

Mandates of 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; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as 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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 24/6, 25/18 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. **Nabeel Rajab**. Mr. Rajab is a well-known human rights defender. He is the Founding Director of the Gulf Centre for Human Rights, Deputy Secretary General of the International Federation for Human Rights (FIDH), President of the Bahrain Centre for Human Rights, and a member of the Advisory Committee of Human Rights Watch's Middle East Division. Mr. Rajab has been repeatedly arrested and has served several prison sentences as a result of his human rights work and for leading a pro-democracy uprising in 2011. Mr. Rajab was previously the subject of eleven joint urgent appeals and joint allegation letters sent on 6 October 2004 (BHR 6/2004), on 25 July 2005 (BHR 3/2005), on 5 March 2010 (BHR 1/2010), on 22 March 2011 (see A/HRC/18/51, case no. BHR 4/2011), 16 June 2011 (see A/HRC/19/44, case no. BHR 12/2011), on 9 September 2011 (see A/HRC/19/44, case no. BHR 18/2011), on 24 July 2012 (see A/HRC/22/67, case. no. BHR 6/2012), 23 May 2013 (see A/HRC/24/21, case no. BHR 3/2013); on 14 October 2014 (see A/HRC/28/85, case no. BHR 13/2014), on 15 April 2015 (see A/HRC/30/27, case no. BHR 2/2015) and 14 December 2015 (see A/HRC/32/53, case no. BHR 10/2015). Mr. Rajab was also the subject of Opinion No. 12/2013 of the Working Group on Arbitrary Detention (A/HRC/WGAD/2013/12). We acknowledge receipt of your responses dated 13 October 2004, 25 October 2005, 8 November 2005, 27 October 2010, 26 April 2011, 2 September 2011, 29 August 2011, 21 December 2011, 15 December 2011, 24 August 2012, 24 June

2013, 24 November 2014, 18 May 2015 and 18 January 2016, however reiterate our concerns in the context of the information stated below.

According to the information received:

On 14 July 2015 Nabeel Rajab was released from prison following a royal pardon due to health reasons. He had served three months of a six month prison sentence on charges of “insulting a statutory body”, “spreading rumours during a time of war” and “disseminating false news causing damage to public security”. Before this he had been arrested on several occasions and served various prison sentences as a result of his human rights work. These have been addressed in previous communications of Special Procedures mandate-holders.

On 13 June 2016, at approximately 5:00 a.m., the Cybercrime Unit of the Bahraini Police Force entered the home of Mr. Nabeel Rajab's house in the village of Bani Jamra, near the capital Manama, without a search warrant and confiscated a number of electronic devices after raiding his house. Mr. Rajab was transferred to East Riffa Police Station and placed in solitary confinement.

On 14 June 2016 Mr. Rajab was transferred to the Public Prosecution which called for him to remain in custody for 7 days on accusations of “publishing and broadcasting false news that undermine the prestige of the State”. While being in custody, Mr. Rajab reportedly requested a Quran; however he has been denied access to all reading materials and television. Mr Rajab has only been taken out of his cell to use toilet facilities. Mr. Rajab’s family has been allowed to visit him once for fifteen minutes, during the meeting, a prison official was present and monitored their conversation. Mr. Rajab has not been permitted access to his lawyer.

On 21 June 2016, Mr. Rajab was examined by a doctor at the Bahrain Defence Hospital who stated that he needed surgical intervention to remove his gallstones, but he was denied a copy of the medical report. Later on the same day, Mr. Rajab appeared in a hearing before the Public Prosecutor and he explained that he was suffering severe pain due to chronic illnesses (gallstones and skin infections), and that his health status was deteriorating due to the isolation and unsanitary conditions of his detention. Mr. Rajab’s family has provided him with cleaning products and sanitation items, however thus far, the prison authorities have denied Mr. Rajab access to these items.

The Public Prosecutor extended Mr. Rajab’s detention for another 8 days under the accusations of “publishing and broadcasting false news that undermine the prestige of the State”. The accusation reportedly related to interviews he gave in

early 2015 and 2016. Mr. Rajab was transferred to West Riffa Police Station the following day and has been held in prolonged solitary confinement since then.

