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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

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

REFERENCE: UA /2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
BHR 8/2012

5 October 2012

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; 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 pursuant to Human Rights Council resolutions 16/4, 15/21, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the sentencing of human rights defender and blogger Ms. **Zainab Al-Khawaja**.

Ms. Zainab Al-Khawaja was the subject of a number of previous communications sent to your Excellency's Government, the most recent dated 20 January 2012 and sent on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 or punishment, regarding the alleged excessive use of force during peaceful demonstrations and targeted measures against Ms. Al Khawaja. We acknowledge the reply sent by your Excellency's Government on 21 March 2012 in relation to this communication.

According to the information received:

Ms. Zainab Al-Khawaja was arrested on 2 August 2012, while protesting alone at Al Qadam roundabout in Manama, against the detention of her father Mr. Abdulhadi Al-Khawaja. During her arrest, police officers reportedly verbally assaulted her and threatened her with reprisals when she refused to give a blood sample. Ms. Al-Khawaja was transported to Fort Prison Hospital and subsequently to Isa Town Detention Centre, where she remained in handcuffs, despite a reported serious leg injury sustained from a previous incident, when she was allegedly shot by security forces using tear gas canisters at close range.

On 4 September, Ms. Al-Khawaja's trial began in the Lower Criminal Court in Manama, where charges of "damaging property belonging to the Ministry of Interior" were presented, relating to an incident which occurred in May 2012 while Ms. Al-Khawaja was in detention. On 26 September, the activist was sentenced to two months imprisonment in relation to this charge and was reportedly released on 4 October.

Sources indicate that a total of thirteen cases have been filed against Ms. Al-Khawaja, eight of which are in court and include charges of "illegal gathering" and "inciting hatred against the regime". Five of the cases are reportedly being investigated by the Public Prosecution. Ms. Al-Khawaja is to appear again in court on 10 and 16 October and 1 November to face these charges.

Concern is expressed that the further charges which remain against Ms. Zainab Al-Khawaja, and her arrest and sentencing may be related to the legitimate exercise of her rights to peaceful assembly and freedom of expression. Serious concern is also expressed that Ms. Al-Khawaja's further charges and sentencing form part of an alleged continued campaign of judicial harassment to intimidate and silence human rights defenders in Bahrain.

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 International Covenant on Civil and Political Rights (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."

We would further like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in 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 interest of

national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.”

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that “Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... 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.” The Special Rapporteur on the rights to freedom of peaceful assembly and of association further refers to paragraph 84 of his thematic report A/HRC/20/27 in which he calls upon States “[t]o 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.”

In this connection, we would also 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:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; and

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

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. Zainab Al-Khawaja 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?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place or the results have proved inconclusive, please explain why.
4. Please provide the legal basis for the continued extension of Ms. Zainab Al-Khawaja's detention from her initial arrest on 2 August 2012 until her sentencing on 26 September.
5. Please indicate what measures have been taken to ensure that the legitimate right to meet and assembly peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.
6. Please indicate what measures have been taken to respond to the protesters' demands for greater respect for human rights and for the release of prisoners who have allegedly been targeted for the sole exercise of their rights to freedom of expression and of peaceful assembly.

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 Ms. Zainab Al-Khawaja 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
Special Rapporteur on the rights to freedom of peaceful assembly and of
association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders