

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA BHR 1/2017

19 January 2017

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 26/12 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the execution of Messrs. Abbas al-Samea, Sami Mushaima, and Ali Abdulshaheed Yousef al-Singace; and the imminent execution of Mohammad Ramadan and Hussein Moosa.**

According to the information received:

On 3 March 2014, Mr. Abbas al-Samea (27) and Mr. Sami Mushaima (42) were arrested by the Bahraini security forces in connection with a bombing on the same day, which killed three police officers, an Emirati national, a Yemeni national, and a Pakistani national, in the village of Daih, west of the capital, Manama. On 26 February 2015, the Fourth Grand Criminal Court sentenced Mr. al-Samea and Mr. Mushaima to death.

On 2 April 2015, Mr. Ali Abdulshaheed Yousef al-Singace (21) was also arrested for the same crime after already receiving a death sentence in absentia from the Bahraini courts. Mr. al-Singace allegedly was under 18 at the time of the crime. Messrs. al-Samea, Mushaima and al-Singace were part of a list of ten men whose trial began on 30 April 2014 for the same bombing before the High Criminal Court of Manama.

On 31 May 2016, the higher court confirmed their sentence, which was overturned on 17 October 2016, by the Court of Cassation due to lack of consensus among the judges. A re-trial was ordered before the lower courts. Allegedly, when the case was sent back to the lower appeals court for retrial, dissenting judges were removed and a new panel of assenting judges was installed, reconfirming the death sentences with consensus on 4 December 2016.

On 9 January 2017, the Court of Cassation upheld the death sentence. On 15 January the three prisoners were executed by firing squad.

Throughout proceedings, access to adequate legal assistance was denied to the three men, including during interrogation by law enforcement.

Allegedly, the three victims were coerced to confess under torture. During his police interrogation, Mr. Mushaima was allegedly beaten, submitted to electroshocks, sexually assaulted, and forced to sign a document that he could not read. Mr. al-Samea, received electric shocks to his genitals and was suspended from the ceiling during his interrogation. Following his interrogation, he was admitted to hospital for surgery.

Mr. al-Singace allegedly was also tortured after the police arrested him and, as a result, made a false confession.

On 14 January 2017, the penitentiary authorities informed the men's families that they should appear for an impromptu visit to the inmates. However, no information was provided about the time or location of the planned executions. On 15 January 2017, only after the executions were conducted, the Bahraini authorities informed the families by phone that the three men had been executed and taken to a cemetery. The Bahraini authorities denied the request of the men's relatives to return their bodies in order to bury them in their local cemetery.

Messrs. Al-Samea, Mushaima and Al-Singace are the first persons executed in Bahrain since 2010, and the first Bahrainis executed since 1996.

Two others prisoners on death row, Mr. Mohammad Ramadan and Mr. Husain Moosa, who had their death sentences confirmed by the Court of Cassation on 16 November 2015, may also be at risk of imminent execution. Allegedly, they were also tortured while in prison, coerced to confess their crime and not allowed to have proper legal assistance. Mr. Ramadan and Mr. Moosa have been subject to earlier communications (case no. BHR 6/2016 to which a reply was received on 14 October 2016; case no. BHR 7/2015 (see A/HRC/31/79) to which one reply was received on 23 February 2016; and *case no. BHR 11/2014 (see A/HRC/28/85,)* to which two replies were received from the Government on 26 September 2014 and 21 October 2014.)

We express our grave concern at the execution of Mr. Abbas al-Samea, Mr. Sami Mushaima, and Mr. Ali al-Singace; and the possible imminent execution of Mr. Mohammad Ramadan and Mr. Hussein Moosa, which if carried out would be in contravention with international human rights law.

We express further concern about the death penalty carried out against Mr. al-Singace, who at the time of the alleged crimes was believed to have been under 18 years old. We also express serious concern that all the death sentences imposed on the

aforementioned individuals may be in contravention of international standards, especially the stringent respect of due process and fair trial guarantees in cases where the death penalty may be imposed, particularly in connection with the use of false confessions extracted under torture as a basis for the ruling.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw your Excellency's Government's attention to the fact that the above allegations appear to be in contravention of the rights of every individual to life, liberty and security, and to fair proceedings before an independent and impartial tribunal established by law, in accordance with articles 3, 9 and 10 of the Universal Declaration of Human Rights (UDHR); 6 and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Bahrain on 20 September 2006; and articles 5, 7 and 13 of the Arab Charter on Human Rights (ACHR), to which Bahrain is a State Party since 2006.

We would also like to bring to the attention of your Excellency's Government that according to article 5 of the United Nations Safeguards Protecting the Rights of those facing the Death Penalty, capital punishment may only be carried out pursuant to all possible safeguards to ensure a fair trial. Only full respect for stringent due process guarantees distinguishes capital punishment from a summary execution.

We would like to draw the attention of your Excellency's Government to the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Bahrain ratified on 6 March 1998; and articles 7 of the ICCPR and 13 of the ACHR. Moreover, article 15 of the CAT prohibits the use of any statement made as a result of torture as evidence in any proceedings. Furthermore, articles 12 and 7 of the CAT, which require the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and to prosecute suspected perpetrators of torture.

In addition, we would like to recall that most circumstances surrounding the actual imposition or execution of the death penalty can also constitute cruel, inhuman or degrading treatment or punishment or even torture. As such, the harshness of the death penalty goes beyond the execution itself. Physical or mental torture or other cruel, inhuman or degrading treatment or punishment may be inflicted on a convict and his or her relatives awaiting execution at different stages of his or her time in detention. (see report of the Special Rapporteur on Torture (A/67/279, para. 75)

Furthermore, any judgments imposing the death sentence and executions of juvenile offenders are incompatible with the international legal obligations undertaken by your Excellency's Government under various instruments, and amounts to cruel, inhuman and degrading punishment, which is prohibited inter alia in the CAT. Article 37(a) of the

Convention on the Rights of the Child (CRC), ratified by Bahrain on 13 February 1992, furthermore expressly prohibits the imposition of the death penalty for offences committed by persons below 18 years of age.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the irreversibility of the punishment of the death penalty, we urge your Excellency's Government to take all steps necessary to halt the execution of Mr. Mohammad Ramadan and Mr. Hussein Moosa, which if carried out, would be inconsistent with standards of international human rights law.

We further appeal to your Excellency's Government to annul the death sentence against the aforementioned individuals and to ensure a re-trial in compliance with international standards. **We also call your Excellency's Government to establish an official moratorium on death penalty, and to consider its complete abolition.**

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide the details of the proceedings against Messrs. Abbas al-Samea, Sami Mushaima, Ali Abdulshaheed Yousef al-Singace, Mohammad Ramadan and Hussein Moosa.
3. Please provide specific information on the case of Mr. Ali Abdulshaheed Yousef al-Singace, who allegedly was under the age of 18 during his alleged crime.
4. Please provide information concerning any laws or regulations related to the right to a fair trial and imposition of the death penalty, and how these are in conformity with the international norms and standards mentioned above.
5. Any action which is being taken to abolish the death penalty in Bahrain.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment