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## Human Rights Council

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Agenda item 4

**Human rights situations that require the Council's attention**

### **Written statement\* submitted by Americans for Democracy & Human Rights in Bahrain Inc, 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.

[19 August 2020]

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\* Issued as received, in the language(s) of submission only.

GE.20-12362(E)



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## **Bahrain's Failings with Regard to the Right to Life and to Access to Fair Judicial Proceedings in Death Penalty Cases**

On the occasion of the 45th session of the United Nations (UN) Human Rights Council (HRC), Americans for Democracy & Human Rights in Bahrain (ADHRB) would like to take the opportunity to raise concerns over Bahrain's continued use of the death penalty against civil society actors in the kingdom. ADHRB files the following submission concerning the persistent arbitrary and unlawful use of the death penalty in Bahrain.

### **Background**

After a de-facto seven-year moratorium, Bahrain resumed executions in 2017, with the execution of Sami Mushima, Abbas AlSamea and Ali AlSingace,<sup>1</sup> who were tried on political charges based on their family ties to opposition figures in the kingdom.<sup>2</sup> There are currently 24 people at risk of execution in Bahrain, including the 12 persons at imminent risk of execution, having exhausted all legal remedies in the kingdom.<sup>3</sup>

On 13 July 2020, the Court of Cassation of Bahrain upheld death sentences against Mohammed Ramadhan and Husain Moosa, who have been the subjects of significant attention from international observers due to the circumstances surrounding the proceedings, including the courts' reliance on torture-tainted confessions as primary evidence. Both men were arrested without the presentation of warrants, and were subjected to torture, and not afforded their due process rights. They now join other individuals who are at imminent risk of execution in Bahrain, having exhausted all available legal remedies, including Maher Abbas al-Khabbaz, Mohamed Ramadan Isa Ali Husain, Salman Isa Ali Salman, Hussein Abdullah Khalil Ebrahim, Mohammad Radhi Abdulla Hassan, Sayed Ahmed Fuad Abbas Isa Ahmed Al-Abar, Hussein, Ali Mahdi Jasim Mohamed, Hussein Ebrahim Ali Hussein Marzooq, Moosa Abdallah Moosa Jafaar, Hussain Abdullah Marhoon Rashid, Zuhair Ebrahim Jasim Abdullah, and Husain Moosa Hasan Mohamed.

### **Individual Examples**

Maher Abbas al-Khabbaz was arrested without a warrant, tortured to obtain a confession, and was denied access to a lawyer, in contravention of Bahraini domestic law. Mohamed Ramadan Isa Ali Husain was arrested by Criminal Investigations Directorate (CID) officers without a warrant. They beat and verbally assaulted him for four days and accused him of being involved in the killing of a police officer. Husain's treatment was in retribution for his participation in protests and demonstrations against the government. Husain signed a pre-prepared confession and was sentenced to the death penalty, despite informing the court that he had been forced to sign a false confession.

Husain Moosa Hasan Mohamed was arrested on 21 March 2014 by CID officers without a warrant, was tortured with the purpose of coercing a confession for participation in the bombing death of members of the security forces and denied legal counsel before being sentenced to death in December 2014. Hussein Abdullah Khalil Ebrahim was arrested without a warrant in 2015 and was subjected to torture. He was sentenced in absentia on 31 December 2015 to 55 years in prison and to the death penalty on charges including firearm possession and receiving funding from abroad. Ali Mahdi Jasim Mohamed was arrested on 24 April 2016 without a warrant. He was charged with unlawful assembly, unlawful possession of a firearm, and burning a security vehicle in an incident which killed a security officer. CID officers aggressively beat Mohamed, focusing on his face, and on 6 June 2017,

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<sup>1</sup> Patrick Wintour 'Bahrain executes three Shia men in first death sentences since 2010' (The Guardian, 15 January 2017) < <https://www.theguardian.com/world/2017/jan/15/bahrain-three-men-death-sentence-shia-muslims-gulf> > accessed 11 August 2020.

<sup>2</sup> Reprieve 'Spotlight on Bahrain' (2017) < <https://reprieve.org.uk/death-penalty-around-world/the-countries/spotlight-on-bahrain/> > accessed 11 August 2020.

<sup>3</sup> Corroborated information provided by local civil society.

Mohamed was sentenced to the death penalty. Husain Ebrahim Ali Husain Marzooq was arrested on 10 July 2016 by CID officers without a warrant. They subjected Marzooq to electric shocks and threatened him with further torture if he did not sign a confession. Marzooq was charged with involvement in a bombing, possession of explosives and weapons, and communication and conspiracy with a foreign country. On 19 June 2017, Marzooq was sentenced to death.

