

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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Dear Excellency, Prime Minister and Attorney General:

Re: Arbitrary detention of Maryam Al-Khawaja

We write on behalf of Lawyers' Rights Watch Canada (LRWC), a committee of lawyers who promote human rights and the rule of law internationally. LRWC also provides support to lawyers and other human rights defenders in danger because of their advocacy.

LRWC is gravely concerned by the arbitrary detention of Maryam Al-Khawaja. Ms Al-Khawaja is a Danish-Bahraini citizen, daughter of the well-known human rights defender Mr. Abdulhadi Al-Khawaja and a human rights activist herself. Mr Al-Khawaja is also detained by the Bahraini authorities, serving a life imprisonment sentence.

Ms Al-Khawaja was traveling to Bahrain to visit her father who was hospitalized as a consequence of a hunger strike that he started to protest against his arbitrary arrest and detention. When Ms Al-Khawaja arrived at the Bahrain International Airport on 30 August 2014, the authorities denied her Bahraini citizenship and consequently banned her from entering the country. Her Danish passport was confiscated and no evidence supporting her loss of Bahraini citizenship was brought to her.

Since then, Ms Al-Khawaja has been arbitrarily detained by the Bahrain authorities. Her detention cannot be justified as serving any public purpose of legal provision. In addition, she is accused by the public prosecution of "assault and battery against on-duty public employees during their performance on official duty".

Ms Al-Khawaja was held incommunicado and prevented from communicating with her family and her lawyer for 13 hours. During this time, the authorities refused to provide the family with any information about her situation. Ms Al-Khawaja was also denied the right to meet with her lawyer to

be informed of her legal rights during interrogation. As of 3 September 2014, the family was still not allowed to visit her.

Ms Al-Khawaja is on hunger strike to protest the unlawful denial of her entry into Bahrain to visit her father and her unlawful arrest. We understand that pending investigation on the charges against her, she has been transferred from the public prosecution to Isa Town women's prison for seven days.

These last events follow a long series of abuses targeting her father Abdulhadi Al-Khawaja and her sister Zainab Al-Khawajab. These abuses include judicial harassments, malicious prosecution, arbitrary arrest, denial of rights to liberty, fair trial, pre-trial release and to freedom of expression and association. Ms Al-Khawaja has clearly been targeted with arrest, detention and trumped-up charges to punish her for her human rights advocacy and as a signal to other human rights defenders and their supporters that speaking out in favour of human rights will be punished by arbitrary imprisonment.

In this context, LRWC wishes to remind Bahrain of some of its international obligations, in particular as contained in the *International Covenant on Civil and Political Rights* (ICCPR).

According to the ICCPR, “[e]veryone has the right to liberty and security of person. **No one shall be subjected to arbitrary arrest or detention**” (Article 9§1) (emphasis added). Furthermore,

“Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful” (Article 9§4).

LRWC urges Bahrain to review the situation of Ms Al-Khawaja and to put an end to her arbitrary detention as required by international norms.

Furthermore, when determining criminal charges, minimum guarantees for the accused person should include the obligation

“[T]o have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing” as well as the obligation “**to have legal assistance assigned to him, in any case where the interests of justice so require**” (Article 14§3, b and d). (emphasis added)

This requirement to benefit from legal assistance is confirmed by the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* (The Body of Principles), which states that “a detained or imprisoned person shall be entitled to communicate and consult with his legal counsel” as well as “allowed adequate time and facilities for consultations with his legal counsel” (Principle 18).

The ICCPR requires Bahrain to ensure that Ms Al-Khawaja benefits from her right to legal representation in all required circumstances, including when interrogations are conducted during the pre-trial phase.

In addition, the Human Rights Committee recommends that

provisions [...] be made for detainees to be held in places officially recognized as places of detention and for their names and places of detention, as well as for the names of persons responsible for their detention, to be kept in **registers readily available and accessible to those concerned, including relatives and friends.**¹ (emphasis added)

¹ United Nations General Assembly, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, A/RES/43/173, 76th plenary meeting, 9 December 1988, Principle 6, online at: <http://www.un.org/documents/ga/res/43/a43r173.htm>

This recommendation is also present in the Body of Principles:

Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be **entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment** or of the transfer and of the place where he is kept in custody (Principle 16). (emphasis added)

Bahraini authorities are required by international law to respect the right of Ms Al-Khawaja to have her family informed about her situation and to allow her family to visit her in her place of detention.

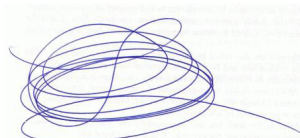
Moreover, according to the Body of Principles, “a detained or imprisoned person shall have **the right to be visited by and to correspond with, in particular, members of his family** and shall be given adequate opportunity to communicate with the outside world” (Principle 19). (emphasis added)

LRWC urges Bahrain to stop all judicial harassment against Ms Al-Khawaja and her family for reasons of their human rights activities. The Human Rights Committee stated that harassing a person for holding an opinion through the use of legal proceedings constitute a violation of freedom of expression.² LRWC reminds Bahrain that it is also responsible for ensuring the respect of freedoms of expression and assembly under the ICCPR (Articles 19 and 20) as well as under the Arab Charter on Human Rights (Articles 27 and 28).

LRWC calls on Bahrain to immediately:

1. Release Maryam Al-Khawaja unconditionally;
2. Withdraw unsubstantiated charges against Maryam Al-Khawaja and ensure that new charges not be approved;
3. Alternately ensure that Maryam Al-Khawaja is brought before a court to apply for pre-trial release;
4. Ensure that Maryam Al Khawaja be issued authorization to enter and leave Bahrain and to visit her father in prison.

Sincerely,



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² Human Rights Committee, General Comment No 34, *Article 19: Freedoms of opinion and expression*, CCPR/C/GC/34, 21 July 2011, para 9.

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