

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 4/2016

8 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 allegations of a travel ban imposed on human rights defenders, Mr. **Hussain Salam Ahmed Radhi**, Ms. **Ebtesam Abdulhusain Ali-Alsaegh**, Mr. **Ebrahim Al-Demistani** and Mr. **Abdulnabi Al-Ekry** in an act of reprisal for their cooperation with the United Nations Human Rights Council, and their human rights work through the exercise of their rights to freedom of expression and freedom of association.

Mr. Hussain Salam Ahmed Radhi is a human rights defender who works with the Bahrain Centre for Human Rights (BCHR), and who has participated in workshops in Bahrain organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

Ms. Ebtesam Abdulhusain Ali-Alsaegh is a human rights defender who works with the Bahrain Centre for Human Rights and other organisations documenting human rights abuses in the country. She has participated in workshops in Bahrain organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

Mr. Ebrahim Al-Demistani is a human rights defender, nurse and member of the Bahrain Nurses Union. He served a three-year prison sentence alongside other medical professionals for treating injured pro-democracy protesters in 2011. Mr. Demistani has regularly attended sessions of the United Nations Human Rights Council since his release.

Mr. Abdulnabi Al-Ekry is the Director General of the National Centre for Studies and previously served as the President of the Bahrain Transparency Society. He is also a member of the Bahrain Human Rights Observatory (BHRO) and Bahrain Society for Human Rights.

According to the information received:

Mr. Hussain Salam Ahmed Radhi, Ms. Ebtessam Abdulhusain Ali-Alsaegh and Mr. Ebrahim Al-Demistani

On 12 June 2016, Mr. Radhi, Ms. Ali-Alsaegh and Mr. Al-Demistani were stopped by security officials at Bahrain International Airport and advised a travel ban had been issued against them since 9 June 2016. Mr. Radhi, Ms. Ali-Alsaegh and Mr. Al-Demistani were due to travel to Geneva to participate in the thirty-second session of the United Nations Human Rights Council. None of the human rights defenders were given any official documentation stating that they were banned from traveling abroad. Security officials at the airport referred Mr. Radhi, Ms. Ail-Alsaegh and Mr. Al-Demistani to the Office of Nationalities, Passports and Residence, where, Mr. Radhi and Ms. Ali-Alsaegh, were told no travel bans had been imposed on them. However, upon a second attempt to leave Bahrain later the same day, Mr. Radhi and Ms. Ali-Alsaegh were again turned away at the border. In the case of Mr. Al-Demistani, the Nationalities, Passports and Residence Office confirmed to him that the Public Prosecution had issued a travel ban against him effective as of 9 June 2016. Family members of victims of human rights abuses in Bahrain, who were due to accompany Mr. Radhi, Ms. Ali-Alsaegh and Mr. Al-Demistani to Geneva, were also prevented from travelling.

Mr. Abdulnabi al-Ekry

Mr Abdulnabi al-Ekry was due to fly to Geneva on 21 June 2016 to participate in the thirty-second session of the Human Rights Council. However, when he became aware of the travel ban imposed on Mr. Radhi, Ms. Ali-Alsaegh and Mr. Al-Demistani, he decided to book a flight to United Arab Emirates in advance of his planned trip to Geneva.

On 18 June 2016, when Mr Al-Ekry attempted to board his flight to United Arab Emirates he was informed by officials at Bahrain International Airport that the Public Prosecution had also issued a travel ban against him on 9 June 2016. Mr. Al-Ekry was not formally notified of this travel ban. Mr. Al-Ekry's lawyer sent a letter to the Public Prosecutor enquiring into the travel ban, however there has been no response yet.

Grave concern is expressed at the allegations that the travel bans issued against Mr. Radhi, Ms. Ali-Alsaegh, Mr. Al-Demistani and Mr. Al-Ekry constitute acts of reprisal for the exercise of their rights to freedom of expression and freedom of association in relation to their human rights work, including in seeking to cooperate with the United Nations, its mechanisms and representatives in the field of human rights, namely with the Human Rights Council. Additional concern is expressed about the broader effect of the imposition of travel bans as a means of preventing the legitimate exercise of rights, which may have a chilling effect on human rights defenders and civil society as a whole, particularly those with dissenting opinions, exercising their rights to freedom of association and freedom of expression.

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.

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 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 travel bans issued against Mr. Radhi, Ms. Ali-Alsaegh, Mr. Al-Demistani and Mr. Al-Ekry and how this measure is compatible with Bahrain's international human rights obligations, in particular, article 12 and 19(3) of the ICCPR.
3. Please indicate what measures have been taken to ensure that the rights to freedom of expression and freedom of association in Bahrain are respected.
4. Please kindly indicate what measures have been taken to ensure that human rights defenders in Bahrain, can operate in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort, including travel restrictions, and can interact with the United Nations without fear of reprisals of any kind.

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 draw your attention to the following human rights standards:

The above mentioned allegations appear to be in contravention with Article 9, 12, 19, 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Bahrain on 20 September 2006, which provides, respectively, that no one shall be subjected to arbitrary arrest or detention; everyone has the rights to liberty of movement, to freedom of opinion and expression; and to freedom of association with others.

We would like to emphasize that any restriction to the right to liberty of movement and the freedom to leave any country, including his own must be compatible with paragraph 3 of Article 12 of ICCPR which establishes that restrictions are only acceptable if they are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. Equally, we underline that any restrictions to the right to freedom of expression must be necessary, proportionate and prescribed by law, in accordance with paragraph 3 of the provision. The imposition of travel ban as a means to limit the exercise of freedom of expression and to prevent speech that is dissenting or critical is not compatible with article 19(3) of the ICCPR. We reiterate the statement by the Human Rights Committee in General Comment 34 that article 19(3) may never be invoked as a justification for the muzzling of any advocacy of human rights (CCPR/C/G/34).

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (b), which provides for the right to form, join and participate in non-governmental organisations, associations or groups;
- article 6 (b) and (c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 12, (2) and (3), which provides that the State shall take all necessary measures to ensure the protection of everyone 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.

In particular, with regard to the obstacles to the right to freedom of movement of defenders, we would like to refer also to the Commentary to the Declaration on human

rights defenders which states that "travel restrictions imposed on defenders in order to prevent them from participating in assemblies of different kinds outside their country of residence is contrary to the spirit of the Declaration and the recognition in its preamble that individuals, groups and associations have the right to "promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels".

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 mechanism and representatives 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".

We would also like to refer to Human Rights Council resolution 12/2 which inter alia, "condemns all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights" (OP 2), and "calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights" (OP 3).

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) 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 also like to refer to 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".

We would 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. 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.