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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
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Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

REFERENCE: AL G/SO 214 (53-24) Assembly & Association (2010-1)
BHR 8/2013

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the rights to freedom of peaceful assembly and of association pursuant to Human Rights Council resolutions 16/23 and 24/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the arbitrary detention and torture of Ms. [REDACTED], born in 1992, Bahraini national and a student at the University of Bahrain, currently residing in [REDACTED], Bahrain.

According to the information received:

On an unknown date in 2013, Ms. [REDACTED] participated in a peaceful demonstration at the University of Bahrain calling for democratic reforms in Bahrain. It is reported that at the time of peaceful protest, a group of people reportedly supporting the Government, attacked students gathered near the front gate of the University. According to the information received, at the time of the attack, the riot police failed to intervene to prevent the violence.

It is further reported that on 26 April 2011, at around 1:11 a.m. several policemen and security officers dressed either in civilian clothes or police uniform, broke into the house where Ms. [REDACTED], then 18, was residing. It is reported that they did not present an arrest warrant or identification document, nor did they explain the reason for their visit. Neither Ms. [REDACTED] nor her sister were allowed to speak to their mother or other family members. It is further reported that Ms. [REDACTED] and her sister were subsequently arrested by security officers under threat of gun, forced to get into a white minibus and driven away to an unknown location. While detained in an unknown location, Ms. [REDACTED] was reportedly blindfolded and taken to a cold room. At this point, she was reportedly

separated from her sister. While blindfolded she was allegedly repeatedly beaten all over the body by several police officers and had her head banged against the wall. As a result she had sustained many bruises and wounds. She was eventually left alone in the room for several hours. Ms. [REDACTED] was later presented with documents and forced to sign them without being allowed to read them. She was later transferred to another room, reportedly a part of the Criminal Investigation Directorate (CID), where two officers continued to insult her and threaten to rape her. Ms. [REDACTED] was reportedly forced to sign more papers and was taken back to the room where she was forced to stand for a prolonged period of time and was not allowed to use the bathroom. In addition, Ms. [REDACTED] was denied food and water. After her picture and fingerprints were taken later the same day, Ms. [REDACTED] was reportedly transferred to a detention center in Issa town where she was reunited with her sister at around 4:00 p.m, the same day. Ms. [REDACTED] and her sister were subsequently released the following morning. It is reported that following this incident, Ms. [REDACTED] was expelled from Bahrain Teacher's College and was suspended from the University of Bahrain. Reportedly, eleven months after her arbitrary detention, on an unknown date, Ms. [REDACTED] was tried by the Criminal Court of Bahrain and was sentenced to 40 days in prison or a fine of 200 Bahraini Dinar on charges of "participation in illegal assembly", "illegal possession of weapons", and "destruction of university property". It is reported that her attempts to introduce witness testimony certifying that she was not at the scene of the alleged crime were in vain as the Court refused to admit the witness testimony.

It is further reported that, due to international pressure, Ms. [REDACTED] was readmitted to the University of Bahrain. Reportedly, shortly afterwards, she was again expelled on allegedly unrelated grounds. Ms. [REDACTED] publicly protested her expulsion in Bahrain's financial district by standing silently on the side of the road with a sign that detailed the nature of her expulsions. It is reported that after 15 minutes of this silent protest, however, local police officers arrested her. She was reportedly released a day later. Ms. [REDACTED] fears further persecution, abuse and intimidation by law enforcement officers as a consequence of her complaint.

Serious concern is expressed for the physical and psychological integrity of Ms. [REDACTED] and her sister. Grave concern is expressed at the fact that Ms. [REDACTED]'s detention may be linked to her recent participation in a peaceful assembly.

We would like to refer to 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 interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and 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.”

In addition, we would like to refer to the thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association that underlines "that States have a positive obligation to actively protect peaceful assemblies. Such obligation includes the protection of participants of peaceful assemblies from individuals or groups of individuals, including agents provocateurs and counter-demonstrators, who aim at disrupting or dispersing such assemblies. Such individuals include those belonging to the State apparatus or working on its behalf". (A/HRC/20/27, p. 33). Furthermore, the Special Rapporteur recalls that "(t)he ability to hold peaceful assemblies is a fundamental and integral component of the multifaceted right to freedom of peaceful assembly, which shall be enjoyed by everyone. [...] This is all the more relevant for groups most at risk of violations and discrimination, such as women, youth, indigenous peoples, persons with disabilities, persons belonging to minority groups, groups at risk because of their sexual orientation and gender identity and non-nationals". (A/HRC/23/39, p. 43).

Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Ms. [REDACTED] and her sister. We would like to stress that each Government has 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 Convention on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 7.c of Human Rights Council Resolution 16/23, which reminds States that “ (...) detention in secret places may 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, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States

to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.”

We would also like to draw your Excellency’s Government’s attention to article 12 of the CAT, 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.

Furthermore, we would like to draw your Excellency’s 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 further like to draw the attention of your Excellency’s Government to article 15 of the CAT, 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 like to draw your Excellency's Government’s attention to paragraph 8 (a) of Resolution 16/23, which reminds States that “Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture.

We would like to draw your Excellency's Government's attention to Article 13 of CAT, which requires that "Each State Party shall ensure that any individual who alleges he or she has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his or her case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his or her complaint or any evidence given," and to paragraph 3 (b) of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also known as the Istanbul Protocol, which states that, "alleged victims of torture, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any form of intimidation that may arise pursuant to the investigation" (General Assembly resolution 55/89 of 4 December 2000, Doc. A/55/89, Annex).

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:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged?
3. Please indicate the basis for the detention and the charges brought against Ms. [REDACTED], and how these charges comply with Bahrain's obligations under international human rights law.
4. Please confirm whether an investigation has been opened, and if so, please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case.
5. Please provide detailed information on the judicial or administrative proceedings initiated in relation to this case. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
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 provide information on the steps taken to ensure that Ms. [REDACTED] and her family is protected from violence, threats of violence or any form of intimidation as a consequence of her complaint.
8. Please indicate whether compensation will be provided to the victims or their families.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

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 person 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.

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

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