, which provides that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. In this regard, we note that paragraph 2 of Resolution 16/23 of the Human Rights Council, which "Condemns in particular any action or attempt by States or public officials to legalize, authorize or acquiesce in torture under any circumstances, including on grounds of national security or through judicial decisions and urges States to ensure accountability for all such acts;";

We would also like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds 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 the dignity of the person and to ensure that secret places of detention and interrogation are abolished."

We would like to draw your Excellency's Government's attention to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT which requires State parties to prosecute suspected perpetrators of torture. We would also like to draw your Excellency's Government's attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States

“(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.”

We would like to draw your Excellency's Government's attention to article 14 of the CAT, which provides that victims of torture should have the right to redress and adequate compensation. In this regard, we would also like to remind you that paragraph 7e of Human Rights Council Resolution 16/23, which urges States “(t)o ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken.”

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. Al Haribi 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 summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Al Haribi?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Al Haribi 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.
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 indicate whether compensation has been provided to the victim or the family of the victim.

7. Please provide information on the measures taken to ensure the safety of Mr. Al Haribi.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Al Haribi 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.

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

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

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