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

Written statement* submitted by the Khiam 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.

[17 August 2017]

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

GE.17-15054(E)



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Bahrain: Prisoner of Conscience: Former MP Sheikh Hassan Issa. More than 590 days in solitary confinement*

Sheikh Hassan Isa

He is a former Member of the Bahraini Parliament for Al-Wefaq National Islamic Society, the members of which were 18 MPs resigned in 2011. He was born on the island of Sitra in 1970, and grew up there. He is known for his moderate religious, political, social and humanitarian roles through following people's needs and conditions and providing financial assistance and humanitarian services to them, especially the needy, the underprivileged and the disadvantaged, in accordance with his religious and humanitarian duty.

Sheikh Hassan won the highest number of votes in the 2010 parliamentary elections, with a rate of 92%, because of the social and humanitarian presence he was known for on the island of Sitra.

On December 15, 2016, the Bahrain Forum for Human Rights (BFHR) along with activists launched a large-scale campaign on social media in solidarity with Sheikh Hassan Isa, after he spent more than 480 days in solitary confinement (isolation), which violates Article 50 of the Reform and Rehabilitation Institution Law issued in 2014 under Law No. (18).

Violating the guarantees of fair trial standards

With reference to some principles that regulate the work of the judiciary, such as the legal description of the crime, the legal adaptation of the crime, and the constitutional principle "there shall be no crime and no punishment except under a law" – which prohibits a judge from creating crimes and punishments from his own and limits his job to the application of the legal text specified by the legislator for the incident before him – we find that the court did not take this into account in the trial of Sheikh Hassan Isa. When it comes to adapting the law, the judge must adapt the law specified by the legislator to the case before him and determine the appropriate text for the sentence before him. However, the judiciary in Bahrain adapts the laws relating to acts of terrorism for crimes which do not include acts and facts that can be described as terrorist crimes. The legal description of the crime is absent and the legal adaptation of the crime is not compatible with the legal text, especially since these laws, particularly the law on protecting society from terrorist acts, are too broad in their definition of terrorist acts and deeds. In many cases, many activists, media workers, human rights activists and demonstrators have been tried under the Terrorism Law through a legal adaptation that is not compatible with the facts.

The presentation of Sheikh Hassan Isa's trial sessions and their proceedings revealed the absence of a set of principles and guarantees that ensure a fair trial, including the guarantees and rights of the pre-trial period and during the course of the trial.

The security authorities and the court violated a number of rights and guarantees, which are adopted by national and international laws and constitute the guarantees of a fair trial. When these guarantees are absent or the court violates these rights, the trial is then described as unfair.

After examining the proceedings of Sheikh Hassan Isa's trial and the facts presented in this report, and reading the national laws in Bahrain and the international treaties and conventions to which Bahrain has acceded, it is clear that the court violated a number of rights which ensure fair trials. Some of those rights were previously mentioned in the report, while others can be noted as follows:

- The right to freedom

The security authorities and the court have violated the right to freedom. This was proven by showing the illegality of Sheikh Hassan Isa's arrest and the invalidity of the arrest and detention procedures, since the arrest decision was issued without the permission of a judicial authority. This violates Article 61 of the Code of Criminal Procedure, which emphasizes that any person must not be arrested or imprisoned except by an order of the competent authorities, and Article 9 (1) of the International Covenant on Civil and Political Rights, which stipulates that "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

It also violates Article 14 of the Arab Charter on Human Rights, which guarantees the right to freedom and prohibits arbitrary arrest and detention, as well as other international and national legislations and laws.

- The right to know the charges and the reasons for the arrest

When Sheikh Hassan Isa was arrested, the security authorities did not charge him with any charges, and he did not know the reasons for the arrest except later. This means that the security authorities violated Article 9 (2) of the International Covenant on Civil and Political Rights, which stipulates that “Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”

- The right to have contact with the outside world

Sheikh Hassan was denied contact with the outside world and his family and lawyer did not know his place of detention except after 20 days of the enforced disappearance he was subjected to by the security services.

- The right to a lawyer

Sheikh Hassan Isa was prevented from contacting his lawyer or any of his relatives after the arrest. He was also denied access to his lawyer during the interrogation. His lawyer submitted more than one letter requesting from the Public Prosecution to allow him to attend the interrogation sessions, however, the Public Prosecution denied that he was present or appeared before it.

He was summoned to the Public Prosecution without his lawyer's knowledge, and even when the lawyer was present at the Public Prosecution, Sheikh Hassan was denied the right to discuss the details of the case with the lawyer. This means a violation of his right to a lawyer and to benefit from the legal advice ensured by the Bahraini and international laws. These laws include Article 20 (e) of the Bahraini Constitution, which ensures that “every person accused of an offense must have a lawyer to defend him,” and Article 14 of the International Covenant on Civil and Political Rights, as well as Article 16 of the Arab Charter on Human Rights.

- The right to preserve human dignity and not being subjected to torture

Despite the fact that the defendants, including Sheikh Hassan Isa, confirmed to the court that they had been subjected to torture and cruel and degrading treatment, the court did not use its authority to open an investigation concerning these allegations of torture, and only presented one of the accused to the forensic doctor without considering other cases of torture. Also, the court did not abide by Article 19 (d) of the Bahraini Constitution, which stipulates that the statements or confessions extracted under torture shall be void.

The Court has ignored the texts of many laws and legislations that stipulate that torture is illegal, it is important to treat persons deprived of their liberty with humane treatment, which respects the inherent dignity of the human person, and it is illegal to take into consideration confessions suspected to be extracted under torture or coercion to confess.

Those laws include the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, articles 7 and 10 of the International Covenant on Civil and Political Rights, Article 20 of the Arab Charter on Human Rights, and many other laws.¹

- The right to attend court hearings

The trial sessions showed that not all defendants were allowed to attend some of the trial sessions, including Sheikh Hassan Isa, who was prevented from attending the second trial session, for unknown reasons.

- The right to access information about the accused

Despite the defence's repeated requests to give a copy of the case file to Sheikh Hassan and allow him to prepare his defence by providing papers and pens, the court did not give Sheikh Hassan his right to access the information related to him.

In addition, the security authorities and the court violated other principles in the trial of Sheikh Hassan Isa, including:

- Not to force the defendant to confess a crime.
- Assumption of innocence of the accused.
- Trial before a competent and independent court.
- The right to equality before the law and the courts.
- The right to a fair hearing of cases.
- Equal opportunities for the defence.
- Trial without undue delay.
- The right to call witnesses and discuss matters with them.
- Challenging the legality of detention.

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