

Mandates of 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 torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA
BHR 10/2015:

14 December 2015

Excellency,

We have the honour to address you in our capacity as 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 torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 25/2, 25/18, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged **arbitrary arrest, detention, charges and prosecution, and in some cases the torture and ill-treatment, of ten individuals, among them human rights defenders and a child, at the time of arrest, for the exercise of their right to freedom of opinion and expression, and disproportionate measures that restrict freedom of opinion and expression online.**

Mr. **Ebrahim Karimi**, Mr. **Husain Ali Isa Mahdi**, Mr. **Ammar al Abid**, Mr. **Mahmood Tarish**, Mr. **Mohsen Abd-Ali**, Mr. **Hasan Abd-Ali**, Mr. **Nader Ebrahim Abdul-Imam** (a gym teacher and well-known political and religious activist), Mr. **Nabeel Rajab** (a well-known human rights defender) and Mr. **Ali Ebrahim al Heli** are the nine adult men.

Mr. **Ali al Shofa** (a 17 year old student at the time of arrest) is the child.

Mr. **Nabeel Rajab** was previously the subject of ten joint urgent appeals and joint allegation letters sent on 6 October 2004 (BHR 6/2004), 25 July 2005 (BHR 3/2005), 5 March 2010 (1/2010), 22 March 2011 (see A/HRC/18/51, case no. BHR 4/2011), 16 June 2011 (see A/HRC/19/44, case no. BHR 12/2011), 9 September 2011 (see A/HRC/19/44,

case no. 18/2011), 24 July 2012 (see A/HRC/22/67, case. no. BHR 6/2012), 23 May 2013 (see A/HRC/24/21, case no. BHR 3/2013); 14 October 2014 (see A/HRC/28/85, case no. BHR 13/2014) and 15 April 2015 (see A/HRC/30/27, case no. BHR 2/2015). We acknowledge receipt of your responses dated 13 October 2004, 25 October 2005, 8 November 2005, 27 October 2010, 26 April 2011, 2 September 2011, 29 August 2011, 21 December 2011, 15 December 2011, 24 August 2012, 24 June 2013, 24 November 2014 and 18 May 2015. Mr. Rajab was also the subject of Opinion No. 12/2013 of the Working Group on Arbitrary Detention (A/HRC/WGAD/2013/12).

According to the information received:

In the case of Mr. Ebrahim Karimi

In the 1980s, Mr. Ebrahim Karimi had his Bahraini citizenship revoked and he was deported. His Bahraini citizenship was reinstated in 2002. In 2012, Mr. Karimi's Bahraini citizenship was once again revoked. He is currently a stateless person.

On 25 September 2015, several messages were posted on the social media sites, Twitter and Instagram, about accounts under the name 'FreejKarimi'. On 26 September 2015, security forces entered Mr. Karimi's house and arrested him without presenting an arrest warrant. The security forces did not inform Mr. Karimi's family that he has been arrested and detained. The security forces also confiscated several electronic devices from his house. Mr. Karimi was transported to the General Directorate of Criminal Investigations (CID) Cyber Crimes Unit where he was interrogated about the 'FreejKarimi' accounts on Twitter and Instagram. He was denied access to a lawyer throughout his interrogation. On 27 September 2015, Mr. Karimi was transferred to Dry Dock Detention Centre. At the CID and Dry Dock Detention Centre, Mr. Karimi was deprived of sleep for two days and threatened with physical harm to his son.

On 29 September 2015, Mr. Karimi was transferred to the public prosecutor for interrogation and he was charged with 'inciting hatred against the regime', 'insulting the King publicly', 'misusing social network websites', 'possessing an unauthorised weapon' and 'illegal residency'. Mr. Karimi is currently, and since at least 29 September 2015, detained in solitary confinement at Dry Dock Detention Centre, awaiting his trial.

In the case of Mr. Ali al Shofa, Mr. Ammar al Abid, Mr. Mahmood Tarish, Mr. Mohsen Abd-Ali and Mr. Hasan Abd-Ali

On 14 March 2013, Mr. Ali al Shofa, who was 17 years old at the time, was arrested and detained after security forces entered his home. He was transferred to

the CID, where he was interrogated without access to a lawyer. He was charged with ‘insulting the King’ in reference to messages posted on Twitter.

On 25 June 2013, Mr. Al Shofa, Mr. Ammar al Abid, Mr. Mahmood Tarish, Mr. Mohsen Abd-Ali and Mr. Hasan Abd-Ali were sentenced to one year in prison for ‘insulting the King’ in reference to messages posted on Twitter. They served their sentences and have subsequently been released.

In the case of Mr. Husain Ali Isa Mahdi

On 15 June 2015, Mr. Mahdi returned to Bahrain after receiving threats and fleeing to Thailand for two years. He was arrested by Ministry of Interior security forces on arrival at the airport and transferred to the CID. At the CID, Mr. Mahdi was interrogated by the Cyber Crimes Unit and his phone was confiscated and searched. Mr. Mahdi was also ordered to open his email account and interrogators read Mr. Mahdi’s emails. During the interrogation, Mr. Mahdi was physically threatened with electrocution and with being hung and beaten on his hands and feet in the so-called ‘falaqa’ position. Mr. Mahdi was slapped and verbally abused. Consequently, Mr. Mahdi was coerced into confessing that he owned the Twitter account, ‘Takrooz’. It is alleged that during the days following his confession, attempts were made to coerce Mr. Mahdi into giving the password to the ‘Takrooz’ Twitter account to the security forces. The security forces denied Mr. Mahdi access to food, sleep and prayer. Mr. Mahdi did not provide the password of the account.

