

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of human rights while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Mr. Said,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion and protection of human rights while countering terrorism and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 35/15, 33/9, 26/7, 31/3 and 34/19.

In this connection, we would like to bring to the attention of your Government information we have received concerning **the arrest, detention and conviction of Sheikh Ahmad al-Assir, who was sentenced to death on 28 September 2017 by the Lebanese Military Court for alleged terrorist acts. The information received also includes allegations that he was tortured.**

Mr. Al-Assir is a Lebanese national who was an imam at Bilal Bin Rabah Mosque in Saida, Lebanon, prior to his arrest. He was arrested in connection with his alleged role in the Abra clashes in 2013 between purported supporters of Mr. Al-Assir and Lebanese army soldiers, which resulted in several dozen casualties.

According to the information received:

On 15 August 2015, Sheikh Ahmad al-Assir was apprehended by General Security agents at Rafik Hariri International Airport in Beirut on the basis of an arrest warrant. Immediately after his arrest, he was held in custody and subject to two weeks of intensive interrogations by General Security personnel during which he was tortured in order to extract a confession of guilt. The torture involved heavy beatings, sleep deprivation, and humiliation. As a result, his interrogators obtained a self-incriminating testimony from him.

Mr. Al-Assir was subsequently transferred to the custody of the Lebanese Army and held in a facility under the authority of the Ministry of Defence. There, he was held incommunicado for a period of 39 days. During this period, he was again

repeatedly interrogated and subjected to further ill-treatment, including degrading treatment. He was eventually authorized to receive visits from his family and lawyers from 24 September 2015.

On 1 October 2015, Mr. Al-Assir was transferred to another military detention facility “Al Rehaneye” where he was again subjected to torture, including beatings and severe degrading treatment. He was then placed in solitary confinement in a small cell located underground without any sunlight. During his prolonged stay at the military prison, his detention conditions were very poor and he was only allowed visits from his family and lawyers once per week for a duration of five minutes.

Although Mr. Al-Assir suffers from diabetes, his access to a restroom was limited and conditioned upon going there naked, allegedly as a form of personal humiliation given his religious function as an imam. In addition, his access to drinking water was limited and his religious beliefs were the subject of contempt and insults by his guards during every interaction. He was not allowed to self-inject insulin but he was given two unidentified injections while blindfolded. When inquiring about the content of the injections, he was given no answer. He was also denied access to a diabetes compatible diet and he was not allowed to have suitable food brought to him from outside the prison, despite the fact that his critical condition was known and that he had been prescribed various medications.

After persistent requests by his lawyers, Mr. Al-Assir was transferred to a detention facility governed by the secret services known as “Maaloumat” in the “Roumieh” prison where he has continued to be held separately from other detainees until this day. He is never exposed to direct sunlight except for a few minutes every week in a “sunny” concrete room. The visits from his family and lawyers have been increased to 30 minutes per week but his conversations are being monitored.

According to a medical report dated 15 April 2016, Mr. Al-Assir suffers from general fatigue and malnutrition, resulting from a gallstone and anemia, in addition to a drop in sugar (diabetic) levels along with severe pain in the lower spine and the joints to the extent that he cannot stand still. The report concludes that Mr. Al-Assir should be admitted to hospital immediately for a surgery of the gallbladder and that he is also in need of urgent nutritional therapy and should undergo a thorough medical check.

The trial proceedings of Mr. Al-Assir have taken place before the Lebanese Military Court where he faced charges for his alleged role in the 2013 Abra events, including allegations of forming an armed terrorist organization and attacks against the Lebanese Army. The charges carry the death penalty or life imprisonment. The self-incriminating statement that had been extracted from Mr.

Al-Assir under torture was presented as his official testimony. He was forced to sign this coerced statement without being able to read it.

During the course of the trial, Mr. Al-Assir has barely had access to his lawyers and has not been given sufficient time and facilities, including the necessary confidentiality, to prepare his defence. In addition, the Military Court has denied the repeated requests by the lawyers to consider new evidence and witnesses in the case.

Prior to the final hearing of Mr. Al-Assir's trial, the Military Court decided to suspend his legal defence team from the trial and instead appointed a military lawyer with the rank of major to represent Mr. Al-Assir.

On 28 September 2017, Mr. Al-Assir was sentenced to death according to articles 549, paragraph 5, 217, 335, 303, 317 of the Penal Code and article 72 of the weapons law. The articles relate to allegations of forming an armed terrorist organization and attacks against the Lebanese Army. The Military Court extensively referred to and relied on the self-incriminating testimony of Mr. Al-Assir when rendering its verdict.

Without making a judgement as to the accuracy of the information made available to us, we are raising our serious concern at the imposition of the death penalty on Mr. Al-Assir following a trial that appears to contravene the most basic international standards relating to fair trial. Our concern in this case is particularly heightened since Mr. Al-Assir is alleged to have been tortured and that the evidence extracted from him under these conditions appear to have been used as evidence in court. Our concern also arises from the allegation that he was held in prolonged solitary confinement for a period exceeding two years, that he was further ill-treated, humiliated, insulted and degraded, and that he was denied access to adequate healthcare in detention despite the fact that his medical condition was known to the prison officials.

