

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on violence against women, its causes and consequences; and the Working Group on the issue of discrimination against women in law and in practice

REFERENCE:
AL BHR 8/2016

12 December 2016

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on violence against women, its causes and consequences; and Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolutions 24/5, 24/6, 25/18, 32/19 and 15/23.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of continuous detention and judicial proceedings against a woman human rights defender, Ms. Ghada Jamsheer, which appear to be related to her legitimate human rights activities and represent criminalization of the exercise of her right to freedom of expression, including on the Internet.

Ms. **Ghada Jamsheer** is a woman human rights defender and the head of the Women's Petition Committee. The Committee is a network of Bahraini women human rights defenders, who campaign for gender equality in society. She is a writer and blogger who has been banned from writing for Bahraini national media since 2005, and had to stop blogging on her online page (<http://bahrain-eve.blogspot.ch>) as it has been blocked on Bahraini Internet servers since 2009. Ms. Jamsheer also published a book in 2005, entitled "The Executioner and the Victim in Sharia Courts", in which she compiled cases of women who were victims of human rights violations before Sharia courts in Bahrain.

Ms. Ghada Jamsheer was the subject of previous communications dated 18 December 2014, case no. BHR 15/2014 (A/HRC/29/50); dated 25 October 2007, case no. BHR 7/2007; and dated 13 June 2005, case no. BHR 2/2005. While acknowledging the Government's reply to the communication dated 13 June 2005, we deeply regret that no response has been received with regard to other, more recent communications.

According to the information received:

Since September 2014, Ms. Ghada Jamsheer has been subjected to judicial proceedings, which are based on the accusations of defamation relating to messages, which she posted via her social media account, criticising corruption in the management of the King Hamad Hospital in Manama, Bahrain. Ms. Jamsheer has twelve charges against her in relation to this case.

On 14 September 2014, Ms. Jamsheer was arrested and detained for more than three months, which evolved into twelve criminal charges for her social media posts. On 29 October 2014, the Third Criminal Court acquitted Ms. Jamsheer in one case, fined her 100 BHD (approx. 265 USD) in another case, and granted bail upon the payment of 50 BHD (approx. 132 USD) pending the decision on the other social media cases. However, she was not released until 27 November 2014. She was then re-arrested 12 hours later on new charges of “assaulting two police women” in relation to a confrontation that allegedly took place during her arrest in September 2014. She was again released on 15 December 2014, and further put under house arrest until 15 January 2015.

On 14 March 2015, Ms. Jamsheer was prevented from leaving the country at the Bahrain International Airport by security authorities, following an order of the Prosecutor General. She did not receive any written notification about the said travel ban.

On 5 May 2015, the High Criminal Court sentenced Ms. Jamsheer to a one-year prison term, suspended for three years, on charges of “assaulting a police officer”. The High Criminal Appeal Court upheld the judgement on 26 November 2015.

On 9 June 2015, the Third Lower Criminal Court sentenced Ms. Jamsheer to one year and eight months imprisonment on charges of defamation in connection with the corruption-related posts on social media. She paid a bail of 400 BHD (approx. 1,060 USD) and filed an appeal against the decision.

On 18 January 2016, the Third Criminal Superior Court of Appeal sentenced her to two terms of two months in prison each and a 100 BHD fine (approx. 265 USD) on charges of defamation in relation to the case.

On 30 January 2016, the High Criminal Appeal Court sentenced Ms. Jamsheer to 3 months in prison under the same defamation charges. Later, on 8 March 2016, she was further sentenced to additional three months in prison, under the same charges. The sentence, amounting to a total of 10 months in prison, was upheld by the Second High Criminal Court of Appeal on 22 June 2016.

On 15 August 2016, Ms. Jamsheer was arrested at the Bahrain International airport upon her return from London, where she had received specialized medical treatment for [REDACTED]. Subsequently, she was transferred directly to the Isa Town Detention Centre for Women in Manama. The current detention is believed to be based on the three-month prison term as part of her ten-month appeal sentence, announced on 22 June 2016.

Ms. Ghada Jamsheer requires specialized medical treatment and it is reported that access to such a treatment has been denied while in detention. Absence of such treatment has led to serious deterioration of her health status. In that respect, Ms. Jamsheer requested a hearing before Manama’s High Criminal Court of

Appeal in hope to be granted community service instead of jail term, in order to receive adequate healthcare.

