



General Assembly

Distr.: General
1 September 2016

English only

Human Rights Council

Thirty-third session

Agenda item 4

Human rights situations that require the Council's attention

Written statement* submitted by the Kham Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-15138(E)



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Dissolving Al-Wefaq, the Major Opposition Society: Political Activity is Banned in Bahrain

On June 14, 2016, the high administrative court ordered the headquarters of Al-Wefaq Society to be closed, on an expedited basis, the Office of Political Societies' Affairs at the Ministry of Justice to be appointed as Al-Wefaq's judicial guard until deciding on this matter, and the ruling on this case to be postponed until the hearing of October 6, 2016. This hearing was moved forward more than once, and the ruling on the case came on July 17, 2016. The Court ordered to dissolve Al-Wefaq, the biggest opposition political society in the country and to liquidate its assets. This decision was described as a violation of Bahrain's political activity and political rights, which are stipulated in the Constitution and the law.

An overview of the court ruling and its violations of the law

Before that, regarding the lawsuit filed against Al-Wefaq on July 20, 2014 by the Ministry of Justice, as the government claims that Al-Wefaq committed many violations between 2011 and 2014 concerning the quorum and the absence of transparency in the procedures for convening meetings, we find that the Ministry of Justice has ignored the fact that a quorum is calculated, according to the statute, by the number of full members who pay subscription fees.

With regard to the rest of the violations, the Ministry of Justice said that Al-Wefaq did not inform the ministry of the mechanisms followed in convening the general conferences of the society, including revealing the number of the present members, the election results, the reports presented, and the speeches delivered at the conference, in accordance with Article 18 of the Political Associations Law¹. However, the article referred to does not include any of the aforementioned and only states on notifying the Ministry of Justice of any decision issued by the society to change its leadership, merge it, or modify its statute.

With regard to the court ruling issued on July 17, 2016, after reading the verdict, the most important causes of the ruling can be summarized as follows:

- Establishing a systematic lack of respect for the Constitution and challenging its legitimacy.
- Advocating violence and supporting terrorist groups.
- Summoning foreign interference.
- Challenging the legality of the legislature.
- Violating the Judicial Power.
- Adopting the concept of religious political authority by the society and using places of worship to engage in political activity.
- Calling for disobedience of the rule of law.

After reading the causes of the ruling and reviewing the evidence accepted by the court as evidence of guilt, the legal articles that were used as a basis for issuing the judgment, and the trial proceedings, we find that this trial did not enjoy fair standards and all of that happened for political reasons because of Al-Wefaq's political activity, which opposes the government policy.

The text of the court ruling included the phrase: "after reviewing the documents and hearing the arguments and deliberation legally." However, the defence lawyer was not allowed to plead or express his opinion in the trial – which lasted for less than an hour. During the session, he requested to have access to the case document, which contains nearly 180 pages, even for one day, to be able to reply, but the court did not agree, in a clear violation of the trial proceedings.

The court ruling also stated in its records that the case was steadily deliberated during the hearings, saying: "the case hearings were deliberated during court sessions as stated in the records of the court, where the representative of the prosecutor and the representative of the defendant were present". However, the hearing on Tuesday June 14, 2016 was the only hearing in which the ruling was issued, and there are no other hearings reporting that Al-Wefaq, as a defendant,

¹ Article 18 of the Political Associations Law "The association must notify the Minister of Justice – by a letter filed in the office of the ministry in exchange for an acknowledgment notice - of any decision issued by the association to change its president or any of its leaders, dissolve the association or merge it, or make any amendment to its statute, within ten days from the date of issuance of the decision"

or its legal representative viewed the case document. This hearing was dedicated to issue the ruling, and it was set in the same day of filing the lawsuit.

Moreover, the justifications of the court regarding the urgency in resolving Al-Wefaq are not considered sufficient legal justifications for the sentence to close the headquarters of the society and implementing the sentence in the same day before viewing the case objectively.

Regarding implementing the sentence in the same day, urgently removing the logos of the Society from the buildings of its headquarters, closing the headquarters of the Society, reserving all its accounts and movable and immovable assets such as buildings and others, suspending its activities, and appointing the Office of Political Societies Affairs in Bahrain's Ministry of Justice, Islamic Affairs and Endowments its judicial guard until issuing the ruling. All of the aforementioned has no legal justifications, especially since the sentence to suspend the society's activity on an expedited basis until issuing the ruling in the case does not require the disposition of immovable assets such as the buildings and the logos before the final ruling is issued.

When reading the text of the ruling, it becomes obvious that the Articles of the Political Associations Law No. 26 of 2005, especially Article 23, were employed without providing materialistic proofs that confirm the allegations of Bahrain's Ministry of Justice. The evidences were confined to a group of speeches delivered by political leaders of the Society and some practices that are considered political activities and classified within the freedom of expression, which is considered a violation of the principle of legally determining irregularities.

Considering the trial proceedings, it is clear that the court had violated many of the principles and standards of fair trial, for example:

- Right to the assistance of a lawyer pre-trial; the court refused the representation of lawyer Ibrahim Sarhan following the resignation of lawyer Abdullah Al-Shamlawi for previously mentioned reasons.
- Right to adequate time and facilities to prepare a defense.
- Right to challenge the lawfulness of the case.
- Right of detainees to trial within a reasonable time.
- Right to equality before the law and courts.
- Right to trial by a competent, independent and impartial tribunal established by law.
- Right to a fair hearing.
- Right to public hearing.
- Right to call and examine witnesses.
- Right to equal opportunities of defense.

Conclusion:

The previous representation reveals that Bahrain does not fulfill its international commitments and violates the international law regarding the freedom of association through executive and legislative procedures and measures, by which it violates the law and freedoms related to civil society.

For example, Article 163 of the Bahraini Penal Code criminalizes establishing, managing, or being a member of any organization without a license, even if the organization was licensed in another country and its goals and activities do not contradict with the local and international law. On the other hand, Bahrain refuses to license new organizations in many cases.

The Government of Bahrain often interprets the laws in a way that contradicts with the principles of rights and freedoms. These laws are employed to restrict the political and human rights work and the non-governmental organizations of the civil society.

The law also allows the Ministry of Justice to file a lawsuit to resolve or suspend the political societies over vague reasons, which the law does not clarify, such as "committing grave breaches of the Kingdom Constitution's provisions,

this law, or any other law”². This is the same Article, in addition to many other Articles, which was employed to resolve Al-Wefaq National Islamic Society.

Recommendations:

Based on the aforesaid, Khiam Rehabilitation Center for Victims of Torture (KRC) recommend the following:

1. Abolish the sentence issued by Bahrain’s First High Civil Court to resolve Al-Wefaq National Islamic Society, and other judicial or administrative sentences to close political, human rights, cultural and professional organizations or societies.
 2. Abolish or amend the laws that restrict the political and human rights work, particularly the Political Associations Law No. 26 of 2005 in order to ensure practicing the rights and freedoms, and allow the individuals to work freely without fear of the possibility of being subjected to any threats, intimidating or violent acts, or prosecuted because of practicing political work and activities.
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² Article 23 of the Political Associations Law No. 26 of 2005