

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 human rights of migrants; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on the promotion and protection of human rights while countering terrorism; and the Special Rapporteur on the right to education.

REFERENCE:
UA BHR 10/2017

18 August 2017

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; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on the promotion and protection of human rights while countering terrorism; and Special Rapporteur on the right to education, pursuant to Human Rights Council resolutions 34/18, 33/9, 34/21, 34/35, 31/3 and 26/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the adverse situation and the violations of human rights of Qatari migrants in the Kingdom of Bahrain, as well as Bahraini migrants in the State of Qatar as a result of the Kingdom of Bahrain government's decision to suspend ties with the State of Qatar, particularly their right to movement and residence, family unity, education, work, freedom of opinion and expression, health and the right to property**, without discrimination on any basis.

According to the information received:

On 5 June 2017, the Kingdom of Bahrain severed ties with the State of Qatar. This involved the closure of air, land, and sea routes, in relation to both trade and migrant residents. Qatari nationals were ordered to leave the Kingdom of Bahrain within 14 days, whilst Bahraini citizens were given the same timeframe to leave the State of Qatar. An estimated 2,349 Bahraini nationals are allegedly residing in the State of Qatar. This order has threatened the most vulnerable groups, including women, children, persons with disabilities and older persons. The Government of Qatar has reportedly not taken action against Bahraini citizens.

Mixed-citizenship families have been affected and the order has caused Bahraini-Qatari families to be separated, with approximately 401 Qatari women married to Bahraini men, as well as approximately 944 Qatari men married to Bahraini

women. This order threatens to leave children, women, older persons, sick and persons with disabilities separated and in loss of support and income. Bahraini nationals living in Qatar married to Qatari women are forced to return to Bahrain, leaving behind their families and quit their work with no source of income or compensation. Furthermore, the Kingdom of Bahrain has allegedly limited the citizens and residents of the State of Qatar from undertaking financial transfers and postal transactions, thereby blocking financial transfers to dependent family members, including women and children. It is alleged that Bahraini nationals fear revocation of their passports if they remain in Qatar.

On 11 June 2017, the Kingdom of Bahrain issued a royal order to take into account the humanitarian situation of mixed Bahraini-Qatari families who were affected by the ban. However, no implementation mechanism has been indicated. Furthermore, there has been no compensation or alternatives offered to families and individuals who have had their human rights violated and been affected by the blockade.

Bahraini nationals working in the State of Qatar, as well as Qatari nationals working in the Kingdom of Bahrain risk losing their jobs following the issued instructions by the Bahraini authorities to leave their jobs and return to their homeland. Individuals who are dependent on the travel between Qatar and the Kingdom of Bahrain have also reportedly been affected. For those completely financially reliant on the flow between both countries, this order has led to a cutting of their only source of income. For example, business owners have allegedly had their income levels affected as a result of the halt of trading convoys, and the expiration of large quantities of food or health supplies. Reportedly, Bahraini nationals working in the public and private sectors in Qatar have also been forced to return to the Kingdom of Bahrain resulting in the loss of employment without compensation. Similarly, Qatari nationals working in the Kingdom of Bahrain have also lost their employment without compensation.

Furthermore, migrant workers relying on free movement between both countries have allegedly lost their jobs and proper compensation has not been ensured. Individuals who own factories in the Kingdom of Bahrain and who supply their produce across the border to the State of Qatar have also experienced alleged losses following the severed trade route.

Bahraini migrants in the State of Qatar working in media outlets have allegedly been pressured to resign from their jobs by the Kingdom of Bahrain. Those who have not yet submitted their resignation have allegedly been pressured to do so by the Bahraini authorities. In addition, the Kingdom of Bahrain has reportedly imposed penalties of up to 5 years' imprisonment for "sympathizing" with Qatar, including on social media.

Qatari migrant students in the Kingdom of Bahrain and Bahraini migrant students in the State of Qatar pursuing their studies in schools or universities have been prohibited from doing so because of the order asking them to leave their country of residence. Bahraini students in the State of Qatar have had their exams postponed to allow for them to take their exams at a later date. This has allegedly not been the case for Qatari nationals studying in the Kingdom of Bahrain, who have been unable to complete their exams and obtaining educational documents from their university in the Kingdom of Bahrain.

As a result of the order for Bahraini nationals to leave Qatar, Bahraini migrants, including children, older persons or persons with disabilities, in need of specialised or with ongoing treatment in hospitals in the State of Qatar, have allegedly been asked to return to the Kingdom of Bahrain. Similarly, Qatari migrants residing in the Kingdom of Bahrain have allegedly had their treatments halted and their health subsequently impacted.

Given the harm this order has on thousands of Qatari residents in the Kingdom of Bahrain and Bahraini residents in the State of Qatar, we consider the alleged situation of extreme gravity. Serious concerns are expressed at the numerous rights being infringed, including the right to movement and residence, family reunification, education, work, freedom of expression, health, and the right to private property, without discrimination on any basis.

In connection to the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government's to its obligations under International Law. We would like to recall that, while States have a sovereign right to determine conditions of entry and stay in their territories, they also have an obligation to respect and protect the human rights of all individuals under their jurisdiction, regardless of their nationality, origin or immigration status.

We would like to bring to the attention of your Excellency's Government Article 7 of the Universal Declaration of Human Rights (UDHR) that states that 'All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.' We would also like to remind your Excellency's Government that the enjoyment of the rights guaranteed in the International Covenant on Civil and Political Rights (ICCPR), to which the Kingdom of Bahrain acceded on 20 September 2006, stipulates in its Article 2 that 'Each State party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'.

We would furthermore like to stress the obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, to which the Kingdom of Bahrain acceded on 27 March 1990. The Convention condemns racial discrimination, “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life” (Article 1). In addition, Article 2 requires States to “pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms”. Each State Party undertakes to “engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation”.

We would also like to draw the attention of Your Excellency’s Government to Article 17 of the ICCPR, more specifically the right to own property, as well as Article 19, guaranteeing the right to freedom of opinion and expression, which includes the right of everyone ” 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’. This right applies to “everyone” regardless of their citizenship or any other status. Its guarantee regardless of frontiers is further stipulated in Article 32 of the Arab Charter on Human Rights (ACHR), ratified by your Excellency’s Government on 18 June 2006.

Furthermore, we would like to draw your attention to the International Covenant on Economic, Social and Cultural Rights (CESCR), to which your Excellency’s Government acceded on 27 September 2007, which provides for the enjoyment of economic, social and cultural rights, including the rights to work, to free choice of employment, and to protection against unemployment; the right to housing; the right to public health, medical care, social security and social service and the right to education and training. In that connection, we would further like to draw your Excellency’s Government attention to the General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which provides that the right to health contains both freedoms and entitlements and holds that States are required to respect, protect and fulfil the right to health. In particular, the obligation of the State to respect the right to health requires it to refrain from enforcing discriminatory practices, denying or limiting equal access for all persons, including minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services (para 33). Regarding the right to work, please note that ACHR, articulates the right to work in Article 34, which provides for the freedom to work and equality of opportunity without discrimination of any kind as to any statuses, including national origin. It states that every worker has the right to enjoy “just and favourable conditions of work”, and every State Party shall ensure protection to workers migrating to its territory in accordance with the laws”.

Furthermore, we would like to refer Your Excellency's Government to article 13 of the ICCPR, which provides that "An alien lawfully in the territory of a State Party to the present Covenant may be expelled there from only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority."

We would also like to draw the attention of Your Excellency's Government to article 12 (2) of the International Covenant on Civil and Political Rights, which provides that "Everyone shall be free to leave any country, including his own", and Article 13(2) UDHR which states that "Everyone has the right to leave any country, including his own, and to return to his country". Your Excellency's Government has further obligations under the ACHR's Article 26 that provides that "every person lawfully within the territory of a State Party shall, within the territory, have the right to liberty of movement and freedom to choose his residence in accordance with applicable regulations". Article 27 further articulates that "no one shall be arbitrarily or unlawfully prevented from leaving any country, including his own, nor prohibited from residing, or compelled to reside, in any part of his country". Everyone shall, as articulated in Article 30, have the freedom to manifest or practice one's religion or beliefs or to perform rituals. Article 31 provides everyone with "a guaranteed right to own private property". It further provides that "no person shall under any circumstances be divested of all or any part of his property in an arbitrary or unlawful manner".

Further, we would like to refer to Article 10(1) CESC, which states 'the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society' and Article 12 UDHR and Article 17 ICCPR, which stipulate that 'no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation'. Furthermore, Article 10 of the Convention on the Rights of the Child, to which the Kingdom of Bahrain acceded to on 13 February 1992, which establishes, inter alia, that "applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by State Parties in a positive, humane and expeditious manner". This should be read in the light of Article 3 of the Convention which provides that the best interests of the child shall be a primary consideration. Moreover, Article 9 of the Convention on the Rights of the Child provides that States Parties "shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child". The aforementioned rights are raised again in the ACHR. It states in Article 33 that the family is the natural and fundamental unit of society. The State and society are obliged to provide for the protection of the family and its members,

for the strengthening of its bonds. They undertake to provide outstanding care and special protection for mothers, children and the elderly. Young persons have the right to be ensured “maximum opportunities for physical and mental development”.

Furthermore, We would like to refer to Article 16 of the Convention on the Rights of the Child that stipulates that ‘no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation’. The right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health is recognized in Article 24. It further states that States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

Lastly, we wish to draw your attention to Article 13 CESCR which recognizes the right of everyone to education. In addition, we wish to refer to Article 28 CRC, which provides that State Parties recognize the right of the child to education, ensuring in particular that primary education is compulsory and available free to all, and take measures to encourage regular attendance at schools and the reduction of drop-out rates.

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 the view of the urgency of the matter, we would appreciate a response as soon as possible on the initial steps taken by your Excellency’s Government to safeguard the rights of persons affected by the order by Bahraini authorities, 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. What measures have been taken to ensure that families with mixed Bahraini-Qatari nationalities are prevented from separation?
3. How has the right to health been guaranteed in relation to Bahraini migrants living in the State of Qatar and Qatari nationals residing in the Kingdom of Bahrain?
4. What actions have been taken to guarantee access to education for Qatari migrant students in the Kingdom of Bahrain, as well as Bahraini migrant

students in the State of Qatar to pursue their education at schools and universities, without discrimination on any basis?

5. Please provide information on the compliance with international and regional instruments in guaranteeing the right of freedom of movement and residence.
6. Has compensation been provided to migrants, particularly those who own property and businesses, affected by the severed relations between the Kingdom of Bahrain and the State of Qatar?
7. What measures have been taken to guarantee the aforementioned human rights of migrants, without discrimination on any basis in compliance with your government's obligations under international law?
8. Please provide information on how the criminalization of online expression based on grounds of "sympathizing with Qatar" is applied and enforced, and explain how this is legal basis for restricting expression is compatible with international human rights standards.
9. Has your Excellency's Government confiscated any of its nationals' passports? If yes, how does your Excellency's Government ensure none of its nationals become stateless?

While awaiting a reply, we urge that all necessary interim measures be taken to address the alleged violations 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 further urge your Excellency's Government to take all necessary steps to ensure the rights of persons affected by the severed ties and mobility ban are respected.

We wish to inform you that a letter with similar content has been sent to the authorities of the Kingdom of Saudi Arabia and the United Arab Emirates.

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.

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