

Mandates of 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 promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA ARE 2/2019

12 February 2019

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/9, 31/3 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged torture and ill-treatment due to the conditions of detention and lack of appropriate medical treatment, resulting in the deteriorating health of Ms. Amina Ahmed Saeed Al-Alabdouli, Ms. Maryam Suliman Al-Balushi and Ms. Alia Abdunour** who are Emirati nationals serving sentences varying lengths at Al-Wathba prison.

According to the information received:

Amina Mohammed Al-Abdouli, 37 years old, teacher and mother of five children

On 19 November 2015, Ms. Al-Abdouli was detained without a warrant in Al-Fujairah by State Security Agents and taken to a secret location for seven and a half months before being taken to Al-Wathba prison on 27 June 2016. Ms. Al-Abdouli was formally charged with "inciting hatred against the State and disturbing public order; undermining the reputation of the State institutions and publishing false information to endanger the State's relations with its allies" and tried before the Federal Supreme court which considered the tweets (which were about the death of her father in Syria) a terrorist offense on the basis of Federal Law No. 7 of 2014 on Terrorism Crimes. On 31 October 2016, Ms. Al-Abdouli was sentenced to 5 years in Al-Wathba prison.

While held at an undisclosed location, Ms. Al-Abdouli alleges that she was kept in a narrow room with no windows and was interrogated by male security guards who insulted and threatened her that she would lose the custody of her children and her relatives would be arrested. She was stripped naked, handcuffed, her feet

bound, blindfolded and sleep deprived for hours at a time. On a number of occasions a guard beat her on the face, head and body. The guard ordered her to insult her family especially her dead father and when she refused, he beat her more. Ms. Al-Abdouli reportedly went on several hunger strikes to protest against her treatment, lasting up to three weeks in length.

During the third month of detention, she began to lose vision in her left eye due to repeated beatings. They allegedly forced her to sign a confession with her finger print, without allowing her to read its contents while threatening to continue the beatings if she did not comply.

While in Al-Wathba prison, Ms. Al-Abdouli has alleged that her health continues to deteriorate in overcrowded cells (20 detainees in a cell designed for 8 inmates) which are overheated, foul-smelling and contaminated with insects. In addition, she alleges that she and other detainees lack healthy food, portable water, clean blankets and medical care. She says she has been subjected to random and humiliating strip searches at night. She also alleges she has been denied the right to have direct contact with her children during family visits as she can only have contact through a barrier or over the phone.

Maryam Suliman Al-Balushi, 21 years old, student in her final year of studies in the College of Technology in the city of Kulba.

On 19 February 2015, Maryam Suliman Al-Balushi was arrested and detained by the State Security Service and accused of “financing terrorism” because of her donation to a Syrian family. The State Security Service transferred her to a secret detention center where she stayed for five months where she was reportedly interrogated and subjected to beatings on the head and threatened with rape. It is alleged that a confession was obtained under duress. On 12 April 2016 she was sentenced to 5 years in prison and incarcerated at Al-Wathba prison.

While in prison, Ms Al-Balushi alleges that she was held in solitary confinement and held in humiliating conditions, including surveillance cameras placed inside her bathroom. Reportedly, she is also denied contact with her mother and has been prevented to have any contact by phone or letter and when her mother has made the long distance from Al-Kulba to Al-Wathba prison to visit, she has been denied by authorities.

Ms. Al-Balushi reportedly went on a hunger strike several times while held in incommunicado detention. In Al-Wathba prison, she also went on a hunger strike in April 2018 to demand an investigation into her alleged torture and to demand better conditions in the prison and the right for a family visit. She requested

medical attention and was seen by a doctor but reportedly did not receive a proper examination or medical treatment.

Alia Abdounour, 39 years old

On 28 July 2015, Ms. Alia Abdounour was arrested by State Security authorities and charged with “financing terrorism” after she helped raise funds for needy Syrian families in the UAE and war-affected women and children in Syria. She was reportedly held in secret detention and in solitary confinement for six months and subjected to humiliation and threats. She was allegedly put in a similar to a coffin as it was narrow, without windows, poorly ventilated and without a mattress. She was stripped down to underwear and, tied up with iron chains and blindfolded for long periods at a time; cameras were put in her cell and she was interrogated daily.

Ms. Abdounour was brought before the prosecutor in December 2015 where she allegedly was forced to sign a written confession. On 15 May 2017, the Federal Supreme Court she was tried and convicted on the basis of her confession, which she claimed in court was extracted under torture. There was no investigation of these claims and she was sentenced to ten years imprisonment and incarcerated at Al-Wathba prison.

