

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; and the Special Rapporteur on the situation of human rights defenders.

REFERENCE: UA
BHR 15/2014:

18 December 2014

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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the sentencing of Ms. Maryam Al-Khawaja, Ms. Zainab Al-Khawaja, and Ms. Ghada Jamsheer, and the detention of the latter.

Ms. Maryam Al-Khawaja is a human rights defender and the co-director of the Gulf Centre for Human Rights. **Ms. Zainab Al-Khawaja** is a human rights defender and a leading social media activist in Bahrain. Both are daughters of the co-founder of the Bahrain Centre for Human Rights (BCHR), Mr. Abdulhadi Abdulla Hubail Al-Khawaja, who has been detained since 2011,

The arrest and detention of Maryam Al-Khawaja were the subject of a previous communication sent on 3 September 2014, by the Special Rapporteur on the situation of human rights defenders; the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association (Case No. BHR 12/2014). However, we regret that no response from your Excellency's Government has been received yet.

The arrest, detention and sentencing of Zainab Al-Khawaja were the subject of previous communications sent to your Excellency's Government, the most recent dated 30 July 2013 (Case No. BHR 4/2013) and sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights to peaceful assembly and association; the Special Rapporteur on violence against women, its causes and consequences; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment. While we thank your Excellency's Government for its responses, we remain concerned about the issues raised.

Ms. Ghada Jamsheer is the head of the Women's Petition Committee, a network of Bahraini women human rights defenders who campaign for the codification and reform of Bahrain's family laws. She also works to promote women's rights and freedom of religion.

According to the new information received:

The case of Ms. Maryam Al-Khawaja:

On 18 September 2014, Ms. Maryam Al-Khawaja was released on bail after having been kept in detention since 30 August 2014. The charges which motivated her detention (an alleged assault on a lieutenant and policewoman at the Bahrain International Airport) remained. On 2 October 2014, after her travel ban was lifted, she left the country.

On 1 December 2014, Ms. Maryam Al-Khawaja was reportedly sentenced in absentia to one year imprisonment following the above mentioned charges.

The case of Ms. Zainab Al-Khawaja:

On 14 October 2014, Ms. Zainab Al-Khawaja attended a court hearing to face a charge of "destruction of government property". The latter charge was related to Ms. Al-Khawaja tearing a photograph of the King of Bahrain during a peaceful protest in 2012. While in Court after making a statement protesting against oppression of freedom of expression, she reportedly tore another photograph of the King. The judge stopped the proceedings and Ms. Zainab Al-Khawaja was arrested.

Following her protest in Court, Public Prosecution kept her in detention for 37 days. During this period, her lawyers petitioned for her release pending trial since she was not a flight risk and noting she was pregnant in her 3rd trimester

and that there would be no legal basis to keep her in custody under these circumstances. On 19 November 2014, she was released, and gave birth eight days later.

On 4 December 2014, Ms. Zainab Al-Khawaja was reportedly sentenced to three years in prison and fined with 3,000 BHD (7,900 USD) for tearing the picture of Bahrain's King during the court hearing on 14 October 2014. She paid a bail of 100 BHD (265 USD) to remain out of prison until the appeal decision, which has been set for 15 June 2015. This sentence was reportedly based on Article 214 of Bahrain's Penal Code which provides for a maximum jail term of seven years and a fine of up to 10,000 Bahraini Dinars (26,500 USD) for anyone deemed to have offended the King, Bahrain's flag, or the national emblem.

On 9 December 2014, Ms. Zainab Al-Khawaja was also sentenced to one year in prison on the charge of 'insulting a public servant' and a four months in prison for two previous charges relating to tearing pictures of the King, resulting in a total sentence of 16 months in prison. In these cases, no bail is allowed and she may face immediate arrest.

On 10 December 2014, Ms. Zainab Al-Khawaja was summoned to appear in court on 18 February 2015 for a new case brought against her. This case would involve the charges of insulting a police officer, trespassing and not cooperating with police orders in August 2014, while she was visiting Jaw prison in order to get information on her father.

