

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 extreme poverty and human rights

REFERENCE:
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Excellency,

We have the honour to address you in our capacity 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 extreme poverty and human rights, pursuant to Human Rights Council resolutions 33/30, 25/2, 25/18, and 26/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the recent arrest and detention of **Mr. Issa Al Nukheifi**, which seems directly linked to his activities aimed at defending and promoting human rights in the Kingdom of Saudi Arabia and the exercise of his right to freedom of expression.

Mr. Issa Al Nukheifi is a human rights defender, who has been the subject of a previous urgent appeal sent to your Excellency's Government by various special procedures mandate holders, dated 1 July 2016, case no. SAU 4/2016. We thank your Excellency's Government for its reply on 24 November 2016, which is currently being translated into English.

Mr. Al Nukheifi was previously arrested on 15 September 2012, three weeks after he appeared on television and publicly accused the local authorities in Jizan province of corruption and other human rights violations, including forced evictions and arbitrary confiscation of land and property belonging to the residents living on the border with Yemen. On 29 April 2013, the Specialized Criminal Court in Riyadh sentenced him to three years in prison and a four-year travel ban for violating article 6 of the Anti-Cyber Crime Law, which prohibits, inter alia, "production, preparation, transmission or storage of material impinging on public order, religious values, public morals, and privacy, through the information network or computers". He was released on 6 April 2016 after serving his sentence.

For the purpose of this communication, it is furthermore relevant to note that Mr. Al Nukheifi was consulted in the course of preparations of the mission of the Special Rapporteur on extreme poverty and human rights to the Kingdom of Saudi Arabia which took place from 8 to 19 January 2017.

According to the information received:

On 17 December 2016, Mr. Al Nukheifi received a call from the Criminal Investigation Department (CID), summoning him to Al Nouzha police station in Mecca for questioning. The following day, on 18 December 2016, Mr. Al Nukheifi reported to the police station and was arrested upon arrival. He was questioned by the Bureau of Investigation and Prosecution (BIP) about his activities on social media and contact with international human rights organizations. In particular, the BIP reportedly interrogated him about his tweets calling for the release of detained members of the Saudi Civil and Political Rights Association (ACPRA). He was also interrogated about his new *Twitter* account set up on 10 December 2016, which called for democracy in the Kingdom of Saudi Arabia and the establishment of the “Saudi Popular Parliament”, to be directly elected by the people.

On 30 December 2016, Mr. Al Nukheifi was transferred to Mecca General Prison and remains detained there to date. It is alleged that he has not been given a bed to sleep on and is thus forced to sleep on the cold floor without any blanket. It is further alleged that he has been repeatedly threatened with torture and that he is not allowed to receive visits from his family. To date, Mr. Al Nukheifi has not been charged or presented to a judge.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about his arrest and detention, which appear to be in contravention of the right not to be deprived arbitrarily of liberty, as set forth in article 9 of the Universal Declaration of Human Rights (UDHR), and the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10, UDHR. We also express serious concern that these measures appear to be directly connected to the legitimate exercise of Mr. Al Nukheifi’s right to freedom of opinion and expression, guaranteed under article 19, UDHR. This right entails “freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media”, and cannot be restricted unless the high threshold of article 19 is met, that is, be provided by law and be strictly necessary and proportionate to respect the rights of others or to protect the “morality, public order and the general welfare in a democratic society” (article 29, UDHR).

We would also like to remind your Excellency’s Government of the non-derogable right of everyone not to be subjected to torture or cruel, inhuman, or degrading treatment or punishment, guaranteed under article 5, UDHR, as well as the absolute prohibition on acts of torture under article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the Kingdom of Saudi Arabia acceded in 1997. We would like to recall in this regard 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.¹

We wish 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 articles 1, 2, 6 and 12.

Furthermore, given that Mr. Al Nukheifi's was consulted in the course of preparations for the mission of the Special Rapporteur on extreme poverty and human rights, we are also concerned that his arrest may have occurred, at least in part, in reprisal for his cooperation with the Special Rapporteur. In this regard, we wish to underline that Human Rights Council resolutions 12/2 and 24/24 call on Governments to prevent and refrain from all acts of intimidation or reprisal against those who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights. Moreover, in his 2016 report on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/33/19), the Secretary-General reiterates his firm position that all such acts, no matter how seemingly subtle or explicit, are without exception unacceptable and must be halted immediately and unconditionally, effective remedies provided and preventive measures adopted and implemented to prevent reoccurrence. (para. 49).

We furthermore point to the Revised Terms of Reference for country visits by Special Procedures mandate holders of the United Nations Human Rights Council adopted at the 23rd Annual Meeting of Special Procedures from 6 to 10 June 2016 in Geneva, which indicate that countries that are subject to a visit should assure that no person or group of persons, whether acting in their official or individual capacities, who cooperate, seek to cooperate, or have cooperated with the mandate holder in relation to the mandate, will for this reason suffer intimidation, threats, harassment or punishment, be subjected to judicial proceedings or to any other kind of reprisals by any means whatsoever; assurance that any measures that could deter such cooperation or be perceived as such, will be avoided. These assurances should apply before, during and after the conduct of country visits.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

¹ Article 10, International Covenant on Civil and Political Rights; Principle 1, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (adopted by General Assembly resolution 43/173 of 9 December 1988).

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Al Nukheifi in compliance with international instruments.

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 any comment you may have on the above-mentioned allegations.

2. Please provide the legal grounds for the arrest and detention of Mr. Al Nukheifi, and explain how these are compatible with international human rights standards, in particular with article 19 of the UDHR. Please clarify whether or not he has been charged, and if so, provide details of the charges.

3. Please indicate whether he has been provided access to a lawyer and any medical care that he may require.

4. Please provide information about the legal basis for denying Mr. Al Nukheifi to receive visits from his family, and explain how this is compatible with international human rights standards.

5. Please provide information on the conditions of Mr. Al Nukheifi's detention and how they may be compatible with abovementioned international human rights law and standards.

6. Please provide detailed information concerning measures in place to ensure that human rights defenders are able to carry out their legitimate work in a safe and enabling environment without fear of violence, threats or acts of intimidation and harassment of any sort, and are able to cooperate freely with the United Nations in the field of human rights without fear of reprisals.

As a member of the Human Rights Council, we call on your Excellency's Government to "uphold the highest standards in the promotion and protection of human rights".² While awaiting a reply, we urge that all necessary interim measures be taken to respect and protect Mr. Al Nukheifi's rights in compliance with your Excellency's Government's obligations under international human rights law and standards.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary

² General Assembly Resolution A/RES/60/251, para. 9.

Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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.

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 Antonio Guevara Bermúdez
Vice Chair 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

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