On 7 November 2016, Ms. Jamsheer appeared before Manama's High Criminal Court of Appeal to request community service on medical grounds. Following the hearing on 7 November, Ms. Jamsheer was returned to Isa Town women's prison, where conditions are reportedly unsanitary. Despite reassurances that she would receive the decision within a week, Ms. Jamsheer was waiting to hear from the court at the time of this communication.

Serious concern is expressed at the repeated arrests and continued detention of Ms. Ghada Jamsheer, which appears to be motivated by her legitimate human rights activities and exercise of her rights to freedom of expression on the Internet. We express equal concerns at the continuous persecution and legal proceedings, including the use of travel ban against Ms. Jamsheer, which seem to be aimed at silencing and intimidating this woman human rights defender. We also express concerns about the broader implications of these actions which impacts the general public's right to access, share and impart information and to actively participate in debates about issues of public interest.

Further concerns are expressed at the worsening health of Ms. Jamsheer whilst in detention, given her health condition requiring specialized care and the reported lack of access to such care. We reiterate our concerns at the disproportionate restrictions placed on Ms. Jamsheer's right to freedom of expression and association through the general ban in force since 2005 against her writing in national media and the blocking of her online blog since 2009.

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

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the legal basis for the repeated arrests and continued detention of Ms. Ghada Jamsheer, and explain how these actions are compatible with Bahrain's obligations under international human rights law. In particular, please provide information about the evidence used to charge Ms. Jamsheer with the crime of defamation and assault of police

officer, and explain how the implementation of these provisions is compatible with international human rights law.

3. Please provide information about the legal basis for the issuance of the travel ban against Ms. Jamsheer and explain how this is compatible with Bahrain's obligations under international human rights law. Please also explain why Ms. Jamsheer was not notified about the existence of and reasons for the travel ban.
4. Please provide information concerning the provision of adequate and timely specialized healthcare for Ms. Jamsheer, given her health condition and the deteriorating status of her health.
5. Please provide information about the legal basis for the general ban against Ms. Jamsheer's right to publish her opinions in Bahraini national media as well as the legal basis for the blocking of her blog. Please explain how these actions are compatible with Bahrain's obligations under international human rights law, in particular with the criteria of legality, necessity and proportionality under article 19(3) of the ICCPR.
6. Please indicate what measures have been taken to ensure that human rights defenders **in Bahrain**, including women human rights defenders, are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation, harassment and prosecution of any sort.

We would appreciate receiving a response within 60 days.

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(s) responsible for 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.

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Michel Forst
Special Rapporteur on the situation of human rights defenders

Dubravka Šimonovic
Special Rapporteur on violence against women, its causes and consequences

Alda Facio
Chair-Rapporteur of the Working Group on the issue of discrimination against women in
law and in practice

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to refer you Excellency's Government to articles 9, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Bahrain on 20 September 2006, which guarantee the rights to liberty and security of person and states that no one shall be subjected to arbitrary detention; of freedom of opinion and expression and freedom of peaceful assembly and of association, respectively.

In relation to the right to freedom of opinion and expression, as guaranteed by article 19 of the ICCPR, we reiterate that any restriction to freedom of expression must meet the criteria set out in article 19(3), that is, be necessary, proportionate and prescribed by law. Criminal sanctions, in particular imprisonment for defamation is not deemed proportional with an effective exercise of the right to freedom of expression. In this respect we reiterate the recommendations made in the report E/CN.4/2000/63. We also refer to the Human Rights Committee's General Comment 34, which states that in the context of political discourse, involving public figures, the value placed by the Covenant upon uninhibited expression is particularly high. The mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties (CCPR/C/GC/34).

We would also like to draw your attention to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that "[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and 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".

We further wish 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone 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;

We would further like to draw the attention of your Excellency's Government to the Human Rights Council resolution 12/16, calling on States to recognize the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society, and providing 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 paragraph 3 of that article, 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.

We would like to draw your attention to General Assembly resolution 68/181 as well as Human Rights Council resolution 31/32, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders (OP5, 19 and 20).