

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 rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
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15 October 2019

Excellency,

We have the honour to address you in our capacities 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 rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 33/30, 34/18, 41/12 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. **Abed al Karem Al-Shraideh**, who was arrested and detained on 2 September 2019, and who is presently on bail awaiting a court hearing on 17 October 2019, for criticizing Jordanian King Abdullah II bin Al-Hussein in a video posted to Facebook.

According to the information received:

Mr. **Abed al Karem Al-Shraideh** is a Jordanian lawyer and human rights defender and President of the Organization for Human Rights and Anti-Torture, a non-governmental organisation that documents corruption and advocates for greater public freedoms in Jordan.

In early July 2019, Mr. Al-Shraideh posted a video of himself to Facebook allegedly criticizing Jordanian King Abdullah II bin Al-Hussein for interfering and undermining tribal affairs in Jordan, which Mr. Al-Shraideh said suppresses freedom of expression, as well as for alleged government corruption in the country.

On 2 September 2019, a personal defamation complaint was filed with the Cybercrimes Unit of Jordan's Public Security Department against Mr. Al-Shraideh by a tribesperson, who was also allegedly subject to criticism in the video posted to Facebook. The Cybercrimes Unit located the video and brought the case to the attention of the Amman Prosecutor-General who ordered Mr. Al-Shraideh's arrest. Later on the same day, Mr. Al-Shraideh was arrested by Amman's Capitol Police, without being informed of the charges against him. Reportedly, Mr. Al-Shraideh was charged under article 195(a) of the Jordanian Penal Code (amended by law No. 16 in 2007) related to an "insult against His Majesty the King" (carrying a prison sentence from one to three years) and article 11 of the 2015 Cybercrimes Law No. 27 related to online defamation (carrying a

fine and prison sentence of at least three months). Mr. Al-Shraideh was then detained in Juwaida Rehabilitation Center in Amman, initially for 14 days, subject to renewal pending the investigation into “lengthening the tongue against the King”. The Jordanian authorities forced Mr. Al-Shraideh to delete the Facebook post containing the video.

On 3 and 4 September 2019, Mr. Al-Shraideh went on hunger strike in protest at his detention.

On 4 September 2019, Mr. Al-Shraideh had access to his defence lawyer, and was permitted to speak to his wife twice for two minutes according to applicable penitentiary procedures.

On 11 September 2019, Mr. Al-Shraideh was released on bail amounting to 5,000 Jordanian Dinars (approximately USD \$7,000) pending the on-going investigation into the charges.

A court hearing is scheduled for 17 October 2019.

We wish to express our concern over the arrest, detention and pending charges against Mr. Al-Shraideh, which appear to be directly linked to his human rights activities in posting a video to Facebook allegedly critical of the Jordanian King’s handling of tribal affairs in the country and government corruption, which appears to unnecessarily and disproportionately restrict his right to freedom of opinion and expression and of association.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 the observations of your Excellency’s Government on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations and facts.
2. Please provide information about the charges against Mr. Al-Shraideh, including the factual and legal basis for his detention prior to his release on bail.
3. Please provide information on whether Mr. Al-Shraideh was able to access a lawyer, including from the moment of his arrest, and whether and under what circumstances he was able to contact his family prior to his release on bail.

4. Please explain how the charges are compatible with standards under international human rights law, particularly articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR).
5. Please provide detailed information as to the specific measures that have been put in place to ensure human rights defenders in Jordan can carry out their legitimate work in a safe and enabling environment without fear of harassment and intimidation from the authorities and media, along with specific information as to steps taken to support and promote the work of human rights defenders in the country.

We would appreciate receiving a response within 60 days. Thereafter, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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 allegation letters 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(s) responsible for the alleged violations.

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Jordan on 28 May 1975, which guarantees the rights to freedom of opinion and expression and of association, respectively.

We would like to remind your Excellency's Government that under international human rights law and standards related to freedom of expression, States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. Article 19(3) ICCPR may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights (Human Rights Committee, General Comment No. 34 on freedom of opinion and expression, para. 23). In this context, in its General Comment 34, the Human Rights Committee stated that all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition. The mere fact that forms of expression are considered to be insulting to a public figure, including the Head of State, is not sufficient to justify the imposition of penalties. (Human Rights Committee, General Comment No. 34 on Freedom of opinion and expression, para. 38). States parties should consider the decriminalization of defamation, and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty. It is impermissible for a State party to indict a person for criminal defamation but then not to proceed to trial expeditiously – such a practice has a chilling effect that may unduly restrict the exercise of freedom of expression of the person concerned and others. (Human Rights Committee, General Comment No. 34 on Freedom of opinion and expression, para. 47).

Furthermore, the right to freedom of association under article 22 ICCPR requires that States parties take positive measures to establish an enabling environment for associations. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to, for example, arbitrary arrest or detention. States additionally have a negative obligation not to unduly obstruct the exercise of this right. Associations pursuing objectives and employing means in accordance with international human rights law should benefit from international legal protection (A/HRC/20/27, paras. 63 & 64).

In addition, without expressing at this stage an opinion on the facts of the case and on whether the detention of the concerned individual was arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 14 ICCPR.

We would also like to refer your Excellency's Government to the duty to respect, protect, and fulfil the rights of individuals to engage in human rights work without fear of

reprisal or harassment, as 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. In particular, we would like to refer to article 12, paragraphs 2 and 3 of the Declaration, which provides that States shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. Furthermore, article 5 paragraph b of the Declaration provides for the right to form, join and participate in non-governmental organisations, associations or groups.