

Mandates of the Special Rapporteur on the situation of human rights defenders; 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; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the human rights of migrants

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(Please use this reference in your reply)

16 November 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 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; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 43/16, 42/22, 43/4, 41/12, 44/8 and 43/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged threats and intimidation against Mr. **Mohammad Ahmad Samir Sablough**, in relation to his work as a human rights lawyer working on documenting cases and assisting victims of torture and arbitrary detention.

Mr. Sablough is a human rights defender, human rights lawyer and the Director of the Prisoners' Rights Center at the Tripoli Bar Association. He has been working on documenting cases and assisting victims of torture, those arbitrarily detained, and Syrian refugees facing deportation. Among other things, he filed several cases at the domestic level under the Anti-Torture Law No. 65. At the international level, he regularly provides international NGOs with documented information, with the aim to file cases with the UN Special Procedures.

According to the information received:

In 2020 and 2021, Mr. Sablough provided Amnesty International with testimonies and information regarding alleged violations committed against Syrian refugees in Lebanon. In March 2021, Amnesty International published a report on Syrian refugees arbitrarily detained on terrorism-related charges and tortured in Lebanon, which included information provided by Mr. Sablough. His name was also mentioned in the publication.

Following the publication of the Amnesty International report, the caretaker Minister of Justice convened a meeting on 14 April 2021 with heads of security agencies and members of the Beirut and Tripoli bar associations. Mr. Sablough attended the meeting as the rapporteur of the Prisons' Committee of the Tripoli Bar Association. During the meeting, Mr. Sablough said that he had provided Amnesty International with information on human rights violations, including information for the above-mentioned report, and that he had done so after exhausting all domestic avenues, to no avail. At the end of the meeting, a representative from the General Security Directorate allegedly told Mr. Sablough that he "should not communicate with international NGOs,"

and accused him of committing “high treason”. According to the source, relevant authorities also accused Mr. Sablough of jeopardising foreign funding following the Amnesty International report, while the country was in poor economic conditions.

Following this, Mr. Sablough reportedly experienced increased impediments to his work as a human rights lawyer, including threats and intimidation from the General Security Directorate and the Government’s Commissioner to the Military Court (“the Commissioner”).

On 15 August 2021, Mr. Sablough filed a case of ill-treatment under the Anti-Torture Law to the office of the Public Prosecutor, which was then transferred to the Military Prosecution. The case relates to the alleged beating of detainees by prison officials in the Fakhr El-Din facility following the staging of a protest by detainees against a lack of food. The detainees were reportedly not given medical treatment for their injuries and were prevented from communicating with their families.

In his complaint, Mr. Sablough requested an investigation into the beating of prisoners following the protest incident, as well as the general conditions in the facility. Mr. Sablough also requested that a forensic doctor be appointed to his client and other detainees within 24 hours, as under Lebanon’s Anti-Torture Law, the Public Prosecutor is required to appoint a forensic doctor within 48 hours of receiving a complaint of torture. However, his client was reportedly only examined on 22 September 2021, over a month after the alleged ill-treatment took place.

On 23 September 2021, the Commissioner and the Military Police heard Mr. Sablough’s client, without Mr. Sablough present, contrary to Article 47 of the Code of Criminal Procedure. The Commissioner allegedly asked the client to say that Mr. Sablough had fabricated the ill-treatment allegations and that he was not beaten, in exchange for his release. The client signed an investigation report under duress, that he reportedly was not allowed to read, saying that the allegations were fabricated by Mr. Sablough and that he was unaware that Mr. Sablough had submitted a complaint of torture on his behalf.

On 28 September 2021, the Military Prosecution sent a letter to the Tripoli Bar Association requesting that the immunity of Mr. Sablough be lifted in order to prosecute him under Article 403 of the Lebanese Penal Code, which penalizes false accusations. On 5 October 2021, the Tripoli Bar Association officially informed Mr. Sablough that there had been a request from the Military Court to lift his immunity, and opened an investigation into the request. On 27 October 2021, the Tripoli Bar Association replied to the request of the Military Court and refused to lift the immunity of Mr. Sablough.

