

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 freedom of religion or belief; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers

REFERENCE: UA
BHR 1/2015:

16 January 2015

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 freedom of religion or belief; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on minority issues pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 22/20, 25/18, and 26/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary arrest and detention of Sheikh **Ahmed Ali Al-Salman** on 28 December 2014.

Sheikh Ali Al-Salman is the Secretary General of the main opposition movement in Bahrain, "Al-Wefaq National Islamic Society", and a religious key figure in the country. In 1994, Sheikh Ali Al-Salman was reportedly arrested, tortured and detained for months without trial and then deported and forced to live in exile for over 15 years. He has been arrested and interrogated at least four times since the events of February 2011 in Bahrain.

According to information received:

On 28 December 2014, Sheikh Ali Al-Salman presented himself to the Criminal Investigation Directorate of the Ministry of Interior of Bahrain in response to a

summons that had been delivered to his home address the day prior. It is reported that the summons did not provide any information about the reasons for which his presence was requested.

Sheikh Ali Al-Salman was arrested and detained the same day by the Security forces of the Ministry of Interior on instructions of the Public Prosecution. He was held at the Criminal Investigation Directorate for the first night of his detention, after which time he was transferred to the East Riffa Police Station, where he allegedly remains detained to date.

Sheikh Ali Al-Salman's arrest comes two days after he was re-elected as the Secretary General of Al-Wefaq. It is alleged that he is being targeted by the authorities on the basis of the public expression of his political views and opinions, as a political opposition leader, a Shi'a Muslim and a religious figure. In his public speeches and televised interviews, as well as in the speech delivered at his party's General Assembly upon re-election, Sheikh Ali Al-Salman has reportedly called for the establishment of a democratic regime and the accountability of the Government before the Parliament.

Sheikh Ali Al-Salman was formally charged on 5 January 2015, and his arrest was subsequently extended for an additional period of 15 days. The charges retained against him allegedly include; (i) inciting a change of regime by non-peaceful means (art. 160, Bahrain Penal Code (BPC); penalized by up to 10 years imprisonment); (ii) inciting hatred of a segment of society against another (art. 172, BPC; penalized by up to two years imprisonment and/ or a fine not exceeding BD200); (iii) inciting others to break the law (art. 173, BPC, penalized by up to two years imprisonment and/ or a fine not exceeding BD200) and; (iv) insulting the Ministry of Interior (art. 216, BPC; penalized by up to three years imprisonment or payment of a fine).

It is further alleged that Sheikh Ali Al-Salman and his legal representative have not been provided with any meaningful opportunity to examine the evidence on record in the Public Prosecution file which are the audio or video recordings of his public speeches or televised interviews or the transcripts thereof, despite all requests made by the defense. Further, the Public Prosecution has allegedly issued a number of incriminating public statements condemning Sheikh Ali Al-Salman, including false testimonies, which has reportedly resulting in the creation of a hostile public opinion against him as evidenced by reports in the local media.

Regarding the release of Sheikh Ali Al-Salman pending trial, the first of the grievances submitted to the Chief General Attorney within the Public Prosecution was rejected without any reasons being given; the second is pending decision.

While we do not wish to prejudge the accuracy of these allegations, concern is expressed at the alleged undue restrictions on the rights to freedom of association and freedom of opinion and expression and at the alleged arbitrary arrest and prosecution of Sheikh Ali Al-Salman, on the basis of his political views, leadership position with the Bahraini opposition and his identity as a member of a religious group and as a religious figure.

The above allegations appear to be in contravention of the right not to be deprived arbitrarily of liberty 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), which Bahrain acceded to on 20 September 2006. In particular, as regards Sheikh Ali Al-Salman's legal representation, the allegations appear to be in contravention of the right to adequate time and facilities for the preparation of his defense as set forth in article 14 of the ICCPR, and principle 21 of the Basic Principles on the Role of Lawyers, which requires competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control such that the lawyers may provide effective legal assistance.

As regards the conduct of the Public Prosecution, the above allegations appear to be in contravention of the duty to ensure due process as set forth in guideline 12 of the Guidelines on the Role of Prosecutors.

The above allegations also appear to contravene the articles 18, 19 and 20 of the UDHR and 18, 19 and 22 of the ICCPR on the rights to freedom of religion or belief, free opinion and expression and free association, respectively.

We would like to refer your Excellency's Government to 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, 5, 6 and 8.

The full texts of the human rights instruments and standards recalled above are available on 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 Sheikh Ali Al-Salman 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 the detention of Sheikh Ali Al-Salman 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.
3. Please indicate what measures have been taken to ensure that individuals with dissenting political or religious views are able to carry out their legitimate work in a safe and enabling environment without fear of harassment and criminalization.

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

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Michel Forst
Special Rapporteur on the situation of human rights defenders

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers