

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandates of the 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 and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)
BHR 12/2011

16 June 2011

Dear Ms. Radhi,

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 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 General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4, 15/21, 16/5, 16/23.

In this connection, we would like to draw the attention of your Government to the information we have received regarding allegations of acts of violence, intimidation, and the enactment of travel bans against, as well as the interrogation of, a number of human rights defenders over previous weeks.

Since 17 February 2011, nine urgent appeals have been sent to the Government of the Kingdom of Bahrain, on behalf of the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. We wish to thank the Government for the responses transmitted.

Since 15 February 2011, the High Commissioner for Human Rights, Ms. Navanethem Pillay has issued four press releases in which she addressed the situation in Bahrain. Ms. Pillay expressed concern about "reports of the death of a least four persons in custody", as well as reports of "severe torture against human rights defenders who are currently in detention." Ms. Pillay went on to state that "measures taken by the Government appeared to be aimed at the continued silencing of dissent and creating a chilling effect against further protests."

In this context, we wish to bring the following new information to your attention:

At dawn, on 21 May 2011, the home of Mr. **Nabeel Rajab**, President of the Bahrain Centre for Human Rights and Vice-President of the International Federation for Human Rights, was alleged attacked by members of the security forces who fired teargas bombs through the windows of the house in which family members were sleeping. It is alleged that the teargas bombs exploded in the room of Mr. Rajab's brother Mr. Nader Rajab. Other family members allegedly had to rescue Mr. Nader Rajab, as well as his wife and daughter who reportedly began to suffocate from gas inhalation.

Mr. Nabeel Rajab has been the subject of a number of communications, the most recent of which was an urgent appeal dated 22 March 2011, sent on behalf of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; 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. We wish to thank the Government of the Kingdom of Bahrain for transmitting a response to the aforementioned urgent appeal.

On 22 May 2011, Mr. **Abdulla Al-Derazi**, Secretary General of the Bahrain Human Rights Society, was ordered by the Office of the Military Prosecution to present himself for interrogation at its offices at 6:00 p.m. that evening. It is believed that during the interrogation, which lasted for two hours, Mr. Al-Derazi was interrogated about his human rights work, in particular, his engagement with the international media, his participation with anti-government protests, as well as accusations that he was involved in spreading "false information" about the Kingdom of Bahrain. It is alleged that Mr. Al-Derazi was informed that he may be summoned to appear before the Military Court at a future date as a follow up to the interrogation, on charges of "spreading false information about Bahrain" under articles 167 and 176 of the Criminal Code of Bahrain.

Previously, on 17 April 2011, Mr. Al-Derazi was reportedly dismissed from his position as lecturer of English at Bahrain University and referred to a disciplinary committee which subsequently officially suspended him from his job on grounds related specifically to his human rights work, namely for exercising his rights to freedom of peaceful assembly and expression, respectively.

On 26 May 2011, it is alleged that Mr. **Issa Al-Ghayeb**, Deputy Secretary General of the Bahrain Human Rights Society, was prevented from travelling by the Bahrain Passport Authorities. Mr. Al-Ghayeb had alleged travelled to Manama airport in order to board a flight to Kuwait where he was due to attend a conference on the death penalty; however passport authorities refused him permission to board the plane.

Moreover, it is reported that, two weeks previously, Mr. **Issa Ibrahim**, lawyer and board member of the Bahrain Human Rights Society, was prohibited from leaving the Kingdom of Bahrain in similar circumstances. While Mr. Ibrahim was apparently leaving the Kingdom of Bahrain for personal reasons, it is alleged that the passport authorities refused him to travel due to his human rights work.

It is further alleged, that on 29 May 2011, Mr. Nabeel Rajab was prohibited from travelling to Beirut to attend a conference hosted by the International Freedom of Expression Exchange.

It is alleged that the aforementioned measures enacted by the passport authorities may be linked to the human rights work in which Mr. Al-Ghayeb, Mr. Ibrahim and Mr. Rajab are involved, in particular, their plans to attend international human rights conferences outside Bahrain.

According to the information received, on 31 May 2011, at approximately 4:00 p.m., Mr. Rajab received a letter from the Office of the Military Prosecutor which allegedly summoned him to present himself at their offices at 6:00 p.m. on the same day. It is alleged that because of such short notice, Mr. Rajab was unable to arrange to have his lawyer accompany him to the Office of the Military Prosecutor. It is reported that during the interrogation which lasted five hours, the authorities questioned Mr. Rajab in connection with three charges, namely, disseminating false and malicious news and statements abroad about the internal situation of the country under article 134 of the Penal Code of 1976; publicly inciting hatred of a sect of people and denigrating them under article 172 of the Penal Code of 1976; and broadcasting false and malicious news, statements and rumors under article 168/A of the Penal Code of 1976. It is reported that an additional charge of insulting the King of Bahrain was brought against Mr. Rajab during his interrogation. It is alleged that Mr. Rajab may be referred to the military court for trial at a future date.

On 12 June 2011, it is reported that human rights lawyer, Mr. **Mohammed Al-Tajir**, was brought before the Bahraini Lower National Safety Court in Manama following a five-week period of incommunicado detention at which time he was reportedly denied access to both his lawyer and family, and was held in an unknown location. Mr. Al-Tajir reportedly faces a number of charges including: publicly inciting hatred of the system of Government; spreading malicious news and propaganda; and publicly inciting the abduction and harming of security officials. It is alleged that Mr. Al-Tajir was forced to confess to the aforementioned charges, all of which he denied when he appeared in court.

Mr. Al-Tajir was the subject of an urgent appeal dated 21 April 2011, sent on behalf of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; and the Special Rapporteur on the situation of human rights

defenders. We wish to thank the Government of the Kingdom of Bahrain for the response transmitted.

On 13 June 2011, following a trial which began on 2 June 2011, Ms. **Ayat Al-Gormezi**, a 20-year old student and poet, was sentenced by a special security tribunal on anti-State charges, including incitement of hatred towards the regime for having recited protest poems at a pro-democracy rally in Pearl Square. The poem reportedly criticized the monarchy and called for greater democracy. She reportedly handed herself in the police on 30 March 2011, after the police allegedly raided her house and threatened her family. Ms. Al-Gormezi was reportedly hospitalized as a result of severe ill-treatment in the weeks following her arrest.

Concern is expressed about the physical and mental integrity of the aforementioned human rights defenders in view of the allegations that they have been subjected to acts of violence, travel bans, and interrogations carried out by the Office of the Military Prosecutor. Further concern is expressed regarding allegations that Mr. Al-Tajir was denied access to a lawyer and his family during a period of five weeks, and was forced to confess to charges which he later denied in court. Moreover, concern is expressed that the situation of the aforementioned human rights defenders may be linked to their work in the defence of human rights and fundamental freedoms, and in particular, exercising their legitimate right to freedom of expression and engagement with international media and international human rights organizations.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Government's attention to the right to physical and mental integrity of the above-mentioned persons. This right is set forth in, *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 allegations according to which Mr. **Nabeel Rajab** was attacked by members of the security forces who fired teargas bombs through the windows of the house in which family members were sleeping, we would like to draw your Government's attention 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).

With respect to the allegations according to which Mr. **Mohammed Al-Tajir**, was held incommunicado for five weeks in an unknown location, we would like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that "Prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished."

Furthermore, with respect to the allegations according to which Mr. **Mohammed Al-Tajir** was forced to confess to charges brought against him, we would like to draw the attention of your Government to article 15 of the Convention against Torture which provides that, "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." We also recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States "To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to draw your Government's attention to article 12 of the Convention Against Torture, 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 Convention Against Torture, which requires State parties to prosecute suspected perpetrators of torture. We would also like to draw your Government's attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture."

We would like to appeal to your 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 addition, we wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We would also like to appeal to your Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.”

Without in any way implying any determination on the facts of the case, we would like to refer your 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 Government the following provisions of the Declaration:

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all

human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12, paras 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.

We urge your 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 Government adopt effective measures to prevent the recurrence of these acts.

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

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, 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 case accurate?
2. Please explain why Mr. Al-Ghayeb, Mr. Ibhram, and Mr. Rajab were prohibited from leaving the Kingdom of Bahrain. In this connection, please clarify whether the travel bans were linked to their legitimate human rights work, and in particular, in the cases of Mr. Al-Ghayeb and Mr. Rajab, were the travel bans imposed related to their scheduled attendance at international human rights conferences taking place outside the Kingdom of Bahrain.
3. Please clarify the motives behind carrying out a teargas attack on the home of Mr. Rajab. In this connection, please provide details of the role played by the Bahraini security forces in the aforementioned attack and the legal basis for the order, if order was issued, to proceed this way.

4. Please provide details pertaining to the alleged interrogation of Mr. Al-Derazi and Mr. Rajab, paying particular attention to allegations that both men were interrogated about their engagement with the international media and international human rights organizations.
5. Considering allegations that Mr. Al-Tajir has been held in incommunicado detention for a period of five weeks at an unknown location, denied access to his family and his lawyers, and reportedly was forced to confess to the aforementioned charges, please provide details about how his detention and trial comply with international legal standards.
6. Please provide information on the measures undertaken to ensure that any statements on confessions obtained under torture is excluded from judicial proceedings.
7. Please clarify how the physical and psychological integrity of the aforementioned human rights defenders, as well as that of other human rights defenders working in the Kingdom of Bahrain at present, is protected and guaranteed by the State.

We undertake to ensure that your Government's response to each of these questions is accurately reflected in the report we shall submit to the Human Rights Council for its consideration.

Please accept, Ms. Radhi, the assurances of our highest consideration.

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