

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 ARE 3/2019

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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, 34/18, 34/5 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 ongoing imprisonment and alleged ill-treatment of the human rights defender and lawyer Mr. **Mohamed Abdullah Al-Roken**.

Mr. Mohamed Abdullah Al-Roken is a human rights lawyer and former president of the UAE Bar Association. He had provided legal assistance to victims of human rights violations in the United Arab Emirates, including to human rights defenders prosecuted for their peaceful human rights work.

The arrest of Mr. Al-Roken has been the subject of a joint communication sent by Special Procedures mandate holders to your Excellency's Government on 8 September 2006 (ARE 7/2006). The mass arrest, detention and trial of human rights defenders, judges and lawyers, including Mr. Al-Roken, on state security offences, which took place between February 2012 and July 2013, and became known as the case of the UAE 94, have been the subject of joint communications sent by Special Procedures mandate holders to your Excellency's Government on 7 November 2012 (ARE 7/2012) and 16 April 2013 (ARE 1/2013). While we would like to thank your Excellency's Government for the responses dated 17 May 2007, 26 March 2013 and 10 June 2013, respectively, we remain concerned given the allegations below.

According to the information received:

On 2 July 2013, the State Security Chamber of the Federal Supreme Court in Abu Dhabi sentenced Mr. Al-Roken to 10 years in prison and banned him from practicing as a lawyer, following a mass trial of 94 individuals, including

prominent human rights defenders and jurists. Along with 64 other defendants, he was charged with “plotting against the government” after signing a petition calling for democratic reforms in the country. Mr. Al-Roken’s sentence was reportedly based on confessions extracted under torture.

Since his sentencing, Mr. Al-Roken has been serving his prison sentence in the Al-Razeen prison. Due to the location of the prison in the desert, detainees, including Mr. Al-Roken, are exposed to both extremely high and extremely low temperatures, with prison guards reportedly deliberately switching off air conditioning in prison buildings.

On 11 November 2015, extremely loud music was reportedly played in Mr. Al-Roken’s cell for hours by the prison authorities. The human rights defender rang the emergency bells located in his cell but no response was forthcoming. After several hours, the human rights defender lost consciousness. Security guards then took him to the prison clinic, where it was discovered that he was suffering from high blood pressure. He was later returned to his cell. The next morning, extremely loud music was once again played in Mr. Al-Roken’s cell. As a result, he started experiencing pain in his ear and was taken back to the prison clinic, where he was diagnosed with an ear infection, aggravated by the extreme noise.

In prison, Mr. Al-Roken is being systematically denied access to medical care in situations where his health requires it. Furthermore, he is regularly placed in solitary confinement without access to daylight, a measure which appears to be randomly applied, and in all cases without a justification. His placement in solitary confinement usually lasts from one week to one month. Mr. Al-Roken and other detainees are also regularly prevented from performing their prayers and other acts of worship.

Mr. Al-Roken is also regularly denied family visits, phone calls and access to his lawyer. At times, visits are denied for several weeks, with family members often informed of such denials after having travelled to the prison and been obliged to wait outside it for hours.

Before family visits, Mr. Al-Roken is systematically subjected to invasive body searches. This is the case notwithstanding that during visits a glass barrier separates Mr. Al-Roken from his visitors.

Furthermore, random searches are reportedly conducted in cells at the prison, including that of Mr. Al-Roken, during which personal items, including books, paper, and pens, as well as food brought by the prisoners’ families, are confiscated. At night, violent searches are conducted in which detainees including Mr. Al-Roken are beaten and verbally assaulted.

We wish to express our serious concerns regarding the ongoing imprisonment of Mr. Al-Roken and his regular placement in solitary confinement, which appear to be a direct result of his human rights work and his exercise of the right to freedom of expression. We are also deeply concerned at the allegations received indicating that torture and/or cruel, inhuman or degrading treatment may have occurred during Mr. Al-Roken's detention. We further wish to express our concerns over the alleged repeated preclusion of the human rights defender from contact with his family and lawyer.

We reiterate our concerns, expressed in a joint communication sent on 16 April 2013 (ARE 1/2013), that the reliability of evidence used in the trial of UAE 94, with Mr. Al-Roken included therein, appears to have been called into question and tainted by allegations that it was obtained under torture.

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.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Al-Roken is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR).

We would like to stress the obligation of your Excellency's Government to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

We would also like to draw your attention to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 (adopted by General Assembly resolution 43/173 of 9 December 1988). The Committee against Torture has consistently found that conditions of detention can amount to inhuman and degrading treatment.

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States

to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.”

We would also like to draw your Excellency’s Government’s attention to article 2 of the CAT, which provides that “[e]ach State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”, and article 12 of the 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.

Regarding allegations received indicating that confessions were obtained under torture, we would further like to draw the attention of your Excellency’s Government to article 15 of the CAT, which provides that, “[e]ach 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.”

Concerning allegations received as relevant to Mr. Al-Roken’s conditions of detention, we would like to refer your Excellency’s Government to the United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules, adopted in General Assembly resolution 70/175. In particular, we would like to recall rule 42, referring to standards for general living conditions in detention as laid out in the resolution and their application to all prisoners without exception; rules 43, 44 and 45, concerning the use of solitary confinement only in exceptional cases as a last resort, and for as short a time as possible, subject to independent review; and rules 58 and 61, concerning communication with family members and access to legal advisers.

Regarding allegations received indicating that the situation of Mr. Al-Roken is linked to his legitimate human rights work, we would like 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, and in particular articles 1, 2, 6, 9 and 12.

We would finally 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 which provides that “[e]veryone 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.”

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 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 comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the conviction and detention of Mr. Al-Roken and explain how these are compatible with international human rights norms and standards.
3. Please provide information as to the basis for the regular placement of Mr. Al-Roken in solitary confinement, including whether any safeguards, such as independent review and authorisation by a competent authority, are in place.
4. Please provide detailed information as to the physical integrity of Mr. Al-Roken and what efforts have been made to ensure his effective access to all necessary medical assistance while in detention.
5. Please provide information as to the allegations that Mr. Al-Roken has been prevented from engaging in contact with his legal representative and family, and explain how this is in line with international human rights standards, including article 10 of the Universal Declaration of Human Rights.
6. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to reported allegations of torture and/or cruel, inhuman or degrading treatment as well as reports of breaches of fair trial standards. If no inquiries have taken place, or if they have been inconclusive, please explain why.
7. Please indicate what measures have been taken to ensure that human rights defenders and lawyers in the United Arab Emirates are able to carry out their peaceful and 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 recurrence 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.

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.

We would like to inform your Excellency's Government that after having transmitted an allegation letter 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 letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Leigh Toomey
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