

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a bold, serif font, centered between two horizontal blue bars.

NEW YORK
CITY BAR

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Sheikh Khalifa bin Ahmed Al Khalifa
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Your Excellency:

The Association of the Bar of the City of New York is a non-governmental organization of 23,000 members in New York and around the world. Our membership includes corporate attorneys representing nearly every major law firm and corporation in the United States, judges, prosecutors, government officials, and defense lawyers. Throughout its 141-year history, one of the principal purposes of the New York City Bar has been to promote the Rule of Law.

On many occasions in the past several years, the New York City Bar has joined with other national and international bar associations of lawyers in expressing its support for the Rule of Law in the international community, recognizing that an independent judiciary and an independent legal profession are essential to the Rule of Law in all jurisdictions. We remain fully committed to this principle, and are anxious to do what we can to help our fellow lawyers carry out their professional obligations.

We are aware that Bahrain has seen great unrest in recent months, including the killing of peaceful protestors and the arbitrary detention of hundreds of individuals. We are aware also that since March 15, 2011, Bahrain has been operating under what is officially known as the Declaration of the State of National Safety, which has created a legal regimen similar to martial law. However, even during times of unrest, fundamental rights must be respected. In that respect, what appears to be the routine and systematic denial of access to legal counsel for hundreds of persons arrested since March 15 is particularly troubling. The June 22nd sentences of life imprisonment for eight human rights activists and opposition figures (and prison terms ranging from two to fifteen years for other activists and opposition figures) have heightened this concern.

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK
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Also, we are gravely concerned regarding reports that the Bahraini government has – at least until very recently perhaps – detained defense lawyer Mohammed al-Tajer without charge and continues to deny him access to legal counsel and his family. Specifically, it has been credibly reported that:

- On the evening of April 15, 2011, masked security officers, both uniformed and plainclothes, raided al-Tajer’s house. They confiscated items, including laptops, documents, and mobile phones. Over the course of an hour and a half, al-Tajer’s wife and children were forced to move from room to room as officers searched the house. The officers also ordered al-Tajer to turn over the keys to the office that he shares with several other lawyers.
- After searching the home, officers drove al-Tajer away in a police vehicle. Since then, al-Tajer’s attorney and family have requested access to him, but the Bahrain government has not responded to these requests. Indeed, until June 12, the Bahrain government had offered no reason for al-Tajer’s arrest, had filed no formal charges against him, and had not brought him before judicial authorities or any competent court. Thus, al-Tajer essentially had been disappeared for nearly two months.
- Al-Tajer was brought before a military court on June 12. Al-Tajer’s attorneys, however, were given no notice of the hearing and were thereby precluded from attending. According to the Bahrain News Agency, al-Tajer is being charged in the military tribunal with “inciting hatred for the regime,” engaging in illegal protests, and inciting people to harm police, although his attorneys have still yet to be notified of any charges officially. These hopelessly vague charges would seem to target al-Tajer largely for exercising his fundamental human rights and for engaging in activities as an attorney.
- As you undoubtedly know, al-Tajer is one of a group of Bahraini lawyers who – often on a pro bono basis – have defended opposition figures and rights activists detained by authorities during the past several years and charged with national-security crimes. For example, al-Tajer was one of the lead lawyers for the twenty-three individuals who were arrested last August and September on charges of plotting a coup. As has happened with many of the national-security cases on which al-Tajer has been counsel, the government ultimately abandoned that prosecution without offering any credible evidence to support the charges originally asserted.
- Likely due to the nature of this work, al-Tajer had received threats prior to his recent detention. For example, al-Tajer reported that, on January 27, 2011, he received in his office mail a CD from an unknown sender. It contained a film that showed al-Tajer and his wife sleeping and eating at their private beach house. Al-Tajer reported that the CD contained a note: “Protect your tongue. Otherwise action will be taken against you.” These threats appear particularly ominous in light of al-Tajer’s seizure and incommunicado detention.

We note, in addition, our significant concern regarding more recent, but equally credible, reports that Bahraini government agents interrogated other attorneys who have served as defense counsel in national-security cases. In particular, we understand that the government questioned these lawyers regarding their clients and their clients' activities.

The rights of lawyers in Bahrain to practice their profession and to carry out their professional duties to clients free of government interference are protected by Bahraini law. Like all other citizens, Bahraini lawyers have the right to free speech, assembly, and association under the Bahrain Constitution. Constitution of the Kingdom of Bahrain, Articles 23, 27 and 28. In addition, targeting attorneys based on the nature of their representations results in the violation of other fundamental principles of Bahraini law, including that those accused have the right to be defended by counsel of their choosing. Constitution of the Kingdom of Bahrain, Article 20.

Moreover, the arbitrary detention of a lawyer (like anyone else) violates international law as set forth in the International Covenant on Civil and Political Rights, which Bahrain acceded to on September 20, 2006, articles 7 and 9, which prohibit arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment or punishment.

Finally, the intimidation and harassment of a lawyer in particular is contrary to international standards set forth in the United Nations Basic Principles on the Role of Lawyers, which the U.N. General Assembly adopted without dissent. Specifically, Article 16 provides that "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; . . . and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics."

We call upon the Bahrain Defense Forces to: (i) investigate the foregoing incidents, (ii) reaffirm the rights afforded Bahraini lawyers to practice their profession without governmental interference under domestic and international law, and (iii) effect the immediate release of al-Tajer if he is not charged with a cognizable crime in a competent court.

Very truly yours,



Samuel W. Seymour

cc: His Excellency Sheikh Khalid bin Ali bin Abdulla Al Khalifa, Minister of Justice and Islamic Affairs
His Excellency Sheikh Rashid bin Abdullah Al Khalifa, Minister of Interior
Bahrain Bar Association