

**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; the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on freedom of religion or belief**

REFERENCE: AL  
OMN 2/2016:

15 September 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; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 24/7, 25/2, 25/18 and 22/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **criminalization of the exercise of the right to freedom of expression through the conviction and imprisonment of Mr. Hassan al-Basham, human rights defender and former diplomat, for posts made on social media.**

According to the information received:

On 17 September 2015, Mr. al-Basham was arrested by the Internal Security Service (ISS) and detained in the Special Division of the Omani Police in Sohar. Mr. al-Basham was questioned about posts he had made on his personal Facebook and Twitter accounts, discussing religious, political, economic and social topics. He was released on 23 September 2015.

On 25 September 2015, Mr. al-Basham was arrested again, and detained and interrogated at the Special Division in Sohar.

On 18 October 2015, Mr. al-Basham was transferred to the Public Prosecution's Office in Sohar, where several charges were directed against him.

On 8 February 2016, the Court of First Instance in Sohar convicted Mr. al-Basham on the basis of charges including "public blasphemy of God's holiness", "insulting the Sultan", and "using information networks in prejudice against religious values." He was sentenced to three years' imprisonment and fined 500 Omani Rials (approximately 1300 USD).

On 13 June 2016, the Court of Appeal in Sohar overturned the fine, but upheld the three year sentence. Mr. al-Basham has since been transferred to the central prison in the Samail province to serve the sentence.

We express grave concern at the arrest and conviction of Mr. al-Basham, which represent a criminalization of the legitimate exercise of the right to freedom of religion or belief and expression as enshrined in articles 18 and 19 of Universal Declaration of Human Rights (UDHR). We express concern that the provisions upon which the arrest and conviction were made do not meet international human rights standards, including the use of blasphemy and defamation provisions to limit expression. We express further concern at the broader impact this may have in the self-censorship on political and public interest issues and the deterrent effect it may have on the free exchange of ideas on such matters. Such forms of intimidation and criminalization limit the free flow of information and ideas in society as a whole and, more broadly, negatively affect the work of human rights defenders in the country.

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.

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 comments or information you may have on the above-mentioned allegations.
2. Please provide detailed information about the legal basis of Mr. al-Basham's arrest, detention and charges issued, as well as how the legal proceedings comply with international human rights norms and standards.
3. Please provide information on measures taken to bring legislation, in particular provisions on blasphemy and defamation, in conformity with international human rights standards such as article 19 of the UDHR.
4. Please indicate what measures have been taken to ensure that individuals and human rights defenders, including those who express religious and political opinions and criticism, both online and offline, are able to exercise their right to freedom of expression without fear of harassment and criminalization, in compliance with international human rights 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

Heiner Bielefeldt  
Special Rapporteur on freedom of religion or belief

## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of religion or belief and to freedom of opinion and expression in accordance with fundamental principles as set forth in articles 18 and 19 of the Universal Declaration of Human Rights (UDHR), which provides that "Everyone 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".

We moreover refer to the report of the previous Special Rapporteur on the right to freedom of expression, calling States to repeal blasphemy-laws while reiterating the principle that international human rights law protects individuals and not belief systems (A/67/357).

The Rabat Plan of Action (A/HRC/22/17/Add.4, appendix) also stressed that "at the national level, blasphemy laws are counter-productive, since they may result in the de facto censure of all inter-religious/belief and intra-religious/belief dialogue, debate, and also criticism, most of which could be constructive, healthy and needed. In addition, many of these blasphemy laws afford different levels of protection to different religions and have often proved to be applied in a discriminatory manner. There are numerous examples of persecution of religious minorities or dissenters, but also of atheists and non-theists, as a result of legislation on religious offences or overzealous application of various laws that use a neutral language. Moreover, the right to freedom of religion or belief, as enshrined in relevant international legal standards, does not include the right to have a religion or a belief that is free from criticism or ridicule. It furthermore recommended that States that have blasphemy laws should repeal these as such laws have a stifling impact on the enjoyment of freedom of religion or belief and healthy dialogue and debate about religion.

We would like to reiterate that criminalizing so-called defamation of religions as such can be counterproductive and may have adverse consequences for members of religious minorities, dissenting believers, atheists, artists and academics. [See A/62/280, paras. 70-71 and 76-77.] Instead of trying to shield religions per se against criticism or ridicule, States should rather focus their attention on the protection of believers and non-believers against discrimination and violence.

In addition, 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 refer to 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.