Ali Mohamed Ali Mohamed Hakeem AlArab was arrested and forced to sign a confession while blindfolded. He was charged with killing a security officer on 29 January 2017, firing on a security patrol and injuring one of its officers, and possession of firearms. AlArab was sentenced in absentia to the death penalty. Ahmed Isa Ahmed Isa AlMalali was arrested on 9 February 2017 without a warrant. During his arrest he was shot twice, though doctors did not remove the bullets from his wounds until 23 days later. AlMalali was subjected to forced standing, exposed to cold, beatings, and electric shocks and was charged with possession of arms, training in the use of arms, and membership in a terrorist cell. He was sentenced in absentia to death on 31 January 2018. They were executed by firing squad on 26 July 2019,<sup>4</sup> in spite of international calls for clemency from the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnes Callamard,<sup>5</sup> Human Rights Watch,<sup>6</sup> Amnesty International<sup>7</sup> and Members of the United States of America Congress.<sup>8</sup>

## Legal Analysis

The right to life is recognized in Article 3 of the Universal Declaration of Human Rights (UDHR). Article 6 of the International Covenant on Civil and Political Rights (ICCPR) prohibits arbitrary deprivation of life and provides for specific conditions for the imposition of the death penalty with respect to countries that have not yet abolished it, including that sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time, and that this penalty can only be carried out pursuant to a final judgement rendered by a competent court.<sup>9</sup>

In the cases of Ebrahim and the now deceased AlMalali, Mushima, AlSamea and AlSingace, it is evident that death sentences are handed down in the Bahraini system for criminal acts which do not meet the ‘most serious crimes’ threshold in contravention of the rights of the executed to life pursuant to Article 3 UDHR and the freedom from arbitrary execution pursuant to Article 6 ICCPR. The Human Rights Committee has taken the view that the term “most serious crimes” must be interpreted restrictively and appertain only to crimes of extreme gravity, involving intentional killing.<sup>10</sup>

<sup>4</sup> Amnesty International ‘Three Men Executed by Firing Squad In Bahrain’ (02 August 2019) < <https://www.amnesty.org/download/Documents/MDE1108302019ENGLISH.pdf>> accessed 11 August 2020.

<sup>5</sup> United Nations Human Rights Council ‘UN expert urges Bahrain to halt executions of two men amid torture allegations’ (26 July 2019) < <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24855&LangID=E>> accessed 11 August 2020.

<sup>6</sup> Human Rights Watch ‘Bahrain: Executions May be Imminent’ (26 July 2019) < <https://www.hrw.org/news/2019/07/26/bahrain-executions-may-be-imminent>> accessed 11 August 2020.

<sup>7</sup> Amnesty International ‘Bahrain: Halt imminent execution of two men tortured and convicted in unfair trial’ (26 July 2020) < [https://www.amnesty.org/en/latest/news/2019/07/bahrain-halt-imminent-execution-of-two-men-tortured-and-convicted-in-unfair-trial/?utm\\_source=TWITTER-IS&utm\\_medium=social&utm\\_content=2505537392&utm\\_campaign=Amnesty&utm\\_term=News](https://www.amnesty.org/en/latest/news/2019/07/bahrain-halt-imminent-execution-of-two-men-tortured-and-convicted-in-unfair-trial/?utm_source=TWITTER-IS&utm_medium=social&utm_content=2505537392&utm_campaign=Amnesty&utm_term=News)> accessed 11 August 2020.

<sup>8</sup> Tom Lantos Human Rights Commission ‘Co-Chairs to Bahrain: Stay Executions of AlArab and AlMalali’ (26 July 2019) < <https://humanrightscommission.house.gov/news/press-releases/co-chairs-bahrain-stay-executions-alarab-and-almalali>> accessed 11 August 2020.

<sup>9</sup> ICCPR, Supra note 13 Article 6(2).

<sup>10</sup> Human Rights Council ‘Capital Punishment and the Implementation of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty’ p.3 (28 August 2019) A/HRC/42/28 < [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/42/28](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/28)> accessed 11 August 2020.

In relation to the cases of the individuals mentioned above, as these persons were arrested without warrants in violation of Bahraini and international legal standards,<sup>11</sup> and they were subjected to unfair trials using confessions obtained through torture, the above detentions and convictions are arbitrary as Category III deprivations of liberty.<sup>12</sup> As these persons have been detained arbitrarily,<sup>13</sup> their executions would be extrajudicial in violation of the UDHR<sup>14</sup> and the ICCPR.<sup>15</sup> Further, the intentional infliction of severe physical pain in order to obtain confessions in these cases is in violation of Bahrain's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>16</sup>

Bahrain has issued death sentences in relation to non-violent drug crimes,<sup>17</sup> despite the fact that the Human Rights Committee has stated that drug-related offences can never serve as the basis for the imposition of the death penalty,<sup>18</sup> and that '(the use of the) death penalty for drug offences is disproportionate to the aim of deterring drug-related crime.'

ADHRB calls upon the Government of Bahrain to urgently review its use of the death penalty, and to join the majority of the international community in abolishing the death penalty through the commutation of the capital sentences against the abovementioned individuals and the reintroduction of a moratorium on the use of capital punishment in the kingdom.

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<sup>11</sup> Article 19 (a) of the Bahraini constitution, read in combination with Article 357 of the Bahraini Criminal Code (CC) and Article 61 of its Code of Criminal Procedures (CPC).

<sup>12</sup> Working Group on Arbitrary Detention, Fact Sheet No. 26 (May 2000).

<sup>13</sup> Supra note 13.

<sup>14</sup> Universal Declaration of Human Rights 10 December 1948, 217 A (III), Art. 3.

<sup>15</sup> ICCPR Supra note 13 Art 6(1).

<sup>16</sup> Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment General Assembly Resolution 39/46, U.N. Doc. 39/46 (10 Dec. 1984) Art. 1

<sup>17</sup> Harm Reduction International 'Over 100 human rights groups urge the UN to intervene to stop executions of drug offenders in Bahrain' (03 February 2020) < <https://www.hri.global/contents/1972> > accessed 11 August 2020.

<sup>18</sup> Idem, Supra note 14.