

Mandates of the Independent Expert on human rights and international solidarity; 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 the independence of judges and lawyers

Ref.: AL BHR 3/2024
(Please use this reference in your reply)

11 July 2024

Excellency,

We have the honour to address you in our capacities as Independent Expert on human rights and international solidarity; 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 the independence of judges and lawyers, pursuant to Human Rights Council resolutions 53/5, 52/9, 50/17, 51/21 and 53/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the continued arbitrary detention of human rights defenders and opposition leaders for exercising and advocating for the rights to freedoms of expression, association and peaceful assembly and who were excluded from the Royal Pardon issued by King Hamad bin Isa Al Khalifa on 8 April 2024.**

According to the information received:

On 8 April 2024, on the occasion of Eid Al-Fitr, King Hamad bin Isa Al Khalifa issued a Royal Pardon permitting the release of 1584 prisoners, which reportedly included some 650 political prisoners in Bahrain.

The Royal Pardon came a month after the death of a prisoner, Husain Khalil Ibrahim, in Jau Prison on 25 March 2024. Mr. Khalil Ibrahim's death triggered a protest during which nearly a thousand political prisoners refused to return to their cells over alleged maltreatment, a move that reportedly resulted in prison authorities cutting off water, air conditioning and meals during Ramadan when inmates were fasting.

While the Royal Pardon is notable, it reportedly fails to include approximately 550 human rights defenders and opposition leaders who were excluded from the list and who continue to languish in dire conditions in Jau Prison and Kanoo Medical Center.

Reportedly, specific cases of individuals who remain unjustly imprisoned in violation of their human rights include:

Abdulahdi Al-Khawaja

Mr. Abdulhadi Al-Khawaja is a Bahraini-Danish human rights defender, who reportedly has been arbitrarily detained since April 2011 for his role in

peaceful demonstrations. On 22 June 2011, he was convicted *inter alia* of membership of a terrorist organization, contacting terrorist groups abroad and spreading false information for which he was sentenced to life imprisonment. He is currently serving his sentence in Jau prison.

Reports received indicated that the health of Mr. Al-Khawaja has significantly deteriorated as a result of severe physical, sexual, and psychological torture to which he has been subjected during his prolonged imprisonment.

On 9 August 2023, Mr. Al-Khawaja launched a hunger strike to protest against the conditions in Jau Prison, including denial of medical care. Two days later, he was rushed to the intensive care unit of Bahrain Defense Force Hospital due to cardiac problems. The attending doctor stressed the imminent danger to Al-Khawaja's life and administered an intravenous injection to stabilize his heart rate.

On 14 August 2023, Mr. Al-Khawaja informed his family that he was struggling to sustain much movement, including raising his arms above his head and that he spent most of his time lying down.

On 13 September 2023, Mr. Al-Khawaja, was due to attend a medical appointment. However, he was allegedly prevented from doing so by the prison authorities after which he resumed his hunger strike. On 14 September 2023, he was taken by ambulance to an ophthalmologist, where he was told to continue taking special eye drops three times a day. He was also seen briefly by a cardiologist, but without a proper medical examination, nor did the doctor read his reports.

On 19 September 2023, Mr. Al-Khawaja had an appointment with the cardiologist, but he was again not taken to that appointment and had to wait until 25 September. He was reportedly transported to that appointment without handcuffs and in a civilian vehicle due to an agreement between the administration and Mr. Al-Khawaja whereby he would end the hunger strike if taken to the hospital. He was seen by a cardiologist and a consultant cardiologist at the barracks outside the BDF hospital. The consultation lasted between an hour and an hour and a half. Mr. Al-Khawaja ended his hunger strike as per the afore-mentioned agreement.

The situation of Mr. Al-Khawaja has been addressed in twelve communications sent to your Excellency's Government in the past, namely: BHR 3/2023; BHR 1/2023; BHR 2/2021; BHR 3/2012; BHR 18/2011; BHR 17/2011; BHR 9/2011; BHR 5/2011; BHR 4/2011; BHR 2/2009; BHR 2/2007; BHR 6/2005. Additionally, the Working Group on Arbitrary Detention highlighted the injustice of Mr. Al-Khawaja's incarceration when it classified this detention as arbitrary in its Opinion adopted at its sixty-third session, between 30 April and 4 May 2012 (A/HRC/WGAD/2012/6). We acknowledge receipt of responses transmitted by your Excellency's Government regarding all the aforementioned communications on 17 April 2023; 28 June 2021; 30 December 2012; 21 December 2011; 23 September 2011; 8 June 2011; 7 June 2011; 26 April 2011; 1 April 2009; 15 February 2007 and 27 December 2005. We however regret that his situation has not been addressed, given the continued allegations.

Abdulla Isa Abdullah Mahroos

Mr. Mahroos suffers from a number of serious chronic medical issues including diabetes, a slipped disc, a heart condition, skin allergies and internal bleeding.

On 13 April 2024, when Mr. Mahroos medical condition deteriorated, he was transferred to the Bahrain Defense Force Hospital, where he was reportedly held incommunicado for a period of time. Reports indicate that when he was eventually permitted to see a doctor, he had a blood test taken but he was not informed of the results. The following day Mr. Mahroos learnt that he required a blood transfusion as his condition was extremely critical and that if he refused, he was at high risk of a heart attack.

After undergoing the blood transfusion, prison officers requested that he be transferred back to Jau Prison. However, the hospital doctors insisted that his condition was critical, and he was permitted to stay an additional week. On 18 April 2024, he was discharged from the hospital but without the required prescription for medication to alleviate his gastrointestinal problems which resulted in recurrent internal bleeding and excruciating pain.

During his time at the hospital, Mr. Mahroos met with the diabetes specialist but was unable to meet with a nerve specialist for pain in his legs, which continues to prevent him from sleeping.

On 30 January 2023, Mr. Mahroos was rushed to the emergency room at the Bahrain Defence Force hospital after collapsing due to a heart attack. He had reportedly been suffering from chest pain for over a week prior to this and was only taken to hospital when his condition became critical. Whilst in the military hospital, he underwent a heart procedure but collapsed again on 23 February 2023. At that time, he was taken to the military hospital, but was transferred back to Jau Prison on the same day.

Mr. Mahroos continues to suffer from excruciating pain in his chest, back, head and legs, as well as from internal bleeding due to gastrointestinal problems. Furthermore, when he is being treated at the military hospital, he is reportedly denied communication with his family and prohibited access to books and television.

Cases of concern in Kanoo Medical Center

Hassan Mushaima

Mr. Hassan Mushaima, an opposition leader aged 76, is serving a life sentence solely for exercising his right to freedom of association and expression. Over the past few months his health has deteriorated. Despite being held in a medical facility, Mr. Mushaima has reportedly been denied access to adequate medical care and remains arbitrarily detained.

On 26 March 2024, Mr. Mushaima was transferred to the emergency department at the Bahrain Defense Force hospital after suffering severe knee

pain. He was discharged after two hours and given only mild painkillers. He was previously diagnosed with friction in his knees causing him excruciating pain and impairing his movement. and he has yet to be referred to a specialist.

Mr. Mushaima also suffers from partial deafness which requires specialist treatment. His last appointment was in 2023, and he has received no follow-up referrals. Similarly, he has been waiting to see a dentist for over a year for loose teeth.

Mr. Mushaima is in remission from cancer, yet since July 2021 has not been referred for routine scans, despite recommendations that he do so every six months. He is also being held in prolonged solitary confinement, denied access to sunlight and time outdoors. Despite repeated requests, Mr. Mushaima and his family have not been provided access to his medical records.

Abduljalil Al-Singace

Mr. Abduljalil Al-Singace was the Director and Spokesperson of the Human Rights Bureau of the Haq Movement for Civil Liberties and Democracy. He was also an active participant in sessions of the UN Human Rights Council, among other human rights mechanisms with which he engaged. He was first arrested in August 2010 on his return from a seminar on the human rights situation in Bahrain which he had attended at the House of Lords in the United Kingdom. He was intercepted by authorities at Bahrain International Airport, amid concerns that the academic could “damage the country’s stability”.

Mr. Al-Singace was released without charge in February 2011. However, in March he was arbitrarily detained and forcibly disappeared for two months during which time he was reportedly subjected to torture during the interrogation. He was sentenced to life imprisonment on grounds of terrorism in June 2011.

As a result of polio, Mr. Al-Singace previously required the use of crutches to assist with his mobility, however his health has declined significantly, and he now requires the use of a wheelchair. Mr. Al-Singace also suffers from sickle-cell anemia which leaves him with chronic pain, numbness, dizziness and breathing difficulties.

On 7 January 2024, Mr. Al-Singace went on a full hunger strike (except for water) after his family was allegedly subjected to harsh treatment whilst visiting him at Kanoo Medical Center. The following day, prison authorities informed him that he would be granted an exceptional visit with his family, after which he ceased the hunger strike.

Since they were transferred to Kanoo Medical Center in 2021, Mr. Al-Singace and Mr. Mushaima have been reportedly held in prolonged solitary confinement and denied access to sunlight.

Without wishing to prejudge the accuracy of the above-detailed information, we wish to reiterate our alarm at the deteriorating health condition of the aforementioned human rights defenders, resulting from their detention, including the lack of access to adequate medical treatment and care. We also remain deeply concerned

about the reports of ongoing torture and mistreatment, including lack of access to adequate healthcare, adequate nutrition, legal aid, and family visits, among others, of the many other opposition leaders and human rights defenders, who continue to remain arbitrarily detained in dire conditions in Bahrain's prisons. This appears to constitute part of a broader pattern; wherein human rights defenders are subjected to detention on account of their work in legitimate defense of human rights. This pattern of violations has been evidenced in other communications sent to Your Excellency's Government such as in AL BHR 1/2023.

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, as a matter of urgency, up-to-date information on the health of the afore-mentioned individuals as well as the measures taken to ensure their access to appropriate and adequate medical care and treatment.
3. Please provide detailed information concerning measures which are taken to prevent human rights violations being perpetrated by members of the prison authorities and security personnel against inmates, 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.
4. Please provide information on how the Government of Bahrain addresses and prevents arbitrary detentions in retaliation for the exercise of fundamental rights, in particular the freedom of expression and the freedom of peaceful assembly and association.

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.

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.

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

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Independent Expert on human rights and international solidarity

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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 Economic, Social and Cultural Rights, to which the Kingdom of Bahrain acceded on 27 September 2007.

In particular, we would like to recall the obligations of your Excellency's Government under articles 12 and 15, which guarantee, respectively, the right of all persons to the enjoyment of the highest attainable standard of physical and mental health, and the right of all persons to take part in cultural life. The Committee on Economic, Social and Cultural Rights, in its general comment no. 14 (2000) on the right to the highest attainable standard of health has affirmed that the obligation of State parties to respect the right to health includes a duty to refrain from denying or limiting access to medical care for all persons, including prisoners or detainees.

In this connection, we 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).

In connection with this, we would like to refer to rules 24 to 35 of the UN Minimum Rules for the Treatment of Prisoners (the "Mandela Rules"), adopted unanimously by the UN General Assembly (A/RES/70/175) in December 2015, which provide that healthcare for prisoners is a State responsibility. In particular, rule 27 establishes that States have the responsibility to provide prompt access to medical attention in urgent cases, and to transfer prisoners who require specialized treatment to specialized institutions or civilian hospitals. We would also like to underscore rule 1, which states that "All persons shall be treated with respect due to their inherent dignity and value as human beings", and rule 58, which states that "Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals", including "(a) By corresponding in writing and using, where available, telecommunication, electronic, digital and other means; and (b) By receiving visits."

We also refer to the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment and punishment as codified in articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Bahrain acceded on 6 March 1998, and in article 7 of the International Covenant on Civil and Political Rights (ICCPR), to which Bahrain acceded on 20 September 2006. We recall articles 7 and 12 of the CAT, which prescribe State parties' obligations to promptly and impartially investigate alleged acts of torture and to prosecute the perpetrators.

Furthermore, we would like to refer to the Convention on the Rights of Persons with Disabilities, ratified by Bahrain on 22 September 2011. In particular, we would like to stress articles 5 (equal treatment including an obligation to provide 'reasonable accommodation'), 14 (right to liberty and security of persons), 16 (freedom from exploitation, violence and abuse), 17 (protection of the integrity of the person) and 25 (health) of the Convention. These provisions provide, respectively,

that any person with a disability deprived of his/her liberty should be provided with 'reasonable accommodation' in places of detention, that persons with disabilities have the right to respect for their physical and mental integrity on an equal basis with others, even in and perhaps especially in places of detention, and that State Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.

Furthermore, we wish to refer to Human Rights Council resolution 24/24 which calls on States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights; and Human Rights Council resolution 22/6, which provides for the right to "unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms".

Moreover, the 2015 report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/30/29), pursuant to Human Rights Council resolution 12/2 (A/HRC/30/29) reiterates the Secretary-General's firm position that "any act of intimidation or reprisal against individuals or groups for their engagement with the United Nations, its mechanisms and representatives in the field of human rights is completely unacceptable and must be halted, immediately and unconditionally" (para. 47).

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. Furthermore, 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.

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.

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]. This means ensuring that the rights to freedom of peaceful assembly and of association are enjoyed by everyone, without discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (article 2(1) of the International Covenant on Civil and Political Rights) [see also ICCPR, art. 26].

We also wish to acknowledge that the right to freedom of religion or belief is one which is guaranteed by article 18 of the Universal Declaration of Human Rights (UDHR), article 18 of the International Covenant on Civil and Political Rights (ICCPR) and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

In paragraph 23 of its general comment no. 34 (2011) on the right to freedom of expression under the International Covenant on Civil and Political Rights, the Human Rights Committee has recognized that those “persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports”, are “frequently subjected to threats, intimidation and attacks because of their activities.” The Committee has urged States parties to protect against attacks aimed at silencing those exercising their right to freedom of expression.

We also refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

We also wish to refer 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, article 1, which states that everyone has the right, individually and 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 article 2, which provides 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. We would also like to make specific reference to article 12 of the Declaration, which states 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.

Finally, we would like to refer to the report of the UN Special Rapporteur on the situation of human rights defenders, concerning the long-term detention of human

rights defenders (A/76/143), wherein she called for the immediate and unconditional release of all human rights defenders currently held in detention.