On 17 June 2015, Mr. Mahdi was charged with ‘insulting the King’, ‘inciting hatred against the ruling Government’, ‘inciting hatred against a group of people’ and ‘inciting the use of violence’. He was subsequently sentenced to three months in prison and has been released.

In the case of Mr. Nader Ebrahim Abdul-Imam

On 27 August 2014, Mr. Nader Ebrahim Abdul-Imam posted a message on Twitter concerning a Sunni Islamic figure. Shortly after posting the message, Mr. Abdul-Imam received a summons to appear immediately before the CID, which he complied with. He was interrogated for approximately four hours and accused of insulting a holy person. Mr. Abdul-Imam denied the accusations and was transferred to Dry Dock Detention Centre where he was held in pre-trial detention.

Shortly afterwards, Mr. Abdul-Imam was formally charged with ‘insulting a holy person’. On 22 October 2014, Mr. Abdul-Imam was sentenced to six months

imprisonment. On 15 January 2015, his sentence was reduced to four months imprisonment on appeal and he was released, having served his sentence.

In the case of Mr. Nabeel Rajab

In September 2014 and March 2015, Mr. Nabeel Rajab was accused of posting several messages over Twitter that criticized the Government of Bahrain, which allegedly resulted in his arrest and detention by the CID Cyber Crimes Unit in both instances. He was convicted for the Twitter messages he allegedly posted in September 2014, and later pardoned by the King for these crimes. Mr. Rajab remains subjected to a travel ban and still faces charges of ‘insulting a statutory body’ and ‘spreading rumours during wartime’ for the Twitter messages he allegedly posted in March 2015. He may be prosecuted for these crimes at any time.

In the case of Mr. Ali Ebrahim al Heli

On 25 January 2015, at approximately 3.30 a.m., plainclothes security forces entered the home of Mr. Ali Ebrahim al Heli. They arrested him and confiscated his mobile phone. He was transported to the CID Cyber Crimes Unit. He was interrogated by the Cyber Crimes Unit for four hours about a comment he allegedly made on Instagram regarding the late King of Saudi Arabia, King Abdullah bin Abdulaziz al Saud. During the interrogation, Mr. al Heli was threatened with physical harm and out of fear of such harm, he confessed to writing the message.

Mr. al Heli was then transferred to the Dry Dock Detention Centre and detained in pre-trial detention. On 28 April 2015, a Bahraini court sentenced Mr. al Heli to three months in prison for ‘insulting a foreign country’. Mr. al Heli has already served three months in detention and was therefore released.

On the regulation of cyberspace

It is alleged that the Government uses a number of direct and indirect measures to limit the exercise of the right to freedom of expression and opinion. Reportedly, the measures utilized include, the blocking of websites and other online content without the requirement of a court order and the revocation of the licences of internet service providers who refuse to comply with orders to remove content. Technology and social media account details have been confiscated and searched, often remove or edit online material, including at checkpoints. Cybercafes are prohibited from allowing access to minors and are required to ensure all computer terminals are fully visible to observers. In May 2014, it was announced that new restrictions may be introduced on cybercafes, including the requirement of

surveillance cameras and storage of user identification and identity. This has not yet been implemented. In July 2015, it was reported that a national search engine may be developed to allow for the filtering of unwanted search results.

Official statements have been issued to warn against the discussion of specific topics online and foreign journalists have been prevented from entering the country. Individuals, particularly those with dissenting opinions, have been further harassed and intimidated by internet trolling and mass-campaigns to close their accounts on social media. It is alleged that in order to track who is responsible for online posts, the impersonation of individuals to send malicious links; fake malicious spyware is used and the sale or use of unregistered pre-paid phones is prohibited.

Other measures that have allegedly been used to restrict the right to freedom of opinion and expression include arbitrary arrests, detention, torture and prosecution to coerce the removal of material and encourage self-censorship. Such conduct has also been used to intimidate and punish individuals for online activity. In June 2015, after photographs were leaked by prisoners about detention facilities, consequently the prisoners were denied complete access to information technology.

It is also alleged that criminalisation and a broad interpretation of the law are also used to restrict the right to freedom of opinion and expression. The Press and Publications Law of 2002 criminalises the publication of information critical to Islam, its followers or the King, as well as for 'inciting the overthrow of the Government'. The Telecommunications Law of 2002 contains provisions that penalize messages deemed 'offensive to public policy or public morals'. Anti-terrorism laws and the penal code are also used punish those who 'deliberately disseminate a false statement'.

In 2013, a bill was approved that criminalizes the establishment of a website, the publication of information online or use of any information technology tool to assist or aid communications with terror cells, as well as promoting the disruption of public order or morale. This bill has not yet been passed into law.

