

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

REFERENCE: AL
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13 July 2016

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 24/7, 25/2, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest, detention and charges against Mr. **Nabil al-Halabi**, a human rights lawyer and the Director of the Lebanese Institute for Democracy and Human Rights (LIFE).

According to the information received:

On 4 April 2016, Mr. al-Halabi began to publish a series of Facebook posts denouncing corruption within the office of the Minister of Interior. One such post alluded to the Minister's involvement with the managers of a sex trafficking ring in Lebanon, discovered through a raid carried out by Internal Security Forces (ISF) on 27 March 2016.

On 12 April 2016, the Minister of Interior filed a complaint against Mr. al-Halabi with the Public Prosecution in Beirut under articles 383 and 384 of the Lebanese Republic's Penal Code, which criminalizes libel and slander against a public official respectively, and authorizes imprisonment of up to one year in such cases. The complaint relied on, among other evidence, Mr. al-Halabi's 4 April 2016 Facebook post.

Sometime between 4 April 2016 and 30 May 2016, the senior advisor of the Minister of Interior filed a separate libel and defamation complaint against Mr. al-Halabi for the Facebook posts described above.

On 15 April 2016, the Beirut Bar Association lifted Mr. al-Halabi's immunity as a lawyer for the slander and libel case.

On 30 May 2016 at 6:45 am, the ISF stormed Mr. al-Halabi's home, breaking down his front door and arresting him. Mr. al-Halabi was told that he was being

detained for failing to appear for legal proceedings in the libel and defamation case filed by the senior advisor of the Minister of Interior. Mr. al-Halabi claims he was never properly notified of a hearing in that case.

During his detention, Mr. al-Halabi was forced to sign a pledge never to publish similar statements critical of the Minister of Interior and his staff, to retract his allegations of complicity between the Ministry, its staff and the sex trafficking ring and to withdraw all his Facebook posts.

Mr. al-Halabi signed the pledge under the threat of prosecution for “having relationships with terrorist groups”, such as the Islamic State or Al Nusra Front.

On 1 June 2016, Mr. al-Halabi was released. It is unclear whether the libel and defamation charges against him have been dropped.

We express grave concern about the arrest, detention and charges brought against Mr. al-Halabi, which are directly related to the legitimate exercise of his right to freedom of expression. We express concern at the use of defamation and libel provisions to limit the expression of matters of public interest, concerning public figures. We express concern that the slander and libel laws under which Mr. al-Halabi were charged are vaguely formulated and poorly defined, and thus disproportionately restrict the right to freedom of expression. The circumstances of Mr. al-Halabi’s arrest and detention also raise serious concern for his right to a fair trial and due process.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of Mr. al-Halabi is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of his liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Lebanon on 3 November 1972, as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these concerns.

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 comment you may have on the above-mentioned concerns.

2. Please provide information on the legal basis for the detention of Mr. al-Halabi and explain how this is compatible with international human rights law, in particular relevant provisions enshrined in the ICCPR and the UDHR.
3. Please provide information about any pledges, confessions or statements Mr. al-Halabi signed during his detention from 30 May 2016 to 1 June 2016, and the conditions under which these were signed. Please explain how such measures are compatible with international human rights law.
4. Please provide the details and where available the results, of any investigations carried out in relation to the cases filed against Mr. al-Halabi.
5. Please provide information about the time and place for notifying Mr. al-Halabi to appear in court.
6. Please provide information on measures taken to bring domestic regulation on libel and defamation into line with international human rights law, in particular with article 19(3) of the ICCPR.
7. Please indicate what measures have been taken to ensure that individuals, including human rights lawyers and defenders, activists, and those expressing dissenting political views, are able to exercise their right to freedom of expression, and to work in a safe and enabling environment without fear of harassment and criminalization, in compliance with international norms and standards.

We would appreciate receiving a response within 60 days.

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.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

José Guevara
Vice-Chair-Rapporteur of the Working Group on Arbitrary Detention

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

Michel Forst
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 refer your Excellency's Government to articles 9 and 14 of the ICCPR, which provide for the right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal.

We also refer to the rights to freedom of opinion and expression, as guaranteed by article 19 of the ICCPR. In particular, article 19(3) of the ICCPR sets out the requirement that any restrictions to the right to freedom of expression must be necessary, proportionate and prescribed by law. In this regard, we would like to remind your Excellency's Government of the Report of the UN Special Rapporteur on freedom of opinion and expression, emphasizing that permissible restrictions on the exercise of the right to freedom of expression on the Internet are the same as those offline.

We would like to remind your Excellency's Government that criminal sanctions, in particular imprisonment, for libel and defamation are not deemed proportional with an effective exercise of the right to freedom of expression. In this respect, we reiterate the recommendations made in the report E/CN.4/2000/63, urging States to among others, repeal criminal defamation laws in favour of civil laws; limit sanctions for defamation to ensure that they do not exert a chilling effect on freedom of expression and the right to information; prohibit government bodies and public authorities from bringing defamation suits with the explicit purpose of preventing criticism of the Government or maintaining public order; and ensure that defamation laws reflect the principle that public figures are required to tolerate a greater degree of criticism than private citizens.