



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **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.

[13 February 2017]

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

GE.17-02445(E)



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## **Bahrain: Unfair Trial of Head of Highest Shiite Religious Authority, Religious Scholar Sayed Majeed Al-Mashaal\***

Bahraini authorities detained Sayed Majeed Al-Mashaal (53 years old), head of the Islamic Ulama Council (highest Shiite religious authority in Bahrain – dissolved by the Bahraini authorities in 2014 as part of its sectarian persecution policy), after a series of harassments manifested in repeatedly summoning him by police stations of the Public Prosecution before his latest arrest. Bahraini authorities had targeted more than 40 Shiite clerics, in addition to Friday prayers' Imams, and group prayers' imams (those who conduct religious rituals; daily prayers), coinciding with the citizenship revocation of Bahrain's Shiite sect leader Ayatollah Sheikh Isa Qassim, on June 20, 2016. Authorities had also arrested a number of activists and citizens, accused of malicious charges related to freedom of expression and opinion, and peaceful assembly.

The Court of Appeal decided to amend the prison verdict against Al-Mashaal on one charged out of a total of 3 charged, for which he was sentenced to 6 months of prison. He received other verdicts in other charges; according to Al-Wasat Bahraini daily.<sup>1</sup>

To clarify more, Bahraini authorities had accused the President of the Islamic Ulama Council, Sayed Majeed Al-Mashaal of charges in 3 separate cases, for taking part in the peaceful protest in Diraz, staged outside the house of Bahrain and the Gulf's highest Shiite religion authority, Ayatollah Sheikh Isa Qassim, in response to his citizenship revocation and targeting.

### **Details of his Arrest and Trial**

On the morning of July 30, 2016, Sayed Majeed Al-Mashaal left the peaceful protest site in Diraz and headed to his house for personal errands, he arrived at his house at 6:00 am. He arrived to find one of his sons at home. Not more than an after later, the door was knocked, and outside were two security members in civilian clothes asking about him [Sayed Al-Mashaal]. He went to see them, and he was surprised to see dozens of military vehicles surrounding his house, while security members approached to arrest him. He asked them if he could go back into his house to change his clothes and inform his family. They refused and took him directly to an unknown destination. His family remained unaware of his whereabouts for 3 consecutive days.

On the same day of his arrest, the Director General of the Northern Governorate Police Directorate announced that he had arrested "President of the dissolved Ulama Islamic Council, Sayed Majeed Al-Mashaal, for inciting to violate laws and take part in illegal assemblies". He stressed that his arrest came as a result to his insistence to incite others to violate laws and take part in an illegal assembly.

After the 3-day enforced disappearance, Sayed Majeed Al-Mashaal conducted the first phone call with his family on August 3, 2016, and informed them that he had been detained. His family was able to visit him for the first time on August 9, in presence of 3 policemen in the room to monitor the talks. Sayed Al-Mishaal was therefore unable to tell his family how he was treated, or about the nature of questions addressed at him during interrogations.

On Monday August 1, 2016, the Public Prosecution decided to detain him for 15 days pending investigations, for charges of illegal assembly. In a sudden action, the Public Prosecution referred him on Monday August 8, 2016 to trial, and his first hearing was scheduled for August 17, 2016.

On August 31, 2016, a Bahraini court sentenced Al-Mashaal to two years in prison over charges on inciting other to violate the law, and for taking apart in an illegal assembly.

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<sup>1</sup><http://www.alwasatnews.com/news/1161634.html>

On Tuesday November 29, 2016, Bahrain's appeals court commuted the 2-year prison verdict against Al-Mashaal to 6 months only over the charge of taking part in Diraz protest, while it kept a 1-year term prison for charges of inciting the violation of law.

### **Legal Background on Dissolving Ulama Islamic Council**

The verdict issued by the High Administrative court in its Wednesday January 29, 2014 hearing, to dissolve the Ulama Council, is similar to many legal defects. This therefore made the possibility to revoke the verdict before any just judicial authority, inevitable, as it violated the law in the failure to exhibit rivalry in the verdict, in a council that was not legally presented, and the entity that raised the case does not legally exist, and does not fall in line with societies and associations' law. The said verdict violated principles of jurisprudence and administrative judiciary, and violated the law of pleasing, by accepting a request that does not provide its filer any interest by law, is requesting the dissolution of the council only has a theoretical and media interest to the Minister of Justice. The council is not a concrete entity, and shutting down the headquarters and liquidating the council's account does not mean the scholars under its would stop doing their role. They are the highest Shiite religious Ulama (scholar) society, and it is their role is missionary, and that does not have any spatial or temporal boundaries.

Moreover, the verdict was deemed a defect when it ruled something that was not requested by the opponent. The Minister did not request liquidating the council and confiscating its asserts, since the entity does not report to him, and he cannot confiscate money that are peoples' rights. Liquidation only occurs when an entity is registered by virtue of the Law of Associations.

As an international law, Article (19) of the UN Universal Declaration of Human Rights states, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Religious persecution is a crime, and is classified under crimes against humanity, as it is a practice of discrimination and hatred forbidden by the Universal Declaration of Human Rights rules, in accordance with Articles (1) and (2). Article (7) of the Rome Statute of the International Criminal Court (1998), stated that persecution is a 'crime against humanity', and according to the article's Paragraph (1) part (h), "Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court." Paragraph (2), part (g) of the Statute clarified the concept of persecution, stating, "'Persecution' means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity."

### **Results and Recommendations:**

1. The Bahraini authorities imposed arbitrary restriction on freedom of expression, manifested by a comprehensive ban on protests, the eradication of opinions in public gatherings and social media networks, which express opposition to authorities and policies.
2. Bahraini authorities used a group of article stated in the Penal Code, criminalizing freedom of expression through peaceful means. It aimed at silencing political opponents, Shiite clerics, human rights defenders, and journalist activists.
3. The local law on organizing assemblies imposed restrictions that are not consistent with the provisions of the International Covenant on Civil and Political Rights. The authorities' enforcement of law was also characterized by an arbitrary interpretation of restrictions stated in the covenant. This resulted in making freedom of peaceful assembly criminalized and violated in a complex way.
4. Based on the proceedings of Sayed Majeed Al-Mashaal's trial, the charged against him are hateful charges linked to freedom of expressing opinion, and peaceful protest, and for practicing his freedom of religion and belief. Therefore, he is a prisoner of conscience that should be immediately released, and all cases filed against him in Bahraini courts should be dropped from all records.

5. The Bahraini authorities ought to stop their repressive practices that violate religious freedoms of Shiite Muslims, due to further restrictions on freedom of expression.
6. The Bahraini authorities ought to response to a petitioned visit by UN Special Rapporteur on Freedom of Opinion and Expression, which dates back to November 14, 2014, to examine the violations against the Shiite Muslims right to expressing their opinion and religious beliefs.
7. Special Rapporteur on Freedom of Religion or Belief ought to petition to visit Bahrain to examine the Bahraini authorities' violations against Shiite Muslims.
8. The International Human Rights Community ought to exercise their pressure role via addressing the Bahraini authorities to stop violations relating to the confiscation and restriction of freedom of belief, freedom of opinion and expression, practices against Muslim Shiites.
9. The United Nations Commission on Human Rights ought to publically express the Muslim Shiites' rights to practice freedom of religion and belief, in parallel with its ongoing open stances towards issues related to freedom of expression, peaceful assembly, and right to citizenship in Bahrain.

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\*Bahrain Forum for Human Rights (BFHR), NGO without consultative status, also shares the views expressed in this statement.