Grave concern is expressed at the alleged arbitrary arrest, detention, charges and conviction of the ten individuals named above, reportedly for exercising their right to freedom of expression and opinion on social media. Serious concern is expressed for the continued detention of Mr. Karimi in solitary confinement, as well as for the outstanding charges against Messrs. Karimi and Rajab. Further serious concern is expressed for the torture, threats and ill-treatment of the individuals named above, including for the purpose of extracting confessions.

Serious concern is expressed for the alleged restrictions on access to the internet and surveillance of online users and content, as well as the intimidation, harassment, arrest, detention and torture of individuals for allegedly exercising their right to freedom of expression and opinion. Serious concern is also expressed at the alleged use of the law, through criminalization and broad interpretation to punish individuals from exercising their right to freedom of expression and opinion. Further serious concern is expressed for the chilling effect that these measures may have on other individuals and human rights defenders expressing themselves on the internet, particularly those expressing dissenting opinions, restricting the legitimate exercise of the right to freedom of expression and opinion, as well as the right to seek, impart and receive information, including on the internet.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to these issues brought forth by the situation described above.

We would further like to appeal to your Excellency's Government to take all necessary steps to ensure the rights to privacy and freedom of opinion and expression, as recognised in article 19 of the International Covenant on Civil and Political Rights (ICCPR) ratified by the Kingdom of Bahrain on 20 September 2006 and article 19 of the Universal Declaration of Human Rights (UDHR), and to remind your Excellency's Government of the requirement that any restrictions of the right to freedom of expression must be necessary and proportionate, and prescribed by law. We also wish to refer your Excellency's Government to 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 and 6.

We would like to draw the attention of your Excellency's Government to the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Bahrain acceded 6 March 1998, as well as to **paragraph 8a of Human Rights Council Resolution 16/23**, which reminds States that intimidation and coercion, including serious and credible threats to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture. Moreover, with regards to allegations of solitary confinement of one individual, we would like to refer to the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which it is stated that the use of prolonged solitary confinement in itself runs afoul of this absolute prohibition. Moreover, due to the prisoner's lack of communication, and the lack of witnesses, solitary confinement enhances the risk of other acts of torture or ill-treatment.

We would also like to remind your Excellency's Government of the UN Human Rights Committee's General Comment No. 34, paragraph 38, which states that insulting a public figure does not justify penalties for exercising the right to freedom of opinion and expression. We would also like to remind your Excellency's Government of the Report of the UN Special Rapporteur on freedom of expression, A/HRC/17/27, which provides criteria for permissible restrictions on the exercise of the right to freedom of expression on the internet.

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

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 the above-mentioned person(s) 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 information about the legal grounds for the detention, charges and prosecution of the ten individuals named above and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, in particular the right to freedom of opinion and expression.
3. Please provide information relative to the measures taken to ensure the physical and psychological integrity of the individuals named above.
4. Please provide detailed information about the measures adopted to protect individuals, particularly those with dissenting views, in the exercise of their right to freedom of expression in the country, in accordance with international norms and standards.
5. Please provide detailed information about the procedure by which websites and online material may be blocked, including any punitive measures for non-compliance, and how these procedures are compatible with international

norms and standards, in particular the right to freedom of opinion and expression.

6. Please provide detailed information about the policies and regulations on the confiscation and searching of technology and social media accounts, as well as trolling, the use of malware to obtain information and online harassment, applicable to Government officials and how these measures are compatible with international norms and standards, in particular the right to freedom of opinion and expression.
7. Please provide detailed information on the laws and regulations governing cybercafes, including whether the new restrictions announced in May 2014 have or will be implemented, and how these measures are compatible with international norms and standards, in particular the right to freedom of opinion and expression.
8. Please provide detailed information on the development of a national search engine and the laws and regulations that would govern the censorship of such a service and how these measures are compatible with international norms and standards, in particular the right to freedom of opinion and expression.
9. Please provide information about the policy on statements threatening the exercise of freedom of expression made by Government officials, and how these measures are compatible with international norms and standards, in particular the right to freedom of opinion and expression. Please provide information about any investigations carried out in relation to such statements, including whether anyone has been held accountable, and if there have been none, please explain why.
10. Please provide information regarding access to information technology of prisoners, including grounds for the denials of such access, and how these policies are compatible with international norms and standards, including with regard to the right to freedom of expression.
11. Please provide detailed information about the criminalization of criticizing the King, Islam and the Government, as well as offending public policy and public morals, as contained in the Press and Publications Law of 2002 and the Telecommunications Law of 2002 and how these offences are compatible with international norms and standards, including the requirement that restrictions on the right to freedom of expression must be proportionate and necessary. Please provide information about how these offences are interpreted and applied in practice.

12. Please provide information about the status of the bill passed in 2013 that criminalizes the establishment of a website, the publication of information online or use of any information technology tool to assist or aid communications with terror cells, as well as promoting the disruption of public order or morale. If possible, please elaborate on the definition of “promoting the disruption of public order or morale”.

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 responsible of 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.

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

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment