

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 6/2017

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 33/30, 26/12, 34/18, 32/32 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 **alleged killing of at least five individuals, including one human rights defender, injuries sustained by dozens of protestors and the arbitrary detention of at least 286 individuals, in the context of protests organized in the city of Duraz, Bahrain.**

Allegations about violent repression of protests in Duraz as well as allegations about judicial harassment against Mr. Isa Qassim related to his political activism, were the subject of a previous communication sent to your Excellency's Government on 22 May 2017 (case no. BHR 5/2017). We trust that the Bahraini authorities will send a response to our allegations within the prescribed 60-day period.

Mr. Qassim was also the subject of a previous communication sent on 10 August 2016, reference A/HRC/34/75, case no. BHR 5/2016. We thank your Excellency's Government for the replies received on 13 September and 22 September 2016, respectively. Nevertheless, we remain concerned about his situation.

On 20 June 2016 mass protests started in Duraz after news broke of the revocation of citizenship by Bahraini authorities of Sheikh Issa Qassim, Bahrain's Shia leader, leaving him stateless. Responding to reports of the authorities' intention to forcibly deport him, the protesters staged an open sit-in in front of Mr. Qassim's house in Duraz to protect him from detention and deportation, which continues to date.

According to the new information received:

Over the past few months, despite the alleged attempts by security forces to limit participation in the above-mentioned sit-in, notably by issuing statements threatening protesters, restricting access to the city and summoning and arresting the protestors, the movement has increased.

On 21 May 2017, Mr. Issa Qassim was reportedly convicted on charges of money laundering and sentenced to a one-year suspended prison term and a fine of 100,000 Bahraini dinars. This sentence triggered further protests.

On 23 May 2017, a large contingent of security forces was sent into Duraz to disperse protestors. Security forces allegedly used tear gas and firearms, such as shotguns equipped with birdshot and lethal antipersonnel weapons (submachine guns). It has also been reported that hundreds of security vehicles and helicopters were used against protestors. Moreover, security forces reportedly entered Mr. Qassim's home and deployed tear gas and fired shots inside the house.

The Ministry of the Interior, under which the security forces operate, took responsibility through a public posting on Twitter for the use of force in Duraz. The Ministry claimed that "[T]he security intervention was launched to impose security and public order after the area had become a refuge for individuals wanted in security cases and fugitives from justice" who "occupied the city of Duraz as a shelter for themselves". Security forces operating in Bahrain consist of riot police (colloquially known by the same term in Bahrain, "(shurṭat) ash-shagab" but formally titled quwwat al-amn al-khaṣṣah, the Special Security Forces) and as-yet-unidentified military or paramilitary forces wearing entirely black body armour and balaclavas and armed with submachine guns.

As a result of the use of lethal force by security forces, at least five protestors were killed: Mr. Mohamed Khadem Muhsin Ali Nasir (44 years old), a well-known environmental human rights defender, Mr. Mohamed Ali Ebrahim Ahmed Kadhem Ahmed (28 years old), Mr. Ahmed Jamil Ahmed Mohamed al-Usfoor (34 years old), Mr. Mohamed Ahmed Hasan Mohamed Hamdan (22 years old) and Mr. [REDACTED] years old).

The Government confirmed five deaths in the context of security operations in Duraz, naming the first four individuals mentioned above. It stated that "five cases of death occurred among the ranks of the lawbreakers" and claimed that they resulted from resistance from protestors using weapons such as "iron spikes" and "hand grenades".

It has been reported that, over a hundred protestors have been wounded and many are reportedly at risk of not receiving adequate health care due to a long-term policy of questioning and/or detaining injured protestors who are treated in public hospitals.

According to the Ministry of the Interior, at least 50 individuals “wanted for security reasons” were detained after they “took shelter in Isa Qassim’s house” at the end of May 2017. In total, and also according to the Ministry of the Interior, at least 286 people have been detained in Duraz, including Mr. Diyaa Saeed al-Usfoor and Mr. Adil al-Marzuq, known as a rights activist in Bahrain. Both individuals have been held *incommunicado*. The latter was summoned to a Criminal Investigations Directorate building in Muharraq, reportedly a site of torture which is now used as a facility by the National Security Agency. Mr Adil al-Marzuq has subsequently been released. However, many other protestors remain detained, including Mr. Husain Abd Ali Yaaqub Yusuf al-Fatlawi, Mr. Qusay Khalil Ahmed, Mr. Ishaq Muhsin Jaafar Yusuf al-Durazi, Mr. Ali Mohamed Jawad al-Marzuq, Mr. Mahdi Isa Ali Abdulla al-Ajami and Mr. Musa Said Salman Hilal. All these six individuals have been held *incommunicado*.

