

STATEMENT

Paris, May 11, 2021

Bahrain Minister of Justice Should not Use Disciplinary Proceedings to Sanction Lawyers Exercising their Freedom of Expression

In a hearing held on March 22, 2021, the Lawyers' Disciplinary Board in Bahrain decided to prohibit prominent human rights lawyer Abdullah Alshamlawi from practicing his profession for one year.

The decision followed a complaint filed with the Lawyers Disciplinary Council against Mr. Alshamlawi by Minister of Justice Khalid bin Ali Al Khalifa, who is the only one authorized to file disciplinary actions before the Council.

This case stems from a tweet published by Mr. Alshamlawi from his personal Twitter account, wherein he criticized the religious practices of a Muslim sect. As a result of that tweet, a criminal proceeding was brought against Mr. Alshamlawi, at the behest of an individual who allegedly was a victim of the tweet, charging him with two criminal acts: (1) Publicly inciting hatred and disrespecting a community group, and (2) deliberately inconveniencing others by misuse of his communication devices.

On June 30, 2020, Mr. Alshamlawi was sentenced to 6 months imprisonment, with bail imposed in lieu of execution of the punishment.

Following the sentence, the alleged victim on whose behalf the criminal charges were brought reconciled with Mr. Alshamlawi and agreed to waive his complaint. Subsequently, Mr. Alshamlawi appealed the judgment before the Third Circuit Court of Appeals. As a result of the waiver, the Court of Appeals agreed to close the case with respect to the charge of deliberately inconveniencing others by misuse of communication devices but upheld the conviction on the first charge of public incitement of hatred and disrespecting a community group. The Court, however, suspended the sentence for three years.

Mr. Alshamlawi challenged this judgment before the Court of Cassation, but on January 11, 2021, the Court of Cassation affirmed the appellate judgment.

Following the resolution of the criminal case, the Minister of Justice then sought disciplinary action against Mr. Alshamlawi in his capacity as a lawyer. The Minister referred the matter to the Lawyer's Disciplinary Council, alleging violation of Article 43 of the Bahraini Advocacy Law, which provides that any attorney who violates the principles of this law, breaches his professional duties, or commits an act that degrades the profession or affects the honor or traditions of the profession, will be subject to one of the following disciplinary punishments:

- Warning.
- Blaming.
- Temporary suspension.

- Disbarment

The Disciplinary Council considered the case and decided to suspend Mr. Alshamlawi from the practice of law for a period of one year. The case is subject to appeal before the Appellate Disciplinary Council.

UIA-IROL is deeply concerned by the proceedings instituted against Mr. Alshamlawi.

Mr. Alshamlawi's personal tweets were expressions of his personal opinions. The International Covenant on Civil and Political Rights, which Bahrain ratified in 2006, protects freedom of opinion and expression such as expressed by Mr. Alshamlawi.

As stated by the Human Rights Committee in its General comment on Article 19 "Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26. Thus, for instance, it would be impermissible (...) for such prohibitions to be used to prevent or punish criticism of religion"¹.

Thus, the punishment imposed on Mr. Alshamlawi by the Kingdom of Bahrain, based on his personal opinions, is a clear violation of Articles 19 of the Covenant as well as Article 23 of the Constitution of Bahrain, both of which protect freedom of expression.

UIA-IROL also finds the disciplinary proceedings instituted against Mr. Alshamlawi to be totally unfounded and improper. Mr. Alshamlawi's tweets were his personal, not professional opinions, and as such, it was inappropriate for the Disciplinary Council to even consider his case.

Mr. Alshamlawi is a legal advisor and an experienced human rights lawyer, who throughout his decades-long practice, has often defended clients who have been critical of the Kingdom policies. UIA-IROL asserts that this unfounded and arbitrary decision of the Disciplinary Council is merely a pretext intended to impede his human rights work. Unfortunately, it is just one example of a pattern of harassment of those lawyers who dare to oppose the governmental practices, either in their personal lives or in the course of their representation of clients.

UIA-IROL calls on the Appellate Disciplinary Council to reverse the decision of the Disciplinary Council and reinstate Mr. Alshamlawi. UIA-IROL also calls on the Kingdom of Bahrain to refrain from targeting and harassing -- including by judicial harassment -- Mr. Alshamlawi and other human rights lawyers.

More about the UIA-IROL

The Institute for the Rule of Law of the International Association of Lawyers (UIA-IROL) promotes the Rule of Law and supports and defends, in particular, (1) lawyers, judges and human rights defenders who are harassed, threatened and/or persecuted in the exercise of their professions, (2) the independence of the legal and judicial professions, and (3) the UN Basic Principles on the Role of Lawyers, especially in defense of human rights.

For more information go to: www.uianet.org - uiacentre@uianet.org
Press contact: Marie-Pierre LIENARD, Communication Officer mplienard@uianet.org

¹ <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>