

Mandates of the Special Rapporteur on the situation of human rights defenders; 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 Working Group on the issue of discrimination against women in law and in practice

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolutions 34/5, 33/30, 34/18 and 32/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations concerning the arrest, arbitrary detention and charges against human rights defender Ms. Noha Al-Balawi.

Ms. Noha Al-Balawi is an online advocate for civil and political rights. She is known for her work advocating against laws and practices that discriminate against women in Saudi Arabia, specifically for women's right to drive and against male guardianship laws. She has also taken part in campaigns of solidarity with prisoners of conscience via tweets and videos.

According to the information received:

On 23 January 2018, at around midday, a relative of Ms. Noha Al-Balawi was detained. Following that, Ms. Al-Balawi was requested to report to the Department of Investigation and Prosecution Authority in Tabuk. When she arrived to the police station at around 1:30 p.m. that day, she was arrested and placed in detention. Her relative was later released.

During her detention Ms. Al-Balawi has been repeatedly questioned on the tweets and videos she had posted, including on a video in which she supports the driving campaign for women and shows solidarity with prisoners of conscience in Saudi Arabia. She was also questioned on her connections with other human rights defenders in Saudi Arabia generally. Following her interrogation, she was allegedly charged under article 6 of the Anti-Cybercrime Law, which states that "the punishment for any person who creates or transmits anything prejudicial to public order shall be a prison term of up to five years and/or a fine of up to three million riyals".

On 5 February 2018, Ms. Al-Balawi's detention was allegedly renewed for another 35 days. On 6 February, she started a hunger strike. While it is known that she is detained in Tabuk prison, no information is available on her conditions of detention.

It is alleged that she remains without legal representation, and that since her detention authorities have been providing inaccurate messages to the effect that Ms. Al-Balawi has been released and is at home. Authorities further allegedly made promises to release her within five days, however she remains in detention.

Concern is expressed at the arrest, arbitrary detention and charges against Ms. Noha Al-Balawi for reasons which, if confirmed, seem directly linked to her work as a human rights defender. Further concern is expressed at the use of the Anti-Cybercrime Law in order to target human rights defenders through broad and vague provisions.

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 the issues brought forth by the situation described above.

We would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedoms of opinion and expression and association in accordance with fundamental principles as set forth in articles 19 and 20 of the Universal Declaration of Human Rights (UDHR), along with the right to liberty and security of person, the right not to be subjected to arbitrary arrest or detention, the right to a fair trial and the right to be presumed innocent until proved guilty contained in articles 3, 9, 10 and 11 of the UDHR as well as the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Furthermore, we would like to bring to the attention of your Excellency's Government that, according to article 29 (2) of UDHR, a State may impose restrictions on the exercise of the rights and freedoms set out in the Universal Declaration, including the right to freedom of expression and information, but only such as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and general welfare in a democratic society.

We would like to draw your attention to General Assembly resolution 68/181 as well as Human Rights Council resolution 31/32, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into

their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves. (OP5, 19 and 20).

We would also like to highlight the fundamental principles set forth in articles 1, 2 and 6(b) of the UN Declaration on Human Rights Defenders, which provide for the right to promote and to strive for the protection and realization of human rights and fundamental freedoms, as well as the right freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms.

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 person(s) 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/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide the legal and factual bases for the arrest, detention and charges against Ms. Al-Balawi and explain how these are compatible with international human rights law, particularly articles 3, 9 and 19 of the UDHR. Please also indicate if she has been taken before a court, and if she has not, explain the reasons for this.
3. Please provide information on whether Ms. Al-Balawi has had access to legal counsel. Please also indicate whether Ms. Al-Balawi has had access to medical attention while she has been in detention, especially since the beginning of her hunger strike. Please similarly provide information on the conditions of her detention and on the state of her physical and psychological wellbeing.
4. Please indicate what measures have been taken to ensure that freedom of opinion and expression, including that of women human rights defenders, who face a heightened risk of backlash and persecution for challenging

discriminatory laws and practices, is respected and that the liberty and security of those exercising this right is guaranteed.

5. Please indicate what measures have been taken to ensure that human rights defenders in 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.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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.

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Special Rapporteur on the situation of human rights defenders

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Vice-Chair of the Working Group on Arbitrary Detention

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