On 26 June 2016, Mr. Rajab's lawyer was informed that the Public Prosecutor had referred old charges against Mr. Rajab to the court, in addition to his most recent charges. These former charges were first brought against Mr. Rajab in April 2015, in connection with comments made on social media regarding torture in Jau prison. Mr. Rajab was charged with "insulting a statutory body" under article 216 of the penal code. Mr. Rajab was also charged with "disseminating false rumours in times of war" under article 133 of the penal code in connection with comments made on social media regarding the Saudi-led military coalition's airstrikes in Yemen. These charges carry maximum sentences of ten years and three years, respectively. Mr. Rajab's first hearing is set for 12 July.

On 28 June, Mr. Rajab was brought to the Coronary Care Unit at the Bahrain Defence Force Hospital due to an irregular heartbeat, a condition he had not experienced prior to his detention.

Concern is expressed at the arbitrary arrest, detention and charges brought against of Mr. Rajab, as well as the raid of his residence and the confiscating of his personal electronic equipment, and the that these actions appear to be directly related to the exercise of the right to freedom of expression through his peaceful and legitimate activities advocating for human rights in Bahrain. Grave concern is expressed at the alleged placement of Mr. Rajab in prolonged solitary confinement and the consequent deterioration of his health status, which may require access to specialized medical treatment. Finally, we express concern at the continued use of repressive legislation that constitute restrictions to the right to freedom of expression that are incompatible with international human rights law.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

While we do not wish to express an opinion on whether or not the detention of Mr. Rajab is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of his liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Bahrain on 20 September 2006, as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR.

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. (Para.34).

We would also like to refer your Excellency's Government to articles 7 of the ICCPR, which establishes that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

More specifically, we would like to refer to article 16 the Convention Against Torture (CAT) which Bahrain ratified on 6 March 1998, which provides that each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture. With regards to the placement of Mr. Rajab in prolonged solitary confinement and the resulting deterioration of his health condition, we would like to refer Your Excellency's Government to the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which it is stated that the use of prolonged solitary confinement (beyond 15 days) in itself runs afoul of the absolute prohibition of torture and other ill-treatment. Furthermore, we would like to recall the updated United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules, 2015) which lay out generally accepted principles and practice in the treatment of prisoners and prison management. In particular, we would like to refer to Rules 43.1(b), 43.3, 44, 45 and 46 which refer to the use of disciplinary sanctions or restrictive measures, including solitary confinement, and the role of health-care personnel regarding any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of prisoners subjected to such sanctions or measures.

With respect to the charges brought against Mr. Rajab as a direct reaction to his expressions made online and offline, we would like to remind your Excellency's Government of the right to freedom of expression as guaranteed by articles 19 of the ICCPR. 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. Criminalization of expression through repressive legislation, in particular criminal sanctions and imprisonment for libel and defamation or the requirement of truth with respect to expression are not deemed proportional with an effective exercise of the right to freedom of expression. In this respect, we reiterate the recommendations made in the report E/CN.4/2000/63. We moreover refer to the Human Rights Committee's General Comment 34, which states that in the context of political discourse the value placed by the Covenant upon uninhibited expression is particularly high. The mere fact that forms of expression are considered to be insulting to a public figure or to the state is not sufficient to justify the imposition of penalties (CCPR/C/GC/34).

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, articles 1, 2 6 and 12.

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 Mr. Rajab and call for his immediate release, in compliance with international instruments.

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 any comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Rajab, and how these are compatible with Bahrain's international human rights obligations, in particular with the conditions set by international human rights standards on the right to freedom of expression, as provided in article 19 of the International Covenant on Civil and Political Rights.
3. Please provide information concerning any steps that have been taken by your Excellency's Government to ensure the physical and psychological well-being of Mr. Rajab, in particular regarding access to adequate health care while in detention, including specialized treatment.
4. Please provide detailed information concerning the decision to place Mr. Rajab in solitary confinement, including the legal grounds for such measure, and how these are compatible with international norms and standards as stated, inter alia, in the ICCPR and the UNCAT. Please provide information on appeal or other procedures available to challenge such decision and how this has been made accessible to Mr. Rajab and his lawyers.
5. Please provide information about the legal basis for entering the home of Mr. Rajab's home and the confiscation of his electronic devices, and explain how these actions comply with international human rights law.

6. Please indicate what measures have been taken to ensure that human rights defenders in Bahrain are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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.

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

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