

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

REFERENCE:
AL JOR 1/2020

31 March 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 34/5, 42/22, 36/6 and 34/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arbitrary arrest and detention of human rights defender **Abdulrahman Shdeifat**.

Mr. Abdulrahman Shdeifat is a human rights defender and political activist who has been engaged in civil society since 2011. He previously worked with UNICEF, ACTED and other non-governmental organisations in Jordan. He has served on the board of Hirak Bani Hasan, a movement that organises events and marches throughout the country, promoting freedom, social justice, political reform and an end to corruption.

According to information received:

In 2016, Mr. Shdeifat was called in for questioning by the General Intelligence Department in relation to a number of social media posts he made. He was kept in detention for two weeks without any formal charges. Since his arrest he has had difficulty getting "security approval" from the authorities to begin new employment.

On 10 November 2019, Mr. Shdeifat was surrounded by seven masked men and arrested as he left a job interview in the city of Mafraq. He was allegedly not presented with a warrant. Without having the possibility to inform his family or lawyer, Mr. Shdeifat was taken to the Preventive Security Department in the city of Amman, where he was interrogated for four hours about his political views and engagement in human rights activities.

On 11 November 2019, Mr. Shdeifat was brought before the State Security Prosecutor, who ordered he be detained for "undermining the political regime", "insulting the King and the Queen" and "inciting civil strife". His requests to contact his lawyer and family were denied. He was allegedly tried without a lawyer, without evidence or witnesses, he was not allowed to make a personal defence and the basis for the charges was not made clear to him.

On 15 November 2019, following five days of enforced disappearance, authorities publicly revealed that Mr. Shdeifat was being held in Bab al-Hawa prison in Irbid. Once this had been announced, his family was allowed to visit him. The family made a request for the return of Mr. Shdeifat's mobile phone and wallet, but they did not receive a response.

On 1 February 2020, Mr. Shdeifat began a hunger strike, in protest against the arbitrary nature of his arrest and the broader crackdown on human rights defenders in Jordan. Once he began the hunger strike, prison authorities transferred him to a single cell. He was allegedly denied his basic requests for water and salt. While on hunger strike, Mr. Shdeifat's health deteriorated to such an extent that he was hospitalised on four occasions. His family were not informed of any hospitalisation by the prison administration.

On 12 February 2020, following twelve days on hunger strike, Mr. Shdeifat was released on bail. He has allegedly been informed that if he continues to express his opinion publicly as before, or organise demonstrations, a new criminal case will be opened against him. He has also been forbidden from travelling outside of Jordan.

While we do not wish to prejudge the accuracy of these allegations, we express our concern with regards to the arbitrary detention of Mr. Abdulrahman Shdeifat. We are also concerned that the authorities did not disclose the arrest or place of arrest of Mr. Shdeifat for a period of five days, which amounts to a short-term enforced disappearance. This practice, undertaken without informing the relatives or the lawyer of the accused person, denies them the right to a fair trial and increases the risk of cruel and inhuman treatment while in custody. We express our concern that these acts took place before Mr. Shdeifat was formally informed as to the charges he was facing.

In light of communication AL JOR 1/2019 sent to your Excellency's Government on 15 October 2019, we wish to express our deep concern regarding the limitation on freedom of expression in Jordan. This, along with the alleged repeated targeting of Mr. Shdeifat, appear to indicate the systemic muzzling of free speech, particularly online, in Jordan. We are concerned by such arbitrary legal action taken against human rights defenders and all individuals who legitimately exercise their right to freedom of expression in Jordan, as this may have a chilling effect on civil society in the country.

We find particularly concerning the report that Mr. Shdeifat was tried without a lawyer, without substantive evidence and was unable to read out his defence. While in detention, we find troublesome the allegations that the basic necessities of salt and water were not provided to Mr. Shdeifat when undertaking his hunger strike.

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.
2. Please provide information on the legal and factual basis of the charges against Mr. Shdeifat and explain how they are consistent with the obligations of Jordan under international human rights law.
3. Please explain how the alleged arbitrary arrest of Mr. Shdeifat, without a warrant, without informing his lawyer or family, and without disclosing the location of his detention is consistent with Jordan's obligations under international human rights law.
4. Please provide details on the trial of Mr. Shdeifat, particularly whether he was allowed a proper defence, and, if not, how this is consistent with international human rights law.
5. Please indicate the details of any investigation or judicial or other inquiries which may have been carried out in relation to the reported arbitrary detention, enforced disappearance and mistreatment in prison of Mr. Shdeifat.
6. Please indicate what measures have been taken to ensure that human rights defenders and other civil society actors in Jordan 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 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.

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(s) responsible for the alleged violations.

Finally, 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 urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the urgent appeal procedure and the regular procedure.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Leigh Toomey
Vice-Chair of the Working Group on Arbitrary Detention

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Annex
Reference to international human rights law

Arbitrary detention and fair proceedings

In connection with above alleged facts and concerns, we would like to refer to article 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), to which Jordan acceded on 28 May 1975, which guarantees the right not to be arbitrarily deprived of liberty and to fair proceedings before an independent and impartial tribunal. We wish to highlight that, according to the criteria applied by the Working Group on Arbitrary Detention, deprivation of liberty resulting from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the ICCPR is arbitrary.

Article 9 establishes in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law, and that anyone who is arrested shall be informed, at the time of arrest, of the reasons behind such arrest and be brought promptly before a judge to determine the lawfulness of the detention.

We recall that article 9(3) of the ICCPR requires that detention in custody of persons awaiting trial shall be the exception rather than the rule. It should not be the general practice to subject defendants to pre-trial detention. Detention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime. Pre-trial detention should not be mandatory for all defendants charged with a particular crime, without regard to individual circumstances (Human Rights Committee, General Comment No. 35, para. 38).

Article 14 stipulates that, in the determination of any criminal charge, everyone shall be entitled to adequate time to communicate with counsel of choice. Article 14 also guarantees the right to be tried without undue delay. The right to have access to a lawyer without delay and in full confidentiality is also enshrined in principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37), and the Basic Principles on the Role of Lawyers (Principles 7 and 8).

The rights to freedom of opinion and expression, of peaceful assembly and of association

Article 19 of the ICCPR guarantees the right to freedom of expression, which includes “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.

We would like to remind your Excellency's Government that any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 19 (3) of the Covenant and article 19 of the Universal Declaration of Human Rights (UDHR). Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality, must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

We once again wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including on discussion of government policies and political debate; reporting on human rights, engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups. The Human Rights Committee also established in General Comment 34 that "any restrictions on the operation of websites, blogs or any other internet-based (...) system, ... are only permissible to the extent that they are compatible with paragraph 3" (CCPR/C/GC/34, paragraph 43). The Human Rights Committee also "expresse[d] concern regarding laws on such matters as, lese majesty" and clarified that "States parties should consider the decriminalisation 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" (CCPR/C/GC/34, paras. 38 and 47).

We recall that the ICCPR guarantees the rights to freedom of peaceful assembly and of association in its articles 21 and 22. These rights can be subject to certain restrictions in strict conditions of necessity and proportionality.

In this regard, we would like to refer to Human Rights Council Resolution 24/5 which "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others".

We would also like to refer 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. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We wish to particularly stress the following articles:

- article 5 (b), which provides for the right to form, join and participate in nongovernmental organizations, associations or groups,

- article 6 (a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.

- article 6 (b) and c) which provide that everyone has the right, individually and in association with others to freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters.

Enforced or Involuntary Disappearances

We would also like to refer to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which sets out the necessary protections with respect to the responsibility of the State; in particular that no State shall practice, permit or tolerate enforced disappearances (Article 2), that any person deprived of liberty shall be held in an officially recognized place of detention (Article 10.1) and that an official up-to date register of all persons deprived of their liberty shall be maintained in every place of detention (Article 10.3).

We would also like to highlight that there is no time limit, no matter how short, for an enforced disappearance to occur.