The allegations transmitted in this letter seem to indicate a prima facie violation of the rights to life, liberty and security, the right not to be deprived arbitrarily of one's liberty, and the right to fair trial before an independent and impartial tribunal, as set forth in articles 6 (1) and (2), 9, 14, 19 and 22 of the International Covenant on Civil and Political Rights (the Covenant), acceded to by Lebanon on 3 November 1972. They also appear to contravene the right to be free from torture and other cruel, inhuman and degrading treatment or punishment as set forth in article 7 of the Covenant and articles 1, 2 and 16 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), acceded to by Lebanon on 5 October 2000. In addition, article 15 of the CAT provides that, "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

We are respectfully drawing your Government's attention to article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty, which provides that capital punishment may only be carried out after a legal process that gives all possible safeguards to ensure a fair trial. Only full respect for stringent due process guarantees distinguishes capital punishment, as possibly permitted under international law, from an arbitrary execution. In this regard, we would like to recall that proceedings leading to the imposition of capital punishment must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries, in accordance with the pertinent international legal instruments.

In relation to Military Courts and Commissions, the UN Human Rights Committee, in its General Comment No. 32 at paragraph 22, notes that: "The provisions of [the ICCPR] apply to all courts and tribunals within the scope of that article whether ordinary or specialized, civilian or military ... While the Covenant does not prohibit the trial of civilians in military or special courts, it requires that such trials are in conformity with the requirements of article 14 and that its guarantees cannot be limited or modified because of the military or special character of the court concerned."

We would also like to highlight that the reviewed Standard Minimum Rules for the Treatment of Prisoners (as amended and adopted by the UN General Assembly on 5 November 2015 and renamed the "Mandela Rules") provide for appropriate accommodation, including minimum cubic content of air and floor space, lighting and ventilation (rules 12 to 17), requirements to be met regarding personal hygiene (rule 18), clothing and bedding (rules 19 to 21), food (rule 22) and exercise and sport (rule 23). The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. We also refer to paragraph 28 of the General Assembly resolution 68/156 (2014) which emphasizes that conditions of detention must respect the dignity and human rights of persons deprived of their liberty and calls upon States to address and prevent detention conditions that amount to torture or cruel, inhuman or degrading treatment or punishment.

Regarding access to adequate health care while in detention, we would like to bring to your attention that the right to the enjoyment of the highest attainable standard of physical and mental health is reflected, *inter alia*, in article 12 of the International Covenant of Economic, Social and Cultural Rights (ICESCR), acceded to by your country on 3 November 1972. According to article 12 of ICESCR, States have an obligation to respect the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (General Comment CESCR 14, Para.34).

In this context, we appeal to your Government to quash the death sentence against Mr. Al-Assir and to ensure a re-trial in compliance with international standards,

especially those committed to by the Lebanese Republic. Moreover, we call on your Government to consider establishing an official moratorium on the death penalty towards its abolition.

The full texts of the human rights instruments and standards referred to 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 steps taken by your Government to safeguard the rights of Mr. Al-Assir, in compliance with Lebanon's international human rights commitments.

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 detailed information concerning the legal grounds for the detention, prosecution, and sentencing of Mr. Al-Assir and explain how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights, and in the Covenant and the CAT, acceded to by Lebanon.
3. Please provide any information on the legality of the detention of Mr. Al-Assir at the different stages of his incarceration, including the places where he was detained, the legal authority under which he was detained by intelligence, military and other security personnel, as well as the authority under which he was investigated, interrogated and tortured. Please clarify how such detention and treatment are compatible with Lebanese legislation and the international human rights norms that are binding on Lebanon.
4. Please provide detailed information and, where available, findings, of any investigation, judicial or otherwise, carried out in relation to the allegations that Mr. Al-Assir was tortured during the interrogations. If no such inquiries have taken place, or if they have been inconclusive, please explain why, and in particular how this is compatible with Lebanon's obligations under CAT.
5. Please also provide information on safeguards in place to ensure fair trial and due process, including the right to an independent and impartial tribunal established by law and the rights of defence in compliance with international standards, in particular in death penalty cases, and how they are effectively enforced.

6. In particular, please explain what legal procedures are in place, and effectively implemented, to ensure that no information extracted under torture from persons in detention, can be used as inculpatory evidence in judicial proceedings, as provided for under CAT, to which Lebanon is a State party.
7. Please provide any information on the legal, procedural and effective measures taken by the relevant authorities to ensure that individuals in the custody of the police or of any other security personnel are protected against any attempt against their physical and psychological integrity during all stages of their detention.
8. Please provide information regarding allegations of denial of access to Mr. Al-Assir to adequate healthcare while in detention, in particular given his deteriorating health condition.

While awaiting a reply to this communication, we urge your Government to ensure that while the case of Mr. Al-Assir is being investigated, interim measures are taken to protect his human rights; and in the event that the investigation confirm that the allegations are correct, to ensure the accountability of any person responsible for the alleged violations.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Lastly, we are drawing the attention of your Government to the fact that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may also transmit the case to the Government through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is expected to respond separately to the present urgent appeal and to the communication of the Working Group under its regular procedure.

Please accept, Mr. Said, the assurances of our highest consideration.

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