

**Mandates of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; 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:  
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Excellency,

We have the honour to address you in our capacity as Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; 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 41/18, 42/22, 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 alleged **arbitrary arrest and detention of [REDACTED] a Yemeni blogger and human rights defender.**

According to the information received:

[REDACTED] is a young blogger and human rights defender who fled Yemen in June 2019 after having received death threats from armed groups. During his 15-day journey, he walked 2,442 km from Sana'a, Yemen's capital, to Riyadh in Saudi Arabia where he has been living as an undocumented migrant. Since then, Yemeni armed groups have repeatedly threatened him with death should he return to Yemen.

On 8 April 2020, the Riyadh police arrested Mr [REDACTED] and he is since detained in al-Malaz prison in Riyadh. The arrest is believed to have taken place after Mr [REDACTED] posted a video on social media advocating for respect for human rights. In the video, the blogger said: 'Everyone has rights and should be able to practice them freely, including gay people.'

In a statement, the media spokesperson from the Riyadh police department, confirmed that police arrested him on 8 April and explained that the video contained 'sexual references' that 'violate public order and morals', prompting urgent police intervention.

Since his arrest, Mr. [REDACTED] has allegedly not been able to consult a lawyer, no specific charges have been brought against him, and he has not been presented before a judge.

According to information made available to us, Mr. [REDACTED] has been repeatedly kicked and slapped to “confess that he is gay” since his arrest and is now being held in solitary confinement. He was also subjected to a forced [REDACTED]. Mr. [REDACTED] reportedly suffers from a chronic heart condition and has been having difficulty breathing, eating, and sleeping; his psychological and physical health condition is reportedly deteriorating and is particularly affected by fear of being deported to a country where his life would be at risk.

We are seriously concerned over the allegations of arbitrary arrest and unlawful detention of Mr. [REDACTED] which appear to be directly related to his legitimate exercise of freedom of expression and his defense of human rights, as well as his perceived sexual orientation. We are furthermore concerned about the allegations concerning the treatment that he has been subjected to since his arrest and in detention due to his perceived sexual orientation, particularly beatings imposed with the purpose of extracting a statement on his sexual orientation, and the [REDACTED] Practices such as those described would be a violation of an individual’s right to dignity, health, and freedom from torture and cruel, inhuman or degrading treatment or punishment. In addition, we are also concerned about allegations of violations of due process (lack of legal representation and continued detention in the absence of charges). We express our concern that Mr. [REDACTED] has been detained for nearly three months without being presented before a judge and that no official charges have been brought against him. We are equally concerned that, given the death threats Mr. [REDACTED] received repeatedly from Yemeni armed groups, if deported back to Yemen, his life will be at risk.

While we do not wish to prejudge the accuracy of the information made available to us, we express grave concern that should these allegations be correct, the facts alleged would be in contravention of the right to freedom of opinion and expression, the absolute prohibition of torture and other cruel, inhuman or degrading treatments or punishment, the rights of every individual to liberty and security of person, physical integrity, fair trial, non-discrimination, the right to privacy and as laid down, inter alia, in Articles 1, 2, 3, 5, 7, 9, 10, 12, 14, and 19 of the Universal Declaration of Human Rights (UDHR). These rights are of universal nature and apply to everyone. The facts alleged above would also violate articles 3, 8, 13, 14, 16, 20, and 32 of the Arab Charter on Human Rights, which Saudi Arabia ratified in 2009. Your Excellency’s Government also has an obligation which arise under articles 7 and 12 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) to conduct an exhaustive and impartial investigation, to identify those responsible and bring them to justice.

We also refer your Excellency's Government to 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." In addition, arresting and detaining someone purely for the exercise of protected rights and freedoms is arbitrary and contrary to article 9 of the International Covenant on Civil and Political Rights.

We would recall that arbitrary arrest and detention of individuals is a clear breach of international law, in particular the right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the UDHR. Everyone has the right to challenge the legality of his/her detention before a judicial authority and the right to be charged promptly. The right to have access to a lawyer without delay and in full confidentiality is also enshrined in the Basic Principles on the Role of Lawyers.

We also refer to the UN Declaration on Human Rights Defenders, particularly to articles 1, 2, 5 and 6 which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, while each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Legitimate exercise of these rights by human rights defenders should not be criminalized.

We also 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 CAT acceded by Saudi Arabia on 23 September 1997. In this connection, the practice of coercive invasive examination, in addition to being scientifically worthless, are a violation of bodily integrity. Such treatment has been described as "invasive forensic examinations" is, "intrusive and degrading" with the potential to "amount to torture or ill-treatment" (A/HRC/31/57, para. 36). In a case where men were subjected to anal examinations, the Working Group on Arbitrary Detention found that forced anal examinations are medically worthless for the determination whether or not a person has engaged in same-sex sexual conduct or whether the person has been involved in the practice of habitual debauchery or the prostitution of men, and that they contravene the prohibition of torture and other cruel, inhuman and degrading treatment (Opinion No. 25/2009 on Egypt, A/HRC/16/47/Add.1, paras 28 and 29). The practice has also been denounced by the Subcommittee on the prevention of Torture and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity as being "medically worthless" and amounting to torture or other ill-treatment, and the International Forensic Expert Group described such procedures as "a form of sexual assault and rape."

We reiterate our concern that, as an undocumented migrant, your Excellency's Government may expel Mr. [REDACTED]. In this regard, we wish to express our grave concern over the risk of a return to Yemen, where Mr. [REDACTED] might face attacks and other forms of persecution because of the threats to his life by Yemeni armed groups. We remind your Excellency's Government of its obligation, "not [to] expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement". (Human Rights Committee, General Comment No. 20, para 9). This principle codified in article 3 of the CAT, is stronger than that found in refugee law, meaning that persons may not be returned even when they may not otherwise qualify for refugee or asylum status.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 Mr. [REDACTED] 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.
2. Please provide information on the legal grounds for the arrest and detention of [REDACTED] and explain how these measures are compatible with Saudi Arabia's international and regional human rights obligations. If these were to be in contradiction with Saudi Arabia's international and regional human rights obligations, please provide information on the date of his release.
3. Please provide information on the measures taken to protect the life, the physical and psychological integrity, and the liberty and security of [REDACTED], and in particular on the measures considered to prevent his deportation or transfer to a place where his personal security and integrity may be at risk.
4. Please provide the details of measures taken to protect [REDACTED] from torture and cruel, inhuman or degrading treatment, and where available, the results of any investigation, medical examination, and judicial or other inquiries conducted into the allegations of [REDACTED] torture and ill-treatment, as well as forced [REDACTED] If no



inquiries have taken place, or if they have been inconclusive, please explain why.

5. Please provide information about the measures taken to provide adequate conditions of detention to [REDACTED] and to ensure his physical and mental health while in detention.
6. Please explain what safeguards are being taken to protect people against arbitrary interference with their right to privacy and against undue interference in the exercise of their right to freedom of opinion and expression.
7. 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, harassment, and prosecution of any kind.

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 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.

We may 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 may need to be alerted to the potential implications of the above-mentioned allegations. The press release, if any, 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.

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orientation and gender identity

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