Bahrain authorities have impeded all movement in and out of Duraz by closing the two checkpoints they controlled for months, which were the only accessible entry/exit points. This measure was also acknowledged on Twitter as a means to capture “fugitives from justice” seeking “shelter” in Duraz who now need to pass through security lines to enter the village.

We express grave concern about the allegations of excessive use of force by security forces - including military and paramilitary forces - in the context of peaceful protests, leading to the unlawful killings of at least five individuals, and injuring of dozens of individuals since the beginning of the sit-in in Duraz. We express equal concern at the allegations of arrests and detention of numerous protestors in locations where they are reportedly being subjected to torture and other ill-treatment. We also express concern about the restriction of movement into and out of Duraz in recent months. We reiterate our concerns at the broader effect of this form of criminalization of the right to freedom of peaceful assembly and freedom of expression, which has a detrimental effect on civil society as a whole, in particular on dissenting and critical voices.

Without making any judgment as to the accuracy of the information made available to us, the above allegations appear to be in contravention of the right of every individual to life, liberty and security as set out in article 6(1), as well as the rights to freedom of expression and freedom of peaceful assembly guaranteed under article 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Bahrain on 20 September 2006. The Human Rights Committee, in its General Comment

No. 31, stated that there is a positive obligation on States Parties to ensure the protection of the rights contained in the Covenant against violations by its agents.

We would also like to draw the attention of your Excellency's Government to the Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In particular, principle 12 of the Basic Principles provides that "everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the ICCPR. Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14." These provisions restrict the use of firearms to situations of violent assemblies and provide that force and firearms may only be used as a last resort when unavoidable and require exercising the utmost restraint. In addition, pursuant to principle 5(c), law enforcement officials should ensure the provision of timely medical assistance to anyone injured as a result of the use of force or firearms.

Moreover, the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, recall the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. As also confirmed by the Human Rights Committee in its General Comment No. 31, a failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

We would further like to remind your Excellency's Government of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Bahrain ratified on 6 March 1998, and article 7 of the ICCPR. In particular, article 12 of the CAT requires the competent authorities to undertake a prompt and impartial investigation whenever there are reasonable grounds to believe that torture has been committed, and article 7 requires States parties to prosecute suspected perpetrators of torture.

With regard to the alleged incommunicado detention, we would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly Resolution 68/156 (February 2014), which, "[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished"

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the above-mentioned persons is arbitrary or not, we would like

to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 14 of the ICCPR.

We would further like to refer to the joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary providing practical recommendations for the proper management of assemblies (A/HRC/31/66).

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 its articles 1, 2 5 and 6, and refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.

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 the above-mentioned persons in compliance with international instruments.

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. Has a complaint been lodged on behalf of the victims?
3. Please provide details, and where available, the results of any investigation and judicial or other inquiry undertaken in relation to these allegations, especially in relations to the allegations of unlawful killings in the context of operations in Duraz, including Mr. Mohamed Khadem Muhsin Zain Aldeen, Mr. Mohamed Ali Ebrahim Ahmed Kadhém Ahmed, Mr. Ahmed Jamil Ahmed Mohamed al-Usfoor, Mr. Mohamed Ahmed Hasan Mohamed Hamdan and Mr. [REDACTED]. If no

inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide details, and where available, the results of any investigation and judicial or other inquiry undertaken in relation to allegations of torture and ill-treatments, arrests and detentions of civilians. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide information on the legal basis for the arrest and detention of Mr. Diyaa Saeed al-Usfoor and Mr. Adil al-Marzuq and the other individuals detained and how these measures comply with Bahrain's international obligations, in particular articles 9, 19, 21 and 22 of the ICCPR.
6. Please provide information on the charges brought against Mr. Isa Qassim and on the circumstances leading to the revocation of his citizenship.
7. Please provide information about the directives issued by the Government to law-enforcement personnel concerning the precise circumstances in which the use of lethal force is authorized, and indicate how these directives comply with the international human rights obligations of Bahrain under the ICCPR, as well as the requirements of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
8. Please explain what measures have been taken to ensure that peaceful protestors and human rights defenders in Bahrain can carry out their peaceful and legitimate activities and express and protest freely without fear of harassment, stigmatization or criminalization of any kind.

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.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the cases through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no

way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

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David Kaye
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