In September 2021, Mr. Sablough defended a group of six Syrians who were reportedly detained at the General Security detention centre in Beirut and were facing deportation to Syria. General Security officers allegedly interrogated the detainees and tried to obtain information about Mr. Sablough. Although a decision of release was issued on 9 September 2021, the detainees were not released until 12 September 2021. On 14 September 2021, a Colonel from the General Security Directorate allegedly phoned Mr. Sablough, questioning him

about his work and telling Mr. Sablough that his clients had also been questioned in relation to his work.

Following further arrests of Syrian migrants at Beirut airport for “illegal entry” on 13, 14 and 16 September 2021, Mr. Sablough tried to obtain a power of attorney, but was reportedly prevented by the General Security Directorate from visiting these migrants. The General Security Directorate invoked “the confidentiality of the interrogation”, which is in contradiction with the new amendment of the Criminal Procedure Law (article 47). Concerns are raised that the action taken by the General Security Directorate against Mr. Sablough interfered with his legitimate human rights work, namely providing legal assistance to migrants in irregular situations.

In September 2021, Mr. Sablough also represented two Syrians at risk of being deported to their home country. After being sentenced by the Lebanese judiciary for terrorism-related offences allegedly committed in Syria, the case files were transferred to the General Security Directorate, which issued deportation orders against them without judicial permission and without granting them the right to defend themselves or challenge the orders. On 2 October 2021, Al Modon published an article about the General Security Directorate’s handling of Syrian refugees, referring to the case of one of Mr. Sablough’s clients. The article extensively cited Mr. Sablough and his client.

On 4 October 2021, the General Security Directorate allegedly responded to the article refuting all the allegations stating that Mr. Sablough had “no right to issue judgments or spread unlawfully acquired and inaccurate information”. The response reportedly also stated that the Lebanese state could no longer bear the presence of “terrorists” on its territory after all the terrorist operations carried out by people “disguised under the cloak of Syrian displacement”.

The same day, the Commissioner allegedly requested Mr. Sablough to come to the court as he wanted to ask about one of the torture cases he had filed. Mr. Sablough asked one of his colleagues to attend instead, for fear that the subject of the request to lift his immunity would have been discussed and that he may be accused of “judiciary’s vilification”, which is considered as “flagrante delicto” in Lebanon. Allegedly, this could have given the Commissioner the power to arrest Mr. Sablough without the request to lift his immunity being granted. Mr. Sablough’s colleague was asked by the Commissioner why Mr. Sablough had not come, although the Commissioner did not ask the colleague any questions regarding the torture case.

Without prejudging the accuracy of these allegations, we express our deep concern at the threats and harassment against human rights defender and human rights lawyer, Mr. Sablough, which appear to be directly linked to his legitimate work as a human rights lawyer, working on documenting cases and assisting victims of torture, those who are arbitrarily detained, and Syrian refugees facing deportation. Furthermore, we express our concerns regarding the targeting of Mr. Sablough for the legitimate exercise of his right to freedom of opinion and expression, as well as of peaceful assembly and of association, provided by articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Lebanon on 3 November 1972. We further express our deep concern at the attempt to lift Mr. Sablough’s immunity, which may indicate an attempt to initiate retaliatory legal

proceedings against Mr. Sablough in order to discredit his legally sanctioned work documenting instances of torture.

We are also deeply concerned regarding the alleged interrogation, arbitrary detention, terrorism-related charges, torture and risks of deportation of Syrian refugees in Lebanon. We would like to remind your Excellency's Government that, in any event, involuntary returns cannot be lawfully carried out without due process of law. In this connection, under international law, the decision to expel, remove or deport a non-national may only be taken after an examination of each individual's circumstances and in accordance with the law and when procedural guarantees have been respected. In this connection, individuals facing deportation/repatriation are to have access to a fair, individualized examination of their particular circumstances, and to an independent mechanism with the authority to appeal negative decisions. Moreover, a risk assessment in the event of extradition should also be carried out to determine whether there is a risk of violation in the receiving State. In this context, an analysis of the general human rights situation in that State must be taken into consideration.

