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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)
BHR 3/2013

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Excellency,

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 Human Rights Council resolutions 16/4, 15/21, 16/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the temporary isolation of Mr. **Nabeel Rajab** from his cell in Jaw prison after having witnessed acts of torture of young detainees by police officers.

Mr. Nabeel Rajab is a well-known Bahraini human rights defender. He is Director of the Bahrain Centre for Human Rights (BCHR), President of the Gulf Centre for Human Rights (GCHR) and Deputy Secretary General of the International Federation for Human Rights (FIDH). He is currently serving a two-year prison sentence in Jaw prison after having been convicted on charges of calling for and participating in peaceful demonstrations.

Mr Rajab has been the subject of several previous communications to your Excellency's Government, most recently a joint urgent appeal sent on 24 July 2012 sent by the Working Group on Arbitrary Detention, the Special Rapporteurs on the protection and promotion of the right to freedom of opinion and expression; on the rights to freedom of peaceful assembly and of association; on human rights defenders; and on the independence of judges and lawyers. This communication mentioned allegations received that Mr Rajab had been detained on several occasions on account of his publication of critical statements and calls for peaceful demonstrations, activities which are in compliance with international human rights law. Concern was further expressed regarding Mr Rajab's health while in detention in the light of reports that he had not been

provided with access to adequate medical treatment at all times. A response was received from your Excellency's Government on 24 August 2012 providing details of the legal proceedings against Mr Rajab, although we regret that no response was provided to the alarming allegations that Mr Rajab had been denied medical aid while in detention despite suffering from serious health problems.

While we thank your Excellency's Government for the responses transmitted and take note of the content and assurances contained therein, we have since received various reports containing new allegations of a sufficiently grave nature as to warrant the reiteration of our previous concerns, as well as the our mentioning of concern regarding new issues.

According to the information received:

Mr. Rajab made a phone call on 14 May 2013 describing how he had witnessed young political prisoners being tortured at the hands of police officers in Jaw prison. According to the information received, about 7-8 young prisoners were handcuffed and severely beaten against a wall by foreign police men who stopped ill-treating them when Mr. Rajab shouted at them making it clear he had seen what was happening. Reportedly the young prisoners were bleeding very heavily and have allegedly not been seen, including by their family members, since the incident occurred..

It is alleged that on the same evening, relatives of Mr. Rajab received a telephone call stating that Mr. Rajab would not be allowed to call his family for two weeks, and that he had been removed from his prison cell by guards and not returned. Mr. Rajab reportedly attempted to reach his family members on 16 May and was cut off twice. According to the sources, Mr Rajab was visited by a family member on 20 May and he seemed, in relative good health, although his blood pressure was high. It is reported that he was temporarily isolated in order to prevent him from providing information about the incident that he witnessed.

Reports further suggest that Mr Rajab's state of health continues to be delicate. He reportedly suffers serious health problems, including high blood pressure, an irregular heartbeat and back pain, which would require him to see a consultant doctor and undergo physiotherapy treatment regularly.

While reiterating the grave concerns expressed in the previous communication to your Excellency's Government regarding the compatibility of Mr Rajab's conviction with international human rights law, very serious concern is expressed regarding Mr Rajab's physical and psychological integrity in the light of the allegations that he was temporarily isolated and forbidden to contact his relatives or legal representatives. Further concern is expressed about the information received indicating that Mr Rajab might have witnessed the torture of young detainees by police officers in Jaw prison.

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 standards that are applicable to the issues brought forth by the situation described above.

Regarding allegations received indicating that Mr. Rajab might have witnessed the torture and ill-treatment of detainees in Jaw prison and his subsequent temporary isolation, including the denial to contact his family we wish to draw your Excellency's attention to the right to physical and mental integrity of the above-mentioned person. In this regard, we would also like to draw your attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged" (adopted by the General Assembly by resolution 45/111 of 14 December 1990).

In addition, we would like to draw the attention of your Excellency's Government to the interim report to the General Assembly of 5 August 2011 (A/66/268) of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, stating that where the physical conditions and the prison regime of solitary confinement cause severe mental and physical pain or suffering, when used as a punishment, during pre-trial detention, indefinitely, prolonged, on juveniles or persons with mental disabilities, it can amount to cruel, inhuman or degrading treatment or punishment and even torture.

Regarding the allegations received indicating that 7-8 young prisoners were handcuffed and severely beaten, we would like to draw 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."

Furthermore, we would like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners (Adopted by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). Rule 22 provides that, "(s)ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers. Furthermore, Rule 25(1) provides that, "(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed" (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). In addition, we would also like to draw your attention to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 (adopted by General Assembly resolution 43/173 of 9 December 1988). The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

Regarding information received indicating that the situation of Mr. Rajab might be related to his legitimate human rights work, we would like to refer your Excellency's

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 Excellency's Government the following provisions of the Declaration, and in particular to 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.

In this regard, we refer to article 22 of the ICCPR, which provides that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

We would also like to refer to paragraph 84 (c) of the thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of associations, which calls upon States "To ensure that no one is criminalized for exercising the rights to freedom of peaceful assembly and of association, nor is subject to threats or use of violence, harassment, persecution, intimidation or reprisals."

We would also like to appeal to your Excellency's 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 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 Mr. Rajab and other detainees in Jaw prison 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? If yes, please provide information regarding the allegations indicating that a group of young detainees was ill-treated by police inside Jaw prison. .
2. Has a complaint been lodged by or on behalf of Mr Rajab or the other alleged victims?
3. Please provide the details, and where available the results, of any investigation, medical and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please explain what measures have been put in place to ensure the physical and psychological integrity of Mr Rajab and the other detainees.
5. Please provide the full details of any prosecutions which may have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please indicate whether redress and the right to fair and adequate compensation, including the means for as full rehabilitation as possible, have been provided to the victims.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit 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 Mr. Rajab and other detainees in Jaw prison 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.

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Maina Kiai
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