

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA SAU 1/2017

9 February 2017

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 25/2, 25/18, 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 incommunicado and arbitrary detention of **Mr. Imam Hasan Taha Al-Waleed** and **Mr. Mohammad Sayyed Ahmad Al-Qasem**, Sudanese nationals and human rights defenders, who are at the risk of torture and ill-treatment, as well as the alleged arbitrary detention of **Mr. Essam Koshak**, a Saudi national and human rights defender. The alleged arbitrary detention of three human rights defenders seems directly linked to their activities aimed at defending and promoting human rights respectively in the Sudan and the Kingdom of Saudi Arabia and the exercise of their right to freedom of expression.

Mr. Mohammad Sayyed Ahmad Al-Qasem is a Sudanese human rights defender and accountant working in the Kingdom of Saudi Arabia. Mr. Al-Qasem is managing a *Facebook* page calling for peaceful political transformation in the Sudan.

Mr. Imam Hasan Taha Al-Waleed is a Sudanese human rights defender and accountant working in the Kingdom of Saudi Arabia.

Mr. Al-Waleed and Mr. Al-Qasem have been founding members of the group "Abna' Al-Sahafa" (Citizens of Al-Sahafa) in Khartoum, the Sudan. The group is currently providing assistance and basic services to Sudanese people in need. Following their departure from the Sudan to the Kingdom of Saudi Arabia in 1998 and 2013, respectively, both human rights defenders continued active collaboration with "Citizens of Al-Sahafa" by providing logistic and financial support to persons in need of medicine and medical treatment in the Sudan. Both individuals are actively promoting the rights of Sudanese people through social media.

Mr. Essam Koshak is a prominent Saudi human rights defender working on civil and political rights in the Kingdom of Saudi Arabia. He is active on *Twitter* and has been particularly vocal on issues related to human rights violations, corruption and freedom of expression in the Kingdom of Saudi Arabia.

According to the information received:

Concerning Mr. Imam Hasan Taha Al-Waleed

On 21 December 2016, members of the Saudi intelligence agency, General Intelligence Directorate, arrested Mr. Al-Waleed in his office in Riyadh. The human rights defender was taken to his home where a search by Saudi intelligence agency was ensued. Following the house search he was taken into detention by the Saudi intelligence agency. Reportedly, neither an arrest warrant nor a search warrant was presented by the agents upon entering the house.

As of the date of this communication, Mr. Al-Waleed is reportedly held in detention in an unknown location without known reasons for his arrest, including the charges brought against him. He has not been provided with access to legal counsel and family members. He is at risk of being deported to the Sudan where he could face torture and ill-treatment.

Concerning Mr. Mohammad Sayyed Ahmad Al-Qasem

On 21 December 2016, members of the General Intelligence Directorate arrested Mr. Al-Qasem in his office in Riyadh. The human rights defender was taken to his home where a search by Saudi intelligence agency was ensued. Allegedly there was no search warrant presented during the search of his home. Following the house search he was taken into detention by the Saudi intelligence agency.

The Saudi authorities have allegedly refused to disclose his location to his family and lawyers.

As of the date of this communication Mr. Al-Qasem is held in detention in an unknown location without known reasons for his arrest, including charges brought against him. He has not been provided with access to legal counsel and family members. He is at risk of being deported to the Sudan where he could face torture and ill-treatment.

Concerning Mr. Essam Koshak

On 8 January 2017, Mr. Essam Koshak was summoned by the Criminal Investigation Department in Mecca to al-Mansour police station, where he was reportedly detained without charges until late evening hours and released. The

human rights defender was ordered to appear before the Bureau of Investigation and Public Prosecution in Mecca on the following day.

On 9 January 2017, Mr. Koshak appeared before the Bureau of Investigation and Public Prosecution, where he was detained allegedly without being presented with the charges against him.

On 12 January 2017, his detention was extended by four days and his lawyer was allowed to be present during his interrogations. He was transferred on the same day to Mecca General Prison.

As of the date of this communication, Mr. Koshak allegedly continues to remain in detention at the Mecca General Prison.

Serious concern is expressed about the arrest and *incommunicado* detention of Mr. Al-Waleed and Mr. Al-Qasem, which place them at risk for ill-treatment. We express equal concern at the arrest and detention of Mr. Koshak, which appears to be directly linked to his human rights activities and which criminalizes his legitimate exercise of freedom of expression. Grave concern is equally expressed at the detention of human rights defender Mr. Koshak and the fact that his detention seems to be directly linked to his activities aimed at human rights protection in the Kingdom of Saudi Arabia and his activism on social media networks.

We express general concern about the alarmingly high number of allegations we have received recently concerning arbitrary detention and criminalization of prominent human rights defenders in the Kingdom of Saudi Arabia, including repeated attempts to limit and sanction the exercise of the right to freedom of expression, especially through online activism and the use of social media to discuss human rights related issues.

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 these issues brought forth by the situation described above.

Without expressing an opinion on whether or not the detention of the aforementioned individuals is arbitrary, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty, as laid out in article 9 of the Universal Declaration of Human Rights (UDHR), as well as the right to fair and public proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR.

We would also like to remind your Excellency's Government, that prolonged *incommunicado* detention or detention in secret places can facilitate the perpetration of torture or other cruel, inhuman or degrading treatment or punishment and can in itself

constitute a form of such treatment and of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 1 and 2 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the Kingdom of Saudi Arabia acceded on 23 September 1997. In addition, article 3 of CAT enshrines the absolute prohibition of return to a place where individuals are at risk of torture and other ill-treatment.

With regards to the alleged charges being linked to the human rights work of the above-mentioned individuals, we wish 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, also known as the UN Declaration on Human Rights Defenders, in particular Articles 1, 2, 6 and 12.

In addition, we would like to refer your Excellency's Government to principle 7 of the Basic Principles on the Role of Lawyers according to which, all arrested, detained or imprisoned persons shall have access to lawyer within 48 hours of detention.

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.

As 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 information on the fate or whereabouts of Mr. Al-Waleed and Mr Al-Qasem.
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Al-Waleed, Mr. Al-Qasem and Mr. Koshak, as well all as the legal grounds for depriving them of legal counsel and explain how these measures are compatible with international standards.
4. Please provide information on the measures and precautions taken to ensure that the two Sudanese human rights defenders are not facing the risk of being deported to the Sudan, in accordance of international human rights obligations and standards, particularly the principle of non-refoulement.

5. Please kindly indicate what measures have been taken to ensure that human rights defenders in the Kingdom of Saudi Arabia 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.

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.

Finally, we would like to highlight that, after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Urgent appeals — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the urgent action procedure and the regular procedure.

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

José Antonio Guevara Bermúdez
Vice Chair of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment