

**Mandates of 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:  
AL BHR 2/2016

7 July 2016

Excellency,

We have the honour to address you in our capacities as 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 25/2, 24/5 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 condemnation of Mr. **Ali Salman** to 9 years of imprisonment as well as the suspension of **Al Wefaq National Islamic Society**.

Al Wefaq was the subject of previous communications sent by the Special Procedures on 4 July 2011 (see A/HRC/19/44, case no. BHR 14/2011) and on 29 June 2012 (see A/HRC/22/67, case no. BHR 5/2012). Sheikh Ali Salman was also subject of previous communications sent on 15 January 2015 (see A/HRC/29/50, case no. BHR 1/2015) and on 27 November 2015 (see A/HRC/31/79, case no. BHR 9/2015).

We acknowledge receipt of your Excellency's Government's letters of reply on 24 August 2011, on 2 August 2012, on 12 February 2015 and on 12 December 2015. Nevertheless, we regret that the replies provided are not answering the questions raised in our communications. We call upon your Excellency's Government to cooperate fully with and assist him in the performance of his mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

According to the information received:

Al Wefaq National Islamic Society is a Shia political society in Bahrain. It is a part of the National Democratic Opposition Parties in the country. It was formed in 2001.

Al-Wefaq has allegedly been targeted on several occasions since 2014. In October 2014 a temporary suspension of the organization was decided by the authorities, in response to Al-Wefaq's attempt to boycott the November 2014 parliamentary elections.

On 28 December 2014, Mr. **Ali Salman**, a cleric and Al-Wefaq's Secretary General, was arrested by Bahraini authorities. It is alleged that his arrest and detention was a result of his re-election as Secretary General.

On 5 January 2015, he was charged with inciting a change of regime by non-peaceful means; inciting hatred of a segment of society against another; inciting others to break the law; and insulting the Ministry of Interior.

On 16 June 2015, Sheikh Al Salman was found guilty of these charges and sentenced for four years imprisonment.

On 30 May 2016, the Court of Appeal condemned Mr. Ali Salman to 9 years of imprisonment adding five years of imprisonment to his previous sentence. The court convicted him of “attempting to overthrow the regime”.

On 14 June 2016, the Ministry of Justice submitted a request to the Administrative Court ordering the dissolution of Al-Wefaq. On the same day the Court ordered the activities of the organization to be suspended, its headquarters closed and its assets frozen. The organization’s website was blocked by the authorities. Four buildings of the organization, including the headquarters were reportedly raided by the authorities.

The authorities alleged that Al-Wefaq was supporting a sectarian political platform that countered national unity, that the organization owed allegiance to foreign religious and political entities, that they called for foreign intervention and that they supported terrorism and extremism that threatened the State.

6 October 2016 has been set as the date for the hearing at the Ministry of Justice concerning Al-Wefaq’s dissolution.

We express particular concern the measures undertaken against Al-Wefaq, including the ordering of its dissolution and blocking of its website, represent limitations to the rights to freedom of expression and freedom of association that are incompatible with the standards of international human rights law. Serious concern is expressed about the broader impact of the above allegations, in particular the criminalization of speech, which may have a “chilling effect” on civil society and human rights defenders, particularly on individuals exercising their rights to freedom of association and expression, such as political activists, human rights defenders and organizations.

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 any comment you may have on the above mentioned allegations.
2. Please provide information concerning the legal grounds for the suspension of Al-Wefaq and freezing its assets, as well as of the detention

of **Mr. Ali Salman** and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In particular please provide more information about the allegations that Al-Wefaq is considered a threat to the State.

3. Please provide information about the justification and legal grounds for blocking the website of Al-Wefaq, and explain how this measure is compatible with the right to freedom of expression as guaranteed under article 19 of the ICCPR.
3. Please indicate what measures have been taken to ensure that individuals with dissenting political or religious views are able to carry out their legitimate work in a safe and enabling environment without fear of harassment and criminalization.

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.

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

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

Michel Forst  
Special Rapporteur on the situation of human rights defenders

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer to the right to freedom of opinion and expression, as well as the right to freedom of peaceful assembly and of association, as set forth in articles 19 and 20 of the Universal Declaration of Human Rights (UDHR) and in articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), which Bahrain ratified on 20 September 2006. Paragraph 3 of article 19 sets out the requirement that any restrictions to the right to freedom of expression must be necessary, proportionate and prescribed by law. While national security is a legitimate basis for restricting the right to freedom of expression under article 19(3), it is not enough to simply claim it as a justification to pursue illegitimate purposes such as silencing critical voices. The state has to demonstrate that it is necessary to do so to achieve a legitimate objective (CCPR/C/G/34).

We would bring to your Excellency's Government's attention General Comment 31 of the Human Rights Committee that stresses that "The legal obligation under article 2, paragraph 1, is both negative and positive in nature. States Parties must refrain from violation of the rights recognized by the Covenant, and any restrictions on any of those rights must be permissible under the relevant provisions of the Covenant. Where such restrictions are made, States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights. In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right".

We would like to refer to Human Rights Council Resolution 24/5 that "reminds 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".

We would also like 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. 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, article 5 (b) provides for the right to form, join and participate in non-governmental organizations, associations or groups. We would also like to refer to article 8, paragraph 1, which provides for the right to effective and non-discriminatory access to participation in public affairs. Finally, article 13 (b) and (c) of the same Declaration stipulates that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedom, through peaceful means.

We further refer to the thematic report (A/HRC/20/27) of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, in which the Special Rapporteur stressed that: “The right to freedom of association applies for the entire life of the association. The suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient” (para75). In this same report, the Special Rapporteur recommends that: “Suspension or involuntarily dissolution of associations should be sanctioned by an impartial and independent court in case of a clear and imminent danger resulting in a flagrant violation of domestic laws, in compliance with international human rights law” (para 100).