

Mandates of 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

REFERENCE:
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29 March 2017

Excellency,

We have the honour to address you in our capacity as 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 Human Rights Council resolutions 25/2 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and detention of Mr. **Yusuf Al Balouchi**, known under the pen name of **Yousuf Al Haj**, editor and journalist at the Al Zaman newspaper and human rights defender in Oman.

According to the information received:

On 9 August 2016, the Ministry of Information issued an order to halt the circulation and publication of Al Zaman newspaper after the newspaper had published an article critical of the judiciary and a series of articles on governmental corruption. On the same day, Mr. Al Haj was arrested together with two other journalists working for the newspaper.

Mr. Al Haj was arrested at the barbershop by the State Security Forces, and was held incommunicado until 11 August 2016, when he called his family. He had by that time been transferred to the hospital after having suffered a serious asthma attack.

On 15 August 2016, the first hearing of Mr. Al Haj took place. Prior to this, Mr. Al Haj had not had the right to communicate with his lawyer. He was charged with, inter alia, "undermining the status and the prestige of the state", "publishing what might be prejudicial to public security", "contempt for the judiciary", and "breaching the Ministry of Information's order prohibiting publicizing the arrest of Al Zaman's editor-in-chief Ibrahim Al-Maamari".

On 22 and 29 August 2016, subsequent hearings were held on the case, with the judge reportedly refusing to hear any defense witnesses. Although Mr. Al Haj was allowed access to his lawyer, their sessions were always attended by officers of the State Security. After the second hearing on 22 August 2016, Mr. Al Haj went on hunger strike protesting his unfair trial and the conditions of his detention.

Mr. Al Haj has been held in solitary confinement since his arrest and was forced to sleep on the floor until his family brought him blankets that he could sleep on. It is reported that he has been subjected to psychological pressure. Prior to his arrest, Mr. Al Haj suffered from various health conditions, including [REDACTED] which is a condition that requires regular treatment and medication.

On 31 August 2016, after witnessing first-hand the deterioration of Mr. Al Haj's health, his family addressed a letter to the Oman Human Rights Commission, the Director of the detention facility, and to the State Council asking them to remedy the situation and holding them accountable for Mr. Al Haj's deteriorating health.

On 5 September 2016, the fourth hearing took place, and Mr. Al Haj and his lawyer requested a change of judge as they deemed him not to be impartial given that he had reportedly mocked Mr. Al Haj in previous hearings.

On 8 September 2016, the administrative court voided the Ministry of Information's decision and lifted the ban of Al Zaman newspaper. However, later that day, the Ministry of Information prohibited the circulation of the newspaper, contrary to the decision of the administrative court.

On 18 September 2016, the request for a change of judge was denied. On 25 September 2016, the Muscat court of first instance sentenced Mr. Al Haj to three years in prison and a fine of 3000 Omani Riyals (approximately USD 7800). The bail was set at 50,000 Omani Riyals (approximately USD 130 000). The court also confirmed the shutdown and ban of Al Zaman newspaper.

On 10 October 2016, Mr. Al Haj appealed his sentence.

On 26 December 2016, the court of appeal upheld his conviction but reduced his sentence to one year in prison.

We express grave concern at the arrest, detention and conviction of Mr. Al Haj, which represent a criminalization of the legitimate exercise of his right to freedom of expression in the performance of his duties as a journalist. We express concern that the legal basis for his arrest, detention and conviction as well as for the shutdown of Al Zaman newspaper do not comply with permissible grounds for restricting freedom of expression under international human rights standards. In this connection, we express additional concern at the lack of due process in the criminal proceedings against Mr. Al Haj, the conditions of Mr. Al Haj's confinement and his health, in particular the alleged lack of access to adequate medical treatment while in detention. Finally, we express concern at the chilling effect this has on the exercise of freedom of expression in Oman in

general, and on the independence of the media in particular to report on issues of public interest and government accountability.

While we do not wish to prejudice 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 the issues brought forth by this situation.

In particular, we would like to refer your Excellency's Government to articles 5 and 9 of the Universal Declaration of Human Rights (UDHR). These provisions establish the rights to liberty, and security of person, as well as the prohibition of torture or cruel, inhuman or degrading treatment, and arbitrary arrest. In this connection, we also recall the updated United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules, 2015), in particular rule 24 on the State responsibility to provide necessary health care services for prisoners. We furthermore refer to articles 10 and 11 of the UDHR that determine that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, and that everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

Moreover, 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. This provision holds 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 highlight that this right applies online as well as offline.

We would like to further 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, articles 1, 2 and 6 of the Declaration.

The full texts of the human rights instruments and standards recalled 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 person 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 comment you may have on the above-mentioned allegations.
2. Please provide information about how the legal basis for the arrest, detention and conviction of Mr. Al Haj and the shutdown of Al Zaman is compatible with article 19 of the Universal Declaration of Human Rights (UDHR)?
3. Please provide detailed information about the trial of Mr. Al Haj and how this complies with the guarantees to due process and fair trial under the international human rights standards.
4. Please provide information about measures taken to provide Mr. Al Haj with adequate medical care.
5. Please provide information about the justification of the Ministry of Information's decision to prohibit the circulation of Al Zaman newspaper in defiance of the ruling by the Administrative Court on 8 September 2016.
6. Please indicate what measures have been taken to ensure that journalists and human rights defenders in Oman 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.

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

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