

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

Ref.: AL JOR 3/2023
(Please use this reference in your reply)

12 September 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Working Group on Arbitrary Detention and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 52/9, 51/8 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and alleged arbitrary detention of Mr. **Sufyan Tell**, Mr. **Omar Abu Rassa** and Mr. **Abed Khalifa al-Tawahia**.

Mr. **Sufyan Tell** is a pro-democracy activist and environmental expert, who actively expresses his political views and analysis in the media, including on TV and on social media. He published several books on political and environmental themes. He is also the Head of the Executive Office of the civil society group, Al-Hirak Al-Mowahad ("Hirak").

Mr. **Omar Abu Rassa** is a pro-democracy activist and a member of the Executive Office of the civil society group, Al-Hirak Al-Mowahad ("Hirak").

Mr. **Abed Khalifa al-Tawahia** is a pro-democracy activist and a member of the Executive Office of the civil society group, Al-Hirak Al-Mowahad ("Hirak").

According to the information received:

On 5 December 2022, approximately 20-25 security forces in both plain clothes and Public Security uniforms raided Mr. Sufyan Tell's home in Jubeiha-Amman. The security forces reportedly arrested Mr. Sufyan Tell, as well as Mr. Omar Abu Rassa, Mr. Abed Khalifa al-Tawahia and a photojournalist during the raid, while they were recording a TV interview called "Answers for the Throne Speech", which was covering King Abdullah's November 2022 speech to the Parliament.

During the raid, the security forces also allegedly physically and verbally attacked Mr. Sufyan Tell's family members and confiscated several items, including two mobile phones belonging to family members, a hard disc, three laptops, eight CDs, eleven USBs, three digital cameras, and several documents. None of the items have been returned to date. A family member asked the security forces to take the medication that Mr. Sufyan Tell takes for his heart issues, but they refused to take the medication with them when arresting Mr. Sufyan Tell.

Prior to the raid on 5 December 2022 that resulted in the arrest of Mr. Sufyan Tell, Mr. Omar Abu Rassa, Mr. Abed Khalifa al-Tawahia and the photojournalist, state security forces were allegedly seen surveilling Mr. Sufyan Tell's home. Mr. Sufyan Tell, Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia were brought to Marka prison, in Amman, following their arrest.

Reportedly, Mr. Sufyan Tell spent five days without using a washroom and slept on the floor until another detainee offered him a bed. He was also allegedly held in a solitary confinement cell at the Public Security, which was small and lacked basic facilities.

The Public Prosecutor of the State Security Court charged Mr. Sufyan Tell, Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia with "incitement to oppose the current political system of the Kingdom," under Articles 149 and 76 of the Penal Code and "engaging in acts that could disrupt public order, endanger the safety of society, and incite sedition," under Articles 2 and 7 of the Anti-Terrorism Law. The former charge carries a possible sentence of between three and twenty years' imprisonment.

Following widespread public campaigns in support of the human rights defender on social media, Mr. Sufyan Tell was released on conditional bail on 8 December 2022, on the condition that he does not publicly publish Hirk's reply to the King's speech and subject to a travel ban. He was also threatened that Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia will remain in detention, should he continue expressing his views and release the content they were recording on the day of their arrest. Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia are currently detained in Tafileh prison and Marka prison respectively. All bail requests for the release of Mr. Omar Abu Rassa, Mr. Abed Khalifa al-Tawahia and the photojournalist have reportedly been rejected by the State Security Court.

On 15 May 2023, a hearing was held at the State Security Court where Mr. Sufyan Tell, Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia pleaded not guilty. Another hearing was held weeks after. At the subsequent hearing on 21 May 2023, the Court postponed the hearings.

On 5 June 2023, three witnesses who are Preventive Security officials attended the fourth hearing. They reportedly testified about the statements they prepared during their investigations into Mr. Sufyan Tell, Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia. Mr. Sufyan Tell and Mr. Omar Abu Rassa refused to sign their respective statements, while Mr. Abed Khalifa al-Tawahia signed. Mr. Sufyan Tell, Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia's legal representative questioned the witnesses, after which the session was adjourned. However, their legal representative repeated his request to the Court to release Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia on bail for urgent and family reasons.

On 18 June 2023, the fifth hearing in the case took place. During this session, the testimony of one of the prosecution witnesses was heard, who was the technical expert who assessed the confiscated item during the raid on 5 December 2022. The hearing was adjourned until 26 June 2023.

At the following hearing on 26 June 2023, a security forces officer who raided Mr. Sufyan Tell's home reportedly resisted answering questions concerning the source of the information that triggered the raid. Another officer involved in the raid asserted that Mr. Sufyan Tell "had incited against the ruling," which is one of the accusations against Mr. Sufyan Tell. Furthermore, many of the hearing sessions have allegedly been held with incomplete judge panels, though the minutes of the hearings have been issued in the name of the three judges supposedly on the panel.

Without prejudging the accuracy of the above information, we wish to express our deep concerns regarding the arrest, alleged arbitrary detention and legal action against Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia, as well as the arrest and alleged arbitrary detention of Mr. Sufyan Tell, though he has since been remanded. We urge your Excellency's Government to consider promptly and unconditionally release Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia, and drop all charges against them and Mr. Sufyan Tell, which are believed to be in connection with their work as journalists and pro-democracy activists. We are particularly concerned about the broader significance and negative implications that the targeting of Mr. Sufyan Tell, Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia have for the overall freedom of expression and freedom of the media in Jordan, inter alia through the chilling effect on individuals, including journalists, media workers and human rights defenders, who wish to express themselves, demonstrate peacefully, and participate in public and political life in Jordan.

