

Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pursuant to Human Rights Council resolution 25/2.

In this connection, we would like to bring to your attention information we have received concerning **temporary suspension of the independent newspaper Al Wasat and restrictions to freedom of expression and opinion in Bahrain.**

According to the information received:

On 6 August 2015, the Information Affairs Authority (IAA), which is primarily responsible for regulating press and publications in the Kingdom of Bahrain announced the temporary suspension of the Al Wasat newspaper until further notice. The newspaper was founded in 2002 as part of King Hamad's reconciliation programme following the transition to a constitutional monarchy. It is reportedly the only newspaper in Bahrain which takes an editorial line critical of the government.

According to article 27 of Bahrain's national law regulating press, printing, and publishing, "newspapers may not be confiscated, disabled, or subjected to cancellation of license except with an order from the judiciary." Article 28 of this same law guarantees a "free and independent" press. The above-mentioned suspension was reportedly issued without court order, as required by Bahraini law. This suspension, however, was subsequently lifted on 8 August 2015.

The IAA claimed that the suspension of Al Wasat's activities was due to its "violation of the law and repeated dissemination of information that affects national unity and the Kingdom's relationship with other countries." The IAA did not provide more specific reasons leading to this decision; however, Bahrain's

Foreign Minister stated via Twitter that the suspension was the result of Al Wasat's coverage of a bombing in Saudi Arabia, where the casualties were specifically referred to as "deaths" rather than "martyrs."

On 3 August 2015, the Bahraini authorities issued a warning to Al Wasat for allegedly publishing "false information." This was allegedly in response to the publication of an opinion column in the Al Wasat newspaper relating to individuals on social media who question and accuse those who express dissenting views of treason. However, the piece in question in the newspaper did not refer to or accuse actual individuals.

The Bahraini authorities have allegedly intimidated and harassed the Al Wasat newspaper over a period of several years. In 2011, they temporarily shut down the newspaper and tried three of its top editors, all of whom were forced out of their jobs and fined heavily. In addition, two of Al Wasat's non-Bahraini staff were deported. In the same year, the Bahrain Independent Commission of Inquiry (BICI) found, upon investigation, that security forces tortured Al Wasat's co-founder, Mr. Karim Fakhrawi in custody, after which he died.

While I do not wish to prejudge the accuracy of the aforementioned allegations and, while I welcome the decision of your Excellency's Government to promptly lift the suspension against the Al Wasat newspaper, I nonetheless express my concern at the impact of the initial decision to shut down its operations, even if only temporarily, on the freedom of the media in Bahrain, which was in violation of both domestic legislation and international human rights law. Had the suspension lasted longer, this could have had a lasting negative financial impact on the newspaper's activities and may have led to its closure. Suspensions of this nature may contribute to a "chilling effect" on other media entities, stifling reporting on issues of public interest, particularly those expressing dissenting opinions and restrict the legitimate exercise of the right to freedom of expression and opinion as well as the right to seek, impart and receive information.

In addition to the Annex attached to this letter which cites international human rights law and standards in connection to the above allegations 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 Bahrain on 20 September 2006, and article 19 of the Universal Declaration of Human Rights (UDHR), establishing the right to freedom of expression, which includes the freedom to seek, receive and impart information of all kinds.

I would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of all media workers to legitimately exercise their right to the freedom of expression and opinion and the right of all citizens to freely access information, including through the media, which are of central importance in the effective functioning of a vibrant democracy.

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. I 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 detailed information on the legal grounds invoked for the decision to temporarily suspend the Al Wasat newspaper, indicating how this is compatible with international human rights norms and standards, in particular article 19 of the ICCPR and article 19 of the UDHR.
3. Please kindly indicate what measures have been taken to ensure that journalists and those working in the media in Bahrain are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

I would appreciate receiving a response within 60 days.

While awaiting a reply, I 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 my highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, I would like to refer your Excellency's Government to the right to freedom of opinion and expression as set forth in article 19 of the Universal Declaration of Human Rights and Article 19 of the ICCPR, which provides that "[e]veryone 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." I 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.

The Human Rights Committee has also stated in General Comment No. 34 that "The penalization of a media outlet, publishers or journalist solely 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).

Also, I would like to refer your Excellency's Government to paragraph 79 of the 2012 report of the previous Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, where he expresses his concern "at the continuing existence and use of criminal laws against journalists and members of the media, 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." The Special Rapporteur has recommended in paragraph 104 of this report that States "as part of their positive obligation to promote the right to freedom of expression ... should give full political support to strengthening media freedom and ensuring that independent, plural and diverse media can flourish. Any laws regulating the work of the media should adhere to the highest international standards on freedom of opinion and expression and allow uninhibited debate in the media, in line with principles of diversity and plurality" (A/HRC/20/17).