

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Enforced or Involuntary Disappearances; 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:
AL ARE 4/2021

25 June 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/16, 45/3, 40/16 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **ongoing trial of Syrian human rights defender Abdulrahman Muhammad Al-Nahhas**.

Mr. **Abdulrahman Muhammad Al-Nahhas** is a human rights defender. He is the founder of Insan Rights Watch, which monitors Human Rights violations and international crimes in Syria. In 2011, Mr. Al-Nahhas was arrested in Syria by State security forces after he had filmed human rights violations occurring in his hometown in the country. He was released in late 2012 and fled to Egypt. He moved to the UAE in July 2013.

According to the information received:

In July 2013, Mr. Al-Nahhas moved to the UAE and worked as a procurement supervisor in the municipality of Zayed City, Abu Dhabi, where he continued his human rights activities.

In January 2017, the human rights defender wrote to the French embassy asking for political asylum in France, as he feared for his safety in the UAE.

On 23 December 2019, the UAE state security forces arrested Mr. Al-Nahhas from his home in Abu Dhabi, where he was living alone.

After his arrest, the human rights defender was forcibly disappeared at a secret detention facility, where he was held incommunicado until his transfer to Al Wathba prison, Abu Dhabi, in January 2021, where he is currently detained. Following his arrest, Mr. Al-Nahhas fate or whereabouts was not communicated to his family. Mr. Al-Nahhas was only permitted to call his family for the first time on 7 January 2021. Since that single call, all communication with his family has been cut off.

While detained incommunicado, Mr. Al-Nahhas was reportedly forced to sign a document while blindfolded, under threat by the prosecutor of being deported to Syria and handed over to the Syrian authorities for execution. He was also reportedly subjected to various acts of torture during this period. On

23 March 2020, he was charged by the Public Prosecution of the State Security with “providing false information about the country to an international organisation” and “communicating with a terrorist organisation”, in connection with his contact with a human rights NGO based in Switzerland, and “undermining the prestige of the state”, due to the email sent to the French embassy.

Since 7 January 2021, Mr. Al-Nahhas has been denied any contact with his family. He has also been denied the right to legal representation of his choice, his lawyer, who was appointed by the State Security Prosecution, refused to provide his family with any information about his case, including the case number, and has reportedly stated that the human rights defender is “guilty”, that “the evidence against him is sufficient” and that he will be sentenced to ten years imprisonment.

Mr. Al-Nahhas’s sentencing hearing will take place on 14 July 2021, before the State Security court. If convicted, he risks life imprisonment.

Without prejudging the accuracy of the allegations, we would like to express grave concern at the reports of Mr. Al-Nahhas’s enforced disappearance, incommunicado detention, torture and ill-treatment, arbitrary arrest and detention. Furthermore, we wish to express our concern regarding his physical and psychological integrity, mainly as he is currently detained and allegations that the human rights defender has been deprived of contact with his family.

Grave concern is also expressed at the allegations concerning violations of due process during the trial of Mr. Al-Nahhas, especially the denied access to his lawyer, and denial of his right to a lawyer of his choice.

Furthermore, we express our serious concerns that these acts appear to have been carried out in retaliation for Mr. Al-Nahhas’s legitimate exercise of the right to freedom of expression and peaceful work to promote and protect human rights. We would like to reiterate our comments and concerns communicated to your Excellency’s Government on 13 November 2020 (ARE 6/2020) regarding legislation on combatting terrorism offences which impact negatively on freedom of opinion and expression, freedom of peaceful assembly and association, and on the prohibition of arbitrary detention.

These acts appear to contravene articles 5, 9, 10 and 19 of the Universal Declaration of Human Rights (UDHR), as well as articles 8, 12, 14, 20 and 32 of the Arab Charter on Human Rights, ratified by the UAE in 2008, which codify the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, arbitrary detention, as well as the rights to a fair trial and freedom of opinion and expression.

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.

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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 details concerning the legal basis for charging Mr. Al-Nahhas and explain how this prosecution is compatible with articles 19 of the UDHR and 32 of the Arab Charter of Human Rights. In particular, please provide information about how Mr. Al-Nahhas's email to the French embassy amounts to "undermining the prestige of the state".
3. Please provide information on why charges related to terrorist acts have been levied against the named human rights defender 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 United Nations Security Council Resolution 1566 (2004), and the model definition provided by the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
4. Please provide detailed information about the reasons for restricting the access of Mr. Al-Nahhas to his lawyer during the criminal proceedings concerning him and explain how this is compatible with due process and fair trial standards. Moreover, please provide information on the measures adopted by your Excellency's Government to ensure the respect of all due-process guarantees in Mr. Al-Nahhas's trial.
5. Please provide information on the allegations that Mr. Al-Nahhas has been subjected to enforced disappearance, torture and other cruel, inhuman or degrading treatment or punishment. Please provide details of any investigation and prosecutions undertaken in this regard and whether penal, disciplinary or administrative sanctions have been imposed on the perpetrators.
6. Please provide information on measures adopted by your Excellency's Government to ensure the right of persons to effective remedy for human rights violations, including enforced disappearances, arbitrary arrest and detention, torture and ill-treatment. If no such measures have been taken, please explain how this is compatible with the international human rights obligations.

We would appreciate receiving a response within 60 days. Passed this delay, 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 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.

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Tae-Ung Baik

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

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to take this opportunity to draw your attention to relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to refer to articles 5, 9, 10 and 19 of the Universal Declaration of Human Rights (UDHR), which establish the absolute prohibition of torture and of arbitrary detention, as well as the rights to a fair trial and freedom of opinion and expression. These rights are similarly established under articles 8, 12, 14, 20, and 32 of the Arab Charter on Human Rights, which your Excellency's Government ratified on 15 January 2008. Furthermore, 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.

We further recall the provisions of the the Declaration on the Protection of All Persons from Enforced Disappearance which stipulates: that no State shall practice, permit or tolerate enforced disappearances (Article 2); and that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (Article 7). It also stresses that each State shall ensure the right to be held in an officially recognized place of detention, in conformity with national law, and to be brought before a judicial authority promptly after detention; and accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest (Article 10).

We also wish to reiterate the principle enunciated in Human Rights Council resolution 12/16, which calls on States to recognise the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society. This right applies online as well as offline. Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 29(2) of the 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 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). More specifically, 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 also like to refer to 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 articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice". Article 6 (b) and c) of the Declaration provides that everyone has the right to freely publish, impart or disseminate to other views, information and knowledge on all human rights and fundamental freedoms, and to study, discuss, form and hold opinions on the observance of these rights. Article 12, paragraphs 2 and 3, provided that the State shall take all necessary measures to ensure the protection by the competent authorities 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.

We would further like to refer to Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights.

Finally, we would like to bring to your Excellency's Government's attention that in his report to the General Assembly on impact of counter-terrorism measures on civil society, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds. (A/70/371, para 46(c)).