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HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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 rights to freedom of peaceful assembly and of association; 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 G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)
BHR 5/2012

29 June 2012

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the 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 rights to freedom of peaceful assembly and of association; 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 15/18, 16/4, 15/21, 16/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **repeated restrictions on the holding of peaceful demonstrations and the excessive use of force by law enforcement officers during peaceful assemblies.**

According to the information received:

On 10 June 2012, political opposition groups notified the authorities of their intent to organize a peaceful march in Manama, on 13 June 2012 in accordance with Decree-law No. 18/1973, amended by Law 32/2006. Reportedly, the authorities denied the authorization on the grounds that the march would obstruct traffic in Manama.

On 12 June 2012, political groups sought authorization from the authorities, in accordance with the aforementioned laws, to organize a peaceful gathering on 15 June 2012. It is reported that the request was rejected on the same grounds put forward for rejecting the march planned on 13 June. According to the information received, a large contingent of riot police was deployed in Manama streets on the day of the planned gathering on 15 June 2012 and police warned the organizers that they would destroy the stage and the chairs prepared for the event if they did not remove them themselves. Hundreds of participants reportedly gathered on the protest location and riot police used tear gas to disperse the crowd. Ms. Zahra Salman AlSheikh Ali, a 21 year old female student, was arrested; she is reportedly

detained for having assaulted a police officer and has been subjected to psychological pressure and threats. She has not been allowed to contact her family, nor to receive visits from her lawyer.

On 12 and 13 June 2012, requests to organize a human chain on 16 June 2012 were made to the relevant authorities in accordance with domestic laws. The authorization for such event was also denied on the legal basis mentioned above.

On 19 June 2012, the Al Wefaq National Islamic Society, one of the largest opposition groups, sought authorization to organize a rally on 22 June 2012, in accordance with domestic laws. The authorization was denied on the basis that such a rally would block public roads. It is reported that on two previous occasions, on 3 February 2012 and on 24 February 2012, assemblies were allowed to take place on the same roads. On 22 June 2012, the police closed all roads leading to the location of the planned event and participants were prevented from gaining access thereto. A small group of about 25 or 30 people attempted to march peacefully to the protest site, but they were stopped by a more or less equal number of riot police. It is reported that the police fired large amounts of sound grenades, rubber bullets, and shotguns from a distance of just a few meters, seriously injuring tens of protesters and opposition leaders, including Mr. Ali Salman, President of Al Wefaq National Islamic Society, Mr. Hassan Marzouk, Deputy Secretary General of the National Democratic Unionist Assembly, resigned MP Mr. Jawad Fairros, as well as Mr. Ali Mohd Jafar AlMowali and Mr. Sayed Hameed Sayed Adnan. Messrs. Sayed Hadi Sayed Ebrahim, AbdulRedha Hasan Salman, Elyas Husain Ali Rajab, Sayed Hameed Sayed Adnan, Jafar Ahmed AlHamran and Ali Khalil Mirza were reportedly arrested during the event and charged with illegal gathering. They are reportedly still in detention.

Should this information be corroborated, serious concerns are expressed that the repeated denials to hold peaceful assemblies in Manama would constitute undue restrictions on the right to freedom of peaceful assembly. Serious concerns are expressed that the aforementioned allegations of excessive use of force by law enforcement officials against protesters that have remained peaceful at all times could be related to their dissenting views and their legitimate exercise of fundamental freedoms. Concern is further expressed that the arrest and detention of Ms. Zahra Salman AlSheikh Ali, Messrs. Sayed Hadi Sayed Ebrahim, AbdulRedha Hasan Salman, Elyas Husain Ali Rajab, Sayed Adnan Sayed Hameed, Jafar Ahmed AlHamran and Ali Khalil Mirza may be directly related to their legitimate exercise of the rights to freedom of peaceful assembly and of expression.

We would like to stress that States have the obligation to protect the right to physical and mental integrity of all persons. This right is set forth, inter alia, in the Universal Declaration of Human rights (UDHR), the International Covenant on civil and political rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context and with respect to the allegation that on 22 June 2012, the riot police fired large amounts of sound grenades, rubber bullets, and shotguns from very close range and seriously injured tens of protesters and opposition leaders, we would also

like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms." Furthermore, Principle 5 provides that, "Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment." (Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990).

We wish to appeal to your Excellency's Government to ensure that the right to freedom of peaceful assembly, as recognized under article 21 of the ICCPR, is enjoyed free of arbitrary restrictions. In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular its operative paragraph 1 of the same resolution that, "Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely,... including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

We would further like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

In this connection, 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, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.
- article 12 paragraphs 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) of the Special Representative of the Secretary-General on the situation of human rights defenders and in particular to paragraph 98 which states that “in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials”.

Without expressing at this stage an opinion on the facts of these cases and on whether the detention of the abovementioned persons is arbitrary or not, we would also like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

In view of the urgency of the matter, we would appreciate a prompt response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, 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 cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the cases accurate?

2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide information about the legal grounds for denying authorization to hold peaceful assemblies on 13, 15, 16 and 22 June 2012.
4. Please provide the full details of the legal basis for the use of force against peaceful protesters during the assembly held on 22 June 2012.
5. Please provide information concerning the legal grounds for the arrest and detention of Ms. Zahra Salman AlSheikh Ali, Mr. Sayed Hadi Sayed Ebrahim, Mr. AbdulRedha Hasan Salman, Mr. Elyas Husain Ali Rajab, Mr. Sayed Hameed Sayed Adnan, Mr. Jafar Ahmed AlHamran and Mr. Ali Khalil Mirza 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.
6. Please provide information about how the physical and psychological integrity of Ms. Zahra Salman AlSheikh Ali is guaranteed.
7. Please indicate what measures have been taken to ensure that the legitimate right to assemble peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

We undertake to ensure that your Excellency's Government's response is included in the report we will submit to the Human Rights Council.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

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