The case of Ms. Ghada Jamsheer:

On 9 September 2014, at approximately 6:00 p.m., Ms. Jamsheer was summoned to appear the following day before the Interior Ministry's General Directorate of Anti-Corruption and Economic and Electronic Security. It is reported that the summons was in connection with messages that she posted on social media criticising alleged corruption in the management of the King Hamad Hospital in Bahrain.

On 10 September 2014, Ms. Jamsheer was allegedly interrogated by the General Directorate for four hours on the basis of ten complaints filed against her for posting "insulting" tweets.

On 15 September 2014, Ms. Jamsheer was arrested and held in the Isa Town Detention Centre for Women following an order by the Public Prosecution that she be detained for one week.

Ms. Jamsheer remained in detention until 29 October 2014, when she appeared before the Lower Criminal Court in three separate cases of alleged defamation. She was fined 100 Bahraini Dinar (approximately 260 USD) in one case, granted bail upon the payment of 50 Dinar (approximately 130 USD) in the second, and acquitted of the charges in the third. The court reportedly postponed the hearings in two further cases of defamation to 24 November 2014 and ordered that Ms. Jamsheer continue to be detained.

According to reports, on 27 November 2014, Ms. Jamsheer was released, and was re-arrested at her home 12 hours later on charges of “assaulting a police officer”. The alleged assault reportedly took place in September 2014, while Ms. Jamsheer was in detention. Reportedly, she was not informed of the charges prior to her re-arrest and is currently in detention in the Isa Town Detention Centre for Women.

Grave concerns are expressed at the sentencing of Ms. Maryam Al-Khawaja, Ms. Zainab Al-Khawaja and the imminent detention of Ms. Zainab Al-Khawaja, as these might be linked to their peaceful and legitimate activities advocating for human rights in Bahrain and to their exercise of the right to freedom of expression. Further concern is expressed that the sentencing of Ms. Maryam Al-Khawaja might be an act of reprisal due to her cooperation with the United Nations and its human rights mechanisms. Further, serious concern is expressed about the reported detention of Ms. Jamsheer, which appears to be in contravention of the right not to be deprived arbitrarily of her liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), a treaty that was ratified by Bahrain in 2006; and of the legitimate exercise of her rights to freedom of opinion and expression, as provided for in Article 19 of the ICCPR

The reported sentencing of Ms. Maryam Al-Khawaja and Ms. Zainab Al-Khawaja seem to indicate a prima facie violation of the rights to freedom of opinion and expression and to freedom of association, as set forth in articles 19 and 22 of the ICCPR.

In particular, with reference to the criminalization of offences against authorities and symbols established in Articles 214 and 216 of Bahrain’s Penal Code we would like to refer you Excellency’s Government to the Human Rights Committee’s general comment No. 34, which concludes that the mere fact that forms of expression are considered to be insulting to a public figure, including those exercising the highest authority, is not sufficient to justify the imposition of penalties.

We would also like to refer 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 and 6.

Furthermore, Human Rights Council resolution 24/24 calls on States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its mechanism and representatives in the field of human rights.

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 Ms. Maryam Al-Khawaja, Ms. Zainab Al-Khawaja and Ms. Ghada Jamsheer.

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 sentencing of Ms. Maryam Al-Khawaja and Ms. Zainab Al-Khawaja, as well as the detention and sentencing of Ms. Ghada Jamsheer and how these measures are compatible with Bahrain's international obligations, in particular concerning the rights to freedom of association and freedom of opinion and expression, as well as the right not to be arbitrarily deprived of their liberty, as enshrined in the UDHR and the ICCPR.
3. Please provide information on the compatibility of the national legislation, in particular articles 214 and 216 of the Penal Code, with Bahrain's international human rights obligations, including the ICCPR.
4. Please kindly indicate what measures have been taken to ensure that women human rights defenders in Bahrain are able to carry out their legitimate work in a safe and enabling environment without fear of 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.

We are intending to publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release

will indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

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
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Michel Forst
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