

Mandates of the Special Rapporteur on the situation of human rights defenders; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL BHR 1/2024
(Please use this reference in your reply)

8 May 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 52/4, 51/8, 52/9, 50/17, 51/21 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **arrest, ill-treatment and detention of Mr. Hashem al-Wadaei**.

Mr Hashem al-Wadaei is 20 years old Bahraini national, son of Ms. Hajar Mansoor and brother-in-law of Mr. Sayed Ahmed Mustafa Mohamed al-Wadaei, both well-known human rights activists. He is also a second-year student at the University of Bahrain, College of Health and Sports Sciences.

Mr. Sayed Ahmed Mustafa Mohamed Ali al-Wadaei is a Bahraini human rights activist who participated in the 2011 mass pro-democracy demonstrations in Bahrain, and the director of advocacy at the Bahrain Institute for Rights and Democracy (BIRD). Ms. Hajar Mansoor is a prisoner of conscience and the mother-in-law of Sayed Ahmed al-Wadaei.

Mr. Sayed Ahmed Mustafa Mohamed Ali al-Wadaei and his family have reportedly faced continuous intimidation by the Bahraini authorities in relation to his work as a human rights defender. His Bahraini citizenship was revoked in 2015. Mr. Sayed Ahmed Mustafa Mohamed Ali al-Wadaei is currently residing outside the country from where continues his activities directed at human rights protection in Bahrain. The targeting of family members of Mr. Sayed Ahmed Mustafa Mohamed Ali al-Wadaei was the subject of a communication BHR 4/2017 (dated 27 March 2017). We thank your Excellency's government for its reply dated 24 April 2017 but reiterate our concern about the targeting of the family.

In 2018, the Working Group on Arbitrary Detention¹ found the detention of Mr. Sayed Ahmed Mustafa Mohamed Ali al-Wadaei's relatives to be arbitrary, based on their family ties and in reprisal for Mr. al-Wadaei's cooperation with the United Nations. The case of Mr. Sayed Ahmed al-Wadaei and that of some of his relatives

¹ [A/HRC/WGAD/2018/51](#), paras. 85, 93 and 96.

have been included in reports of the Secretary-General on intimidation and reprisals for cooperation with the United Nations since 2022, and before that in 2019 and 2020², on allegations of arbitrary arrest, ill-treatment, removal of citizenship and acts of reprisals due to Mr. al-Wadaei's continuous engagement with the United Nations.

According to the information received:

On 22 February 2024, Mr Hashem al-Wadaei was reportedly arrested following a house raid and his personal belongings and electronics were confiscated. The raid allegedly involved over 20 security vehicles surrounding his family home in A'ali, Northern Governorate in Bahrain, at around 1.15 a.m. Bahrain local time, allegedly without showing either a house search or arrest warrant despite repeated requests by Mr. al-Wadaei's family members.

During his transfer in the police vehicle, Mr. al-Wadaei was allegedly subjected to physical and verbal abuse. He was immediately blindfolded and repeatedly beaten in the police vehicle. He was slapped in the face, punched in the stomach and verbally abused, with an officer cursing him and his mother and pulling him by the hair. He was on the bus for about four hours, and each time officers raided more houses and arrested more individuals, he was also beaten. He remained blindfolded the entire time.

At about 6 a.m., he was taken to al-Qalaa, where his blindfold was removed. and he was reportedly beaten again. Following a medical check at al-Qalaa, he was transferred to the Central Investigation Department (CID) in Adliyya.

At 2 p.m. the same day, he was subjected to a harsh interrogation without the presence of his lawyer. During many of these interrogations, he was blindfolded. Around midnight, he was taken to Al-Hidd Police Station.

On 23 February 2024, at approximately 10 a.m., he was taken to CID again and subjected to a full-day of interrogations, often blindfolded and repeatedly threatened.

Mr. Hashem al-Wadaei reportedly told his family that he had filed a complaint with the office of the Ombudsman and stated that "*all the cases against [him] [were] fabricated.*"

On 24 February 2024, Mr. al-Wadaei was reportedly interviewed at the office of the Public Prosecution, in the presence of his lawyer, where he told the head of the Counterterrorism Unit, that he had been subjected to ill-treatment after his arrest and forced to confess at the CID under coercion, acts that he denied in the presence of his lawyer.

On 29 February 2024, the public prosecution reportedly extended his detention for 14 days pending investigation on allegations of unlawful gathering related to three protests held on 20 October 2023, 26 October 2023, and 2 February 2024.

² A/HRC/54/61, Annex II, para. 9-10 ; [A/HRC/51/47](#) Annex II paras. 10 and 15; [A/HRC/45/36](#), Annex II paras. 1-4; [A/HRC/42/30](#), Annex II, paras. 3-6; [A/HRC/39/41](#), Annex I para. 5.

From his arrest on 22 February 2024 until 4 March 2024 (12 days), Mr. al-Wadaei was allegedly prevented from receiving or purchasing clean clothes and hygiene products or bathing.

Furthermore, his health reportedly deteriorated when he experienced severe stomach pain, leading to his transfer to the prison clinic on 28 February 2024.

Mr. al-Wadaei was detained without official charges and allegedly faced ill-treatment at Dry Dock Prison. He had subsequently been released on 8 April 2024, but it is unclear if any charges against him are pending or if he was indicted.

Without wishing to prejudge the accuracy of the above-detailed information, we wish to reiterate our alarm at the arrest without warrant and ill-treatment that Mr. al-Wadaei was allegedly subjected to while in detention. We also wish to reiterate our concern at the allegations of denying him the right to receive clothes or purchase hygiene products and bathe for at least one week after his arrest. We are further concerned about the allegations that Mr. al-Wadaei may have been targeted due to his family ties with Sayed Ahmed al-Wadaei.

We are moreover concerned that these measures apparently aim to intimidate and impair the human rights activities of Mr. Sayed Ahmed Mustafa Mohamed al-Wadaei, and that they may have occurred, at least in part, in reprisal for Mr. Sayed Ahmed Mustafa Mohamed al-Wadaei's cooperation with the human rights mechanisms of the United Nations, in particular his attendance to the 34th session of the Human Rights Council.

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.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the factual and legal grounds justifying the arrest, detention and charges against Mr. al-Wadaei, and how these measures are compatible with international human rights law and standards.
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to allegations of inhuman or degrading treatment against Mr. al-Wadaei. If no investigation has been initiated, please explain why and how this is compatible with the international human rights obligations of Bahrain.

4. Please provide any information on access to adequate medical care provided to Mr. al-Wadaei while in detention.
5. Please provide detailed information concerning measures which are taken to prevent human rights violations being perpetrated by security personnel against detainees, as well as any protective measures which may have been put in place to ensure the physical and psychological security and integrity of human rights defenders while in detention. If no measures were taken, please explain why not.
6. Please provide information on measures taken to ensure that human rights defenders and civil society are able to work in an enabling environment in Bahrain, free from intimidation, attacks, and judicial harassment of any kind.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and the regular procedure.

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.

In light of the allegations of intimidation and reprisals for cooperation with the United Nations in the field of human rights, we reserve the right to share this communication – and any response received from Your Excellency's Government – with other UN bodies or representatives, in particular with the senior United Nations official designated by the Secretary-General to lead the efforts within the United Nations system to address this issue.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Ganna Yudkivska
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Gina Romero

Relator Especial sobre los derechos a la libertad de reunión pacífica y de asociación

Tlaleng Mofokeng

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

Alice Jill Edwards

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights to which the Kingdom of Bahrain acceded on 20 September 2006.

We would like to refer to article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), to which Bahrain acceded on 20 September 2006, which guarantees the inherent right to life of every individual and provide that this right shall be protected by law and that no one shall be arbitrarily deprived of his life.

The allegations also seem to contravene article 7 of the ICCPR and articles 1, 2 and 16 of the Convention Against Torture (CAT), to which Bahrain acceded on 6 March 1998, which establish the absolute prohibition of torture and the obligation of each State Party to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment which do not amount to torture.

We would also like to refer to the right not to be arbitrarily deprived of liberty and to fair proceedings before an independent and impartial tribunal, as set forth in articles 9 and 14 of the ICCPR. Article 9 establishes in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law, and that anyone who is arrested shall be informed, at the time of arrest, of the reasons behind such arrest and be brought promptly before a judge for the purpose of legal assessment of detention. Article 14 stipulates that, in the determination of any criminal charge, everyone should have adequate time to communicate with a counsel of choice, and that no one should be compelled to confess to guilt. The right to have access to a lawyer without delay and in full confidentiality is also enshrined in the Basic Principles on the Role of Lawyers (principles 7 and 8).

We would also like to refer you to article 12 of the ICCPR, which establishes that States have an obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (general comment 14 of the Committee on Economic, Social and Cultural Rights para. 34). In this connection, I would like to refer your Excellency's Government to The Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which "Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation" (Basic Principles for the Treatment of Prisoners. Principle 9).

We would also bring the attention of your Excellency's Government to articles 19, 21 and 22 of the ICCPR, guaranteeing the right to freedom of opinion and expression, the right of peaceful assembly and the right to freedom of association, respectively.

We would like to recall that article 19 of the ICCPR guarantees the right to opinion and expression. In the general comment 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom

of opinion and expression, including inter alia ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’, subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination.

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with article 19. (General comment 34 paragraph 23).

We would like to recall article 20(1) of the Universal Declaration of Human Rights which states that “[e]veryone has the right to freedom of peaceful assembly and association”. We would further like to refer to article 21 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to freedom of peaceful assembly. Article 21 states 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 interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others”. Article 22 of the ICCPR protects the right to freedom of association with others. As stated in a report by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards [A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1].

We would finally 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, also known as the UN Declaration on Human Rights Defenders and in particular articles 1 and 2 which provide for the right to promote and to strive for the protection and realization of human rights and fundamental freedoms.