Ms. Abdounour has terminal breast cancer, which since her incarceration has spread to other parts of her body, including her liver. In November 2018, her health had seriously deteriorated so she was transferred by prison authorities to Mafraq Hospital in Abu Dhabi, a facility which is not adequately equipped with the appropriate treatment to manage the pain. The medical staff reportedly recommended she be given appropriate medication to reduce her pain and be released so she can die at home peacefully.

The family alleges that the medical facility at Mafraq hospital routinely and deliberately sedated Ms. Abdounour into an unconscious state to prevent her from protesting about her lack of proper medical treatment. Ms. Abdounour has gone on numerous hunger strikes where she has lost 10 kilos over a short period of time. She is reportedly barely eating. The family filed a complaint to the prison administration as they are often denied access to visit her and are desperate to have her released and sent home as she is in a terminal state.

In January 2019, the family of Ms. Abdounour submitted a request to the Public Prosecutor for her release. The request was rejected and on 10 January 2019, prison authorities transferred Ms. Abdounour to Tawam hospital. She is reportedly chained to a bed under heavy police surveillance. The prison authorities are reportedly refusing to release Ms. Abdounour, despite Federal Law No. 43 of 1992

on Regulating Penal Institutions which grants the Attorney General the power to release the detainee for whom health and life are threatened by a disease, according to Articles 32 and 33.

While we do not prejudge the accuracy of the information we have received, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of the persons named above. 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 Universal Declaration of Human Rights (UDHR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment acceded by the UAE on 12 January 2012, and the Arab Charter of Human Rights, ratified by the UAE in 2008.

We respectfully remind your Excellency's Government of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. All these resolutions require that States must ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law.

We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which the UAE acceded on 19 July 2012.

In this context, we would like to draw the attention of your Excellency's Government to article 12 of the Convention Against Torture and other cruel, inhuman and degrading treatment or punishment (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 further like to recall that international human rights law and standards require States to treat all persons under any form of detention or imprisonment with humanity and with respect for the inherent dignity of the human person (article 20, Arab Charter on Human Rights; Principle 1, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and General Assembly resolution 43/173 of 9 December 1988).

We would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly Resolution 68/156 (February 2014), which, "[r]eminds all 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 dignity of the person and to ensure that secret places of detention and interrogation are abolished".

Further, Rule 43 of the updated United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules, 2015) prohibits the use of prolonged solitary confinement under any circumstances.

We would like to draw the attention of your Excellency's Government to article 15 of the Convention against Torture 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 would like to draw the attention of your Excellency's Government to article 13 of the Convention against Torture, which requires that "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given."

With regard to the health situation of these three women and in particular, Ms. Abdunnour, and their right to adequate health care in detention, we refer to the Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111, underlining that prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

Under the Mandela Rules, the provision of health care is the responsibility of the state authorities and prisoners should enjoy the same standards of health care that are available in the community (Rule 24(1)). Rule 27(1) furthermore provides that all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

The Mandela Rules also 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.

The Mandela Rules also provide that prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals by corresponding or by receiving visits (Rule 58).

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 any comment you may have on the above-mentioned allegations of torture and conditions of detention.
2. Please provide information about the factual and legal grounds for the detention of Ms. Amina Ahmed Saeed Al-Alabdouli, Ms. Maryam Suliman Al-Balushi and Ms. Alia Abdunour; in particular, please clarify why charges related to “financing of terrorism”, and “inciting hatred against the State and disturbing public order; undermining the reputation of the State institutions and publishing false information to endanger the State's relations with its allies” have been levied against; and indicate how this complies with United Nations Security Resolution 1373, and a strict understanding of the definition of terrorism as elucidated by international law norms including but not limited to paragraph 3 of the United Nations Security Council Resolution 1566 (2004).
3. Please provide the details, and where available the results, of any additional investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why, and how this is consistent with the UAE's domestic and international human rights obligations.

4. Please advise if authorities have undertaken a prompt and impartial investigation in response to the alleged acts of torture and ill-treatment and provide details of any prosecutions which have been initiated in this regard, and whether penal, disciplinary or administrative sanctions have been imposed on the perpetrators.
5. Please provide the information about the current physical and mental health status of Ms. Amina Ahmed Saeed Al-Alabdouli, Ms. Maryam Suliman Al-Balushi and Ms. Alia Abdulnour, and what, if any, medical treatment they have received.
6. Please advise why authorities have not released Ms. Alia Abdulnour on health grounds, based on the critical nature of her medical condition.

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.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

Nils Melzer

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