In connection with the above alleged facts and concerns, please refer to the **Annex 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 detailed information regarding the decision by the Military Prosecution to request that the immunity of Mr. Sablough be lifted.
3. Please indicate what measures have been taken to ensure that human rights defenders, including lawyers, civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.
4. Please provide detailed information concerning the number of complaints of human rights violations allegedly carried out by members of the security forces against journalists, human rights defenders and lawyers in Lebanon in 2021, and if available, up until the present, the process used to investigate such complaints, and the number of persons who are currently involved in criminal proceedings or who have been sentenced for having perpetrated these acts.
5. Please indicate measures taken or to be taken by your Excellency's Government to ensure the full respect of the principle of non-refoulement and the prohibition of arbitrary and collective expulsions.

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.

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.

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 should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Miriam Estrada-Castillo
Vice-Chair of the Working Group on Arbitrary Detention

Irene Khan
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

Diego García-Sayán
Special Rapporteur on the independence of judges and lawyers

Felipe González Morales
Special Rapporteur on the human rights of migrants

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the principles and international standards applicable to this communication. The above-mentioned allegations appear to be in violation of Articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Lebanon acceded to on 3 November 1972.

Moreover, we would like to draw your Government attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which “reminds States of their obligation to respect and fully protect the [right] of all individuals to... associate freely, online as well as offline... including human rights defenders... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the [right] to freedom of... association are in accordance with their obligations under international human rights law”.

We would like to draw the attention of your Excellency's Government to article 19 of the Universal Declaration of Human Rights (UDHR), which provides for the right to freedom of expression, as well as to the Human Rights Council resolution 12/16, calling 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 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. The right to freedom of opinion and expression is also protected, as mentioned above, by article 19 of the ICCPR, which protects inter alia, political discourse, commentary on one's own and on public affairs, discussion on human rights, journalism, among others (Human Rights Committee, General Comment no. 34, para. 11).

We would also like to draw your Excellency's Government to paragraph 16 of the Basic Principles on the Role of Lawyers, which states that “governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics”.

In addition, according to Principle 12 of the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, states must ensure that legal aid providers are able to “carry out their work effectively, freely and independently”, with the guarantees of access to their clients in full confidentiality, time and facilities to provide effective legal assistance and not to be threatened with prosecution or administrative, economic and other sanctions for any action taken in accordance with recognised professional duties, standards and ethics.

In paragraph 23 of its General Comment No. 34, the Human Rights Committee has recognized that those “persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports”, are “frequently subjected to threats, intimidation and attacks because of their activities.” The Committee has urged States parties to protect against attacks aimed at silencing those exercising their right to freedom of expression.

We also refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

We would like to draw the attention of your Excellency's Government to the principle of non-refoulement, which is codified in article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to which Lebanon is a party since 2000. Article 3 of the Convention provides that no State shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of being subjected to torture, ill-treatment or other irreparable harm. As an inherent element of the prohibition of torture and other forms of ill-treatment, the prohibition of refoulement under international human rights law is also more expansive than the protections afforded under refugee law insofar as it applies to any form of removal or transfer of persons, regardless of their status or grounds for seeking protection, and is characterised by its absolute nature without any exception.

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, also known as the UN Declaration on Human Rights Defenders. 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 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (c), which provides for the right to communicate with non-governmental or intergovernmental organizations;
- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 9, paragraph 3, point c), which provides for the right to provide legal assistance in defending human rights and fundamental freedoms;
- article 9, paragraph 4, point a), which provides for the right to unhindered access to and communication with international bodies;

- article 12, paragraphs 2 and 3, which provides that the State 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.