The above allegations also raise serious concerns about the reported detention conditions of Mr. Sufyan Tell, Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia. We urge your Excellency's Government to ensure that their detention conditions adhere to international norms and standards, notably the Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

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.

We are issuing this appeal in order to safeguard the rights of the abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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) that your Excellency's Government may have on the above-mentioned allegations.
2. Please provide information on the factual and legal grounds for the arrest and subsequent detention of Mr. Sufyan Tell, Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia, and how these measures are compatible with international norms and standards as stated.

3. Please explain how the treatment and conditions of Mr. Sufyan Tell, Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia in detention are compliant with the international norms and standards, notably the Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). In particular, how is the Government upholding its responsibility to provide adequate medical care.
4. Please provide information on what measures have been taken to ensure access to a fair trial and adherence to due process in connection with the case against Mr. Sufyan Tell, Mr. Omar Abu Rassa and Mr. Abed Khalifa al-Tawahia, ensuring the integrity of the investigations, held before an independent, impartial, and competent judicial body with adequate legal representation, in line with international standards.
5. Please provide information about measures taken to ensure that pro-democracy activists and media workers, including journalists, in Jordan can carry out their professional activities in line with international human rights standards and in a safe and enabling environment without fear of harassment, criminalisation, or acts of intimidation of any kind.

We would appreciate receiving a response within 60 days. Past 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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication 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.

Irene Khan

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

Matthew Gillett

Vice-Chair on Communications of the Working Group on Arbitrary Detention

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

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 relevant international norms and standards that are applicable to the issues brought forth by the situation described above. In particular, the facts alleged, if proved correct, appear to be in contravention with articles 7, 9, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Jordan on 28 May 1975.

We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as an international norm of jus cogens, is reflected *inter alia*, in article 5 of the Universal Declaration of Human Rights (UDHR), articles 1, 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and article 7 of the ICCPR. In this respect we note that Human Rights Council resolution 16/23, paragraph 7(b), urges States to hold responsible not only those who perpetrate torture, but also those "who encourage, order, tolerate or perpetrate such acts [...], to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed".

We would like to refer your Excellency's Government to article 9 of the Universal Declaration of Human Rights (UDHR), prohibiting arbitrary detentions, and article 9 of the ICCPR, enshrining the right to liberty and security of person. The latter 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. We would like to further remind your Excellency's Government that the right to challenge the lawfulness of detention before a court, protected under article 9 of the ICCPR is a self-standing human right and a preemptory norm of international law, which applies to all forms of deprivation of liberty and the absence of which constitutes a human rights violation.¹ It is a judicial remedy designed to protect personal freedom and physical integrity against arbitrary arrest, detention, including secret detention, exile, forced disappearance or risk of torture and other cruel, inhuman or degrading treatment or punishment. It is also a means of determining the whereabouts and state of health of detainees and of identifying the authority ordering or carrying out the deprivation of liberty.² In its jurisprudence, the Working Group on Arbitrary Detention has also reiterated that giving prompt and regular access to family members, and to independent medical personnel and lawyers, is an essential and necessary safeguard for the prevention of torture as well as protection against arbitrary detention and infringement of personal security.³ Additionally, as per the jurisprudence of the Working Group on Arbitrary Detention and general comment no. 35, detention of an individual as punishment for the legitimate exercise of rights guaranteed by the Covenant is arbitrary.⁴

¹ See A/HRC/30/37, paras. 2, 3 and 11.

² See A/HRC/30/37, para. 2.

³ See Opinion No. 87/2020, para. 116.

⁴ See CCPR/C/GC/35.

In its general comment no. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including inter alia ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’. Further, the Human Rights Committee made clear that “It is not compatible with article 19 paragraph 3, for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information”. Article 19 requires the States to guarantee the right to freedom of expression (Id.). It is the States’ duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (paragraph 23). In our view such attacks also include the use of the legal and judicial system to instigate and prolong frivolous charges against those who discuss human rights, both online and offline.

By virtue of their position as public figures, and the relevance of their conduct, work and actions to the public interest, it is well established under international human rights law that public figures in the political domain are subject legitimately to public scrutiny and criticism of their conduct, including by journalists and political activists. Furthermore, as noted by the Human Rights Committee in its general comment 34 on the interpretation of article 19 of the International Covenant on Civil and Political Rights, “the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.”

In this respect, we would like to refer to the Human Rights Council resolution 51/9 on the safety of journalists adopted on 6 October 2022, in which the Council expressed deep concerns about “all attempts to silence journalists and media workers, including by legislation that can be used to criminalize journalism and by the misuse of overbroad or vague laws to repress legitimate expression, including defamation and libel laws, laws on misinformation and disinformation or counter-terrorism and counter extremism legislation, when not in conformity with international human rights standards”. The resolution also recognised that the development of national legal frameworks that are consistent with States’ international human rights obligations are an essential condition for a safe and enabling environment for journalists.⁵

Attacks on journalism are fundamentally at odds with protection of freedom of expression and access to information. Governments have a responsibility not only to respect journalism but also to ensure that journalists and their sources have protection through strong laws, prosecutions of perpetrators and ample security where necessary (A/HRC/71/373 para. 35). In this connection, the Human Rights Committee in General Comment 34 has held that “under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19”.

We would also 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

⁵ A/HRC/RES/51/9.

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 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups;
- 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 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.