

Mandates of 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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21 August 2015

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 and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2 and 25/18.

In this connection, we would like to draw your Excellency's Government's attention to information we have received concerning **the arrest of inter-faith activist and human rights defender, Sheikh Maytham Al Salman, for making comments regarding the Bahraini authorities.**

Sheikh Al-Salman is head of the Religious Freedom Unit in the Bahrain Human Rights Observatory and works with the Mashreq-Maghreb Coalition to Counter Hatred. He is considered an international spokesperson for peace and human rights, and has helped foster and strengthen positive relations between different cultures and regions. He has taken part in several human rights conferences and meetings with mechanisms of the UN Human Rights Council, including attending its most recent session in June 2015.

According to the information received:

In the morning of 8 August 2015, Sheikh Maytham Al-Salman, a well-known promoter of inter-faith dialogue and free speech, was reportedly arrested at Bahrain International Airport after returning from Tunisia, where he was participating in a conference organized by the United Nations Office of the High Commissioner for Human Rights. A warrant had been issued by the Bahraini authorities on 31 July 2015 for his arrest, on accusations of "inciting hatred against the regime" and allegedly spreading false news. Article 165 of the Bahrain Constitution criminalizes "inciting others to develop hatred or hostility towards the system of government" and sources allege that this law is often used against human rights activists and media workers who are involved in promoting freedom of expression awareness of human rights and documenting alleged

violations of human rights abuse. It is reported that this was not the first time Sheik Al-Salman has been arrested; he was also arrested and detained on 19 March 2011 after returning from a conference in Germany.

Sheikh Al-Salman was allegedly transported to the General Directorate of Criminal Investigations (CID), where he was reportedly detained and interrogated for approximately 8 hours. The interrogation allegedly related to remarks he made to a media outlet in which he expressed his concerns regarding the Bahraini security forces' possible use of collective punishment in Sitra, a predominantly Shi'a area which has been the site of clashes between protesters and security forces. Sheik Al-Salman has reportedly publicly criticized hate speech between Shi'as and Sunnis.

During his interrogation, Sheik Al-Salman was allegedly denied access to a lawyer and only permitted to make one phone call in which he informed his family of his whereabouts before being eventually released. He is still charged with inciting hatred against the regime and spreading false news and has been banned from leaving Bahrain.

The arrest of Sheikh Al-Salman comes four years after the uprisings in Bahrain, and since then many activists reportedly continue to be targeted for defending human rights and expressing opinions critical of the regime. Sources indicate these individuals often face long prison sentences on charges of inciting hatred against the Government.

Without prejudging the accuracy of the aforementioned allegations, we express serious concern at the arrest of inter-faith leader and peace activist Sheikh Maytham Al-Salman and the decision to charge him with "inciting hatred" against the Government. These actions have serious implications for the freedom of opinion and expression in Bahrain, as it impedes citizens' legitimate right to access information, as well as their ability to seek, receive, and impart information and ideas of all kinds. The ability to hold diverse opinions and speak freely without fear of arrest or prosecution is essential in the effective functioning of a vibrant democracy.

Particular concern is expressed at the broad scope of the language of article 165 of the Bahraini Constitution as, by this definition, a wide range of speech could be considered "hostile" towards the Government, and could be used by authorities to silence opinions that they find unfavorable. It is imperative that dissenting voices be protected in order to disseminate information that is in the public interest and to create an open dialogue within society. Censorship and intimidation of those expressing their opinions could produce a "chilling effect" on the free expression of speech and may lead to other human rights violations.

Although the Annex attached to this letter cites international human rights law and standards in connection to the above alleged facts and concerns, I would like to take this opportunity to refer your Excellency's Government to article 19 of the International

Covenant on Civil and Political Rights (ICCPR), acceded by the Kingdom of Bahrain on 20 September 2006, and article 19 of the Universal Declaration of Human Rights establishing the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds.

As is our responsibility under the mandate provided to us by the Human Rights Council to seek to clarify all cases brought to our attention, and since we are expected to report on these cases to the Human Rights Council, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the legal grounds invoked for the charges against Sheikh Maytham Al-Salman, as well as how these measures are compatible with international human rights norms and standards, in particular article 19 of the International Covenant on Civil and Political Rights (ICCPR) and article 19 of the Universal Declaration of Human Rights (UDHR).
3. Please provide information on the steps taken by the Bahraini Government to ensure that freedom of expression in Bahrain is granted all the protections afforded under article 19 of the ICCPR and article 19 of the UDHR.
4. Please indicate what measures have been taken in relation to Bahrain's commitment made at the Universal Periodic Review in 2012 to affirm the centrality of human rights to development and the importance of supporting a culture of human rights through all available means in education, the media, and other areas.
5. Please indicate what measures have been taken to ensure that human rights defenders, academics, journalists, students, politicians, lawyers and civil society members, are able to carry out their legitimate work in a safe and enabling environment without fear or threats of intimidation and harassment of any sort.

In view of the importance of matters concerning freedom of expression and opinion, we would appreciate a response on the initial steps taken by your Excellency's government to safeguard the rights of the above-mentioned person in compliance with the above-mentioned international instruments.

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.

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 the above alleged facts and concerns, we would like to refer your Excellency's Government to article 19 of the International Covenant on Civil and Political Rights, acceded by the Kingdom of Bahrain on 20 September 2006, which guarantee the right to freedom of expression. We would like to remind your Excellency's Government that any restriction to this right shall be provided by law; may only be imposed for one of the grounds set out in article 19 and subparagraphs (a) and (b) of paragraph 3 and must conform to the strict tests of necessity and proportionality.

In paragraph 11 of its General Comment No. 34, the Human Rights Committee provides that ideals of all kinds are guaranteed protection and, more specifically, that "the penalization of a media outlet, publishers or journalist for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression" (CCPR/C/GC/34, para. 42).

We would also like to take this opportunity to refer your Excellency's Government to paragraph 79 of the report of the previous Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression where he has expressed his concern "at the continuing existence and use of criminal laws ... which are often used by authorities to suppress 'inconvenient' information and to prevent journalists from reporting on similar matters in the future" as well as the "chilling effect which stifles reporting on issues of public interest." He has emphasized that "Laws imposing restrictions or limitations must not be arbitrary or unreasonable and must not be used as a means of political censorship or of silencing criticism of public officials or public policies" (A/HRC/14/23).

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 bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- 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.