

**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; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: UA  
BHR 10/2014:

11 August 2014

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; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 25/18, 26/7, 22/8, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **harassment and intimidation of members of the Bahrain Youth Society for Human Rights (BYSHR) and the ongoing detention of one of its members.**

The **Bahrain Youth Society for Human Rights (BYSHR)** is a non-governmental organization that monitors and documents human rights violations, organizes training workshops, and supports regional networking for human rights defenders.

Mr. **Naji Fateel** is a prominent blogger and board member of BYSHR. He has been the subject of five previous communications sent by various Special Procedures mandate holders; dated 10 January 2008, 18 January 2008, 28 July 2008, 10 May 2013, and 4 October 2013. We acknowledge receipt of the responses received to these communications from your Excellency's Government. However, we remain concerned

for the situation of Mr. Naji Fateel, particularly with regards to the serious allegations that he was tortured in detention.

Mr. **Youssef Ahmed Abdel Rasool** is the Vice-President of BYSHR and Mr. **Hussein Ali Abdul Nabi** is a member of the documentation department of the organization.

*The case of Mr. Naji Fateel*

According to the information received:

On 29 May 2014, the Court of Appeal of Bahrain upheld the sentence of 15 years' imprisonment which was handed down to Mr. Naji Fateel by the Fourth Criminal Court on 29 September 2013. The sentence is in relation to charges of "establishment of a group for the purpose of disabling the Constitution" under article 6 of the Terrorism Law No. 58 of 2006. Mr. Fateel has appealed the decision to the Court of Cassation.

Mr. Fateel's lawyer has also filed a complaint before the Supreme Judicial Council alleging that the trial proceedings fell short of the minimum standards of a fair trial for the following reasons: during the hearing before the Fourth Criminal Court no evidence was provided against Mr. Fateel; rather, the sentence was solely based on coerced confessions made under torture and the allegations of torture were not addressed by the court. In regard to violations of a fair trial that occurred at the appeal hearing, it is alleged that: a lawyer who was mandated by a coalition of NGOs to observe the appeal trial was not permitted entry to the court room on 18 November 2013; that, the majority of the defence counsel's questions to the prosecution's witnesses were allegedly rejected by the judge; and that a policeman is reported to have forcefully silenced a lawyer during his pleadings.

Mr. Fateel is currently detained in the Central Prison "Jaw".

*The case of Mr. Hussein Ali Abdul Nabi*

According to the information received:

On 6 September 2013, Mr. Hussein Ali Abdul Nabi was arrested at a colleague's house on Muharraq island. He was then brought to Al Hidd police station, where the prosecutor ordered a 45 day detention on the charges of "illegal gatherings and assaulting security agents". According to reports, Mr. Hussein Ali Abdul Nabi was released on bail on 29 November 2013. However, the charges against him remain pending.

*The case of Mr. Youssef Ahmed Abdel Rasool*

According to the information received:

On 10 June 2014, Mr. Youssef Ahmed Abdel Rasool was summoned by criminal prosecution authorities and interrogated for several hours about his role in BYSHR. Allegedly, during the interrogation he was intimidated, and told that his involvement was illegal and would result in legal action being brought against him.

Grave concern is expressed at the ongoing harassment and intimidation of members of BYSHR, who remain at high risk of alleged arbitrary detention and ill treatment as a result of their legitimate and peaceful activities. Further concern is expressed that the 15 years' imprisonment sentence against Mr. Naji Fateel has been upheld by the Court of Appeal and about the allegations that the trial did not comply with international standards of a fair trial. Serious concerns are also expressed regarding the physical and mental integrity of Mr. Naji Fateel who remains in detention. Furthermore, concern is expressed at the use of national security interests to justify measures and acts aimed at suppressing opposition, including groups working peacefully for the defence of human rights, and repressive practices against civil society that exceed limitations set for in international human rights law.

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 the issues brought forth by the situation described above.

The above allegations appear to be in contravention of Mr. Naji Fateel's right not to be deprived arbitrarily of his liberty and right to fair proceedings before an independent and impartial tribunal, as set forth in 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) that Bahrain acceded on 20 September 2006. These allegations also seem to be in contravention of the Basic Principles on the Role of Lawyers, the Guidelines on the Role of Prosecutors and the Bangalore Principles of Judicial Conduct. The allegations also appear to be in contravention of the right the right to freedom of opinion and expression as set forth in article 19 of the ICCPR.

The above alleged facts indicate a prima facie violation of the right to freedom of association with others and appear to contradict the limitations as set forth in the article 22 of ICCPR.

In addition, these allegations appear to be in contravention with General Assembly resolution 68/178 and Human Rights Council resolution 25/7, which emphasize that States must adhere to international human rights while countering terrorism.

The allegations also appear to contravene 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 12.

In this context, we would like to draw the attention of your Excellency's Government to article 12 of the Convention Against Torture and other cruel, inhuman and degrading treatment or punishment (CAT), which Bahrain acceded on 6 March 1998, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. In this context, we would also like to recall paragraph 7b of the Human Rights Council Resolution 16/23.

Moreover, article 15 of the CAT prohibits the use of any statement made as a result of torture as evidence in any proceedings. In this context, we would also like to recall paragraph 7c of Human Rights Council Resolution 16/23.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 persons 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 concerning the legal grounds for the arrest and detention of Mr. Najj Fateel and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
3. Please indicate what measures have been taken to ensure that the legitimate right to form, join and participate in non-governmental organizations is respected and that the physical and psychological integrity of those exercising this right is guaranteed.
4. Please kindly indicate what measures have been taken to ensure that human rights defenders in Bahrain are able to carry out their legitimate work in a safe and enabling environment without fear of criminalization or acts of intimidation and harassment of any sort.

5. Please indicate what measures have been taken to ensure that the legitimate right to freely associate with others is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

6. Please provide detailed information, and where available the results of any investigation, judicial or other inquiries carried out in relation to the case of Mr. Naji Fateel, Mr. Youssef Ahmed Abdel Rasool and Mr. Hussein Ali Abdul Nabi. If no inquiries have taken place, or if they have been inconclusive, please explain why.

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.

Mads Andenas  
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

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and  
of association

Michel Forst  
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Ben Emmerson  
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