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**UNITED NATIONS**  
**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 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; 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 the independence of judges and lawyers.**

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (3-3-16)  
BHR 6/2012

24 July 2012

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 the situation of human rights defenders; and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 15/18, 16/4, 15/21, 16/5, and 17/2.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the detention and forthcoming trial and sentencing of Mr. **Nabeel Rajab**, 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).

Mr. Rajab has been the subject of a number of communications, the most recent of which was an urgent appeal dated 9 September 2011, sent by the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; 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; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. We wish to thank the Government of the Kingdom of Bahrain for transmitting a response to the aforementioned urgent appeal.

According to the information received:

On 2 June 2012, Mr. Rajab posted comments via Twitter, an online social networking and micro-blogging service, which were directed at the Prime

Minister of Bahrain, who was visiting the town of Muharraq. Mr. Rajab further called upon the Prime Minister to resign, stating that the people of Muharraq had only welcomed him as they had received State subsidies.

Between 6 and 27 June 2012 Mr. Rajab was detained, as the Public Prosecutor took the decision to remand him in custody while pursuing investigations into the case. The decision was allegedly taken following accusations against Mr. Rajab by the residents of Muharraq of “publicly vilifying Muharraq citizens and questioning their patriotism with disgraceful expressions posted via social networking sites”.

On 9 July 2012, reports suggest that Mr. Rajab was forcibly arrested at his home by police officers following a court hearing and a verdict. On the same day, the Fifth Lower Criminal Court sentenced him to three months in prison on charges of alleged libeling of the residents of the town of Al Muharraq. It has been alleged that the libel case against Mr. Rajab was filed in the name of Muharraq citizens by individuals who are part of or are affiliated with the Government.

Two appeals have reportedly been filed against the verdict. The first appeal contained a request for the suspension of the sentence, which was rejected by the judge, and the second requested a reduction of the sentence to community work in accordance with article 371 of the Bahraini Criminal Code. It is reported that libel cases are usually penalized with fines issued by courts, and not with imprisonment sentences. The first hearing of the second appeal before the Higher Appeal Court, which was initially scheduled to take place on 18 July 2012, has been postponed to 24 July 2012. The court refused to release him on bail.

It has been reported that Mr. Rajab was also detained between 5 and 28 May 2012 in relation to another case under which he was accused of “insulting the statutory bodies” via Twitter, who were “participating in an illegal assembly” and “calling others to join” through social networking sites. On 5 May 2012, Mr. Rajab was reportedly arrested by police officers on the basis of an order issued by the Public Prosecutor upon his return to the country from abroad. Neither Mr. Rajab nor his lawyers were informed of the reason for his arrest until he was presented before the Public Prosecutor on the following day. On 6 May 2012, Mr. Rajab was charged by the Criminal Court of First Instance in Manama with “incitement to illegal demonstrations by means of social media networking”. He was released on bail on 28 May 2012 after three weeks in detention. On 27 June 2012, the Court issued a final verdict to the effect that he had “insulted statutory bodies” and ordered him to pay a fine of 300 Bahraini dinars.

It is reported that Mr. Rajab is facing two additional trials, one for “participation in illegal gathering and calling for a march without prior notification in Manama”, and another trial related to charges of “involvement in illegal practices and incitement to gatherings and calling for unauthorized marches through social

networking sites”, that he could be sentenced to imprisonment on those charges. The trials for both cases are scheduled to take place on 26 September 2012.

According to the information received, Mr. Rajab is currently being held at the central prison in Jaw under harsh conditions. Reports also suggest that he has been denied medical aid despite suffering serious health problems, including high blood pressure, an irregular heartbeat and back pain. His family members and lawyers have reportedly not been allowed to visit him.

Further reports suggest that several requests to hold peaceful demonstrations in the past weeks have been denied by the relevant authorities, with alleged use of excessive force being employed against demonstrators participating in unauthorized demonstrations.

Concerns are expressed that the detention and trials of Mr. Rajab are directly related to his legitimate exercise of his right to freedom of expression and of peaceful assembly and his legitimate work in defense of human rights. In this connection, serious concerns are expressed regarding the alleged political motivation behind the charges, as well as the fairness and transparency of the trial. Concern is also expressed regarding the physical and psychological security and integrity of the subject of this communication. Further concern is expressed that the case of Mr. Rajab forms part of a pattern of an ongoing and escalating campaign aimed at silencing individuals who express criticism of public authorities and dissenting views, and that his arrest is part of an ongoing campaign of judicial harassment aimed at preventing him and other human rights defenders from continuing their legitimate and peaceful human rights work.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Rajab is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with 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).

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 this connection, we wish also to draw the attention of your Excellency's Government to the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with article 19, paragraph 3 of the ICCPR, including

on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Furthermore, with regard to the reported charges of libeling and defamation, we would like to draw the attention of your Excellency's Government to the principle enunciated in the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, as endorsed in E/CN.4/1996/39 of 1996, which affirms that no one may be punished for criticizing or insulting the nation, the State or its symbols, the Government, its agencies, or public officials, or a foreign nation, State or its symbols, Government, agency or public official unless the criticism for insult was intended and likely to incite imminent violence.

We would 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 International Covenant on Civil and Political Rights, which provides that "[t]he 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 "[c]alls 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."

Concerning the accusations related to "participation in illegal gathering and calling for a march without prior notification", we wish to draw the attention of your Excellency's Government to the report A/20/27 of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, which states that "Should the organizers fail to notify the authorities, the assembly should not be dissolved automatically ... and the organizers should not be subject to criminal sanctions, or administrative sanctions resulting in fines or imprisonment." (para. 29).

In this connection, 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:

- 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 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; and

- article 12 paragraphs 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.

We would also like to refer your Excellency's Government to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, and in particular to the Principle 6, which states that “the principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.”

Moreover, we would like to draw the attention of your Excellency's Government to Principle 12 of the Guidelines on the Role of Prosecutors, which states that "Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system, as well as to Principle 13, which provides that "In the performance of their duties, prosecutors shall: (a) Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination; (b) Protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect".

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 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 summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Rajab?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide information concerning the legal grounds for the arrest and detention of Mr. Rajab and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
5. Please indicate the legal justification for the alleged charges to be imposed on Mr. Rajab, and please indicate how this complies with the standards developed under international law, including the right to freedom of opinion and expression and the right to freedom of peaceful assembly.
6. Please indicate what measures have been taken to ensure that human rights defenders and civil society activists can operate in an enabling environment

and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

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 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.

El Hadji Malick Sow  
Chair-Rapporteur of the Working Group on Arbitrary Detention

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Maina Kiai  
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