

**Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on Arbitrary Detention**

REFERENCE:  
AL BHR 3/2020

29 June 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Working Group on Arbitrary Detention, pursuant to Human Rights Council resolutions 34/19 and 42/22.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of illegal arrest, confessions obtained under coercion and torture, and lack of due process in the case of a sixteen year-old, Mr. [REDACTED], who has been arrested, on 18 January 2019, and is currently serving a two-years sentence at the New Dry Dock prison in Bahrain.

According to the information received:

Mr. [REDACTED] ([REDACTED]), born on 13 July 2003, is a Bahraini national and a high school student who lives in the town of [REDACTED].

Mr. [REDACTED] was arrested for the first time on 18 January 2019, at his parent's house, when security officers in civilian clothes along with riot police raided the house and proceeded to his arrest. The officers failed to present an arrest warrant or inform Mr. [REDACTED] or his family of the reasons of his arrest.

Mr. [REDACTED] was held in an unknown location without contact with his family, despite their repeated requests to reveal his whereabouts. After twelve days of enforced disappearance, Mr. [REDACTED] family found out that their son was held at the Criminal Investigations Directorate (CID), when they received a call from officers requesting to bring him new clothes and soap.

Mr. [REDACTED], who was sixteen years old at the time of arrest, was interrogated for 20 days by the CID. During interrogations, he was blindfolded, beaten on his back, slapped, forced to crawl, and electrocuted on his legs in an attempt to extract a confession. Mr. [REDACTED] did not accept to incriminate himself.

During the 20 days of detention at the CID, Mr. [REDACTED] did not have any contact with his family, nor did he get access to legal counsel. Mr. [REDACTED] family believed their son was arrested on charges of arson of tires, however the reason of arrest was never communicated formally.

On 24 February 2019, the Public Prosecutor Office (PPO) decided to release of Mr. [REDACTED] based on the improbability to determine the author of the criminal offense.

On 30 April 2019, Mr. [REDACTED] received a text message ordering him to promptly present himself with his guardian to the CID. On the same day, he went to the CID with his father, where he was immediately arrested by officers without stating the reasons for summoning or arrest, nor presenting an arrest warrant against Mr. [REDACTED].

This time, Mr. [REDACTED] was initially accused with disrupting traffic on the streets and a bail of 200 dinars was decided. After paying the requested bail, the family of Mr. [REDACTED] was informed that he is also facing charges of manufacturing a fake bomb, arson tires and assaulting a policeman and could not be released.

Mr. [REDACTED] was subjected to torture and ill-treatment during his interrogations, at the hands of the same interrogation officer who questioned him during the previous arrest. He was beaten, electrocuted in the knee, and insulted because of his affiliation to the Shia religious sect. Mr. [REDACTED] finally accepted to confess to the alleged crimes.

As a result of torture during interrogations, Mr. [REDACTED] had reportedly suffered from bruises and wounds and did not get any medical treatment. During this period, Mr. [REDACTED] did not have any contact with his family or access to legal counsel.

Twenty days following his arrest, Mr. [REDACTED] was transferred to the New Dry Dock Prison, reserved for convicts under 21 years old within the Dry Dock Adult Detention Center. Mr. [REDACTED] could contact his family for the first time one month after his arrest.

On 30 October 2019, the Fourth High Criminal Court sentenced Mr. [REDACTED] to two years in prison, even though his father testified that his son was at home on the date of the incident of which he is accused. Subsequently, on 30 December 2019, the Court of Appeal upheld the judgement.

While we do not wish to prejudice the accuracy of these allegations, we are expressing and reiterating our most serious concern about the reported use by the CID of torture and other cruel, inhuman or degrading treatment or punishment in order to extract confessions. We are further alarmed by the reported use of forced confessions as incriminating evidence by the Public Prosecution and other Judicial authorities. If confirmed, these allegations would amount to serious violations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by the Kingdom of Bahrain on 6 March 1998.

We are gravely concerned that, from the very outset of detention, Mr. [REDACTED] has reportedly been deprived of the most fundamental safeguards, such as his right to be informed of reasons for his arrest, to be detained in an official and declared place of detention, to contact his family, to be assisted by a lawyer including during interrogations and to be promptly brought before a judge. Denial of these safeguards contravenes the most basic requirements of due process, may render his arrest and detention arbitrary and is known to significantly increase the risk of torture and ill-treatment. Moreover, if confirmed, Mr. [REDACTED] repeated and prolonged incommunicado detention would amount to arbitrary deprivation of liberty. The allegations received are particularly disturbing in the light of Mr. [REDACTED] young age, which requires that he be treated with due consideration for the best interests of the child.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the reasons and legal grounds for the arrest and incommunicado detention of Mr. [REDACTED], which amounts to a short-term enforced disappearance, and how those practices are consistent with the international human rights obligations of Bahrain.
3. Please provide further detailed information on any steps that may have been taken to ensure the inadmissibility of any forced confessions in judicial procedures. If no such steps have been taken, please explain how this is consistent with the international human rights obligations of Bahrain.
4. Please provide detailed information on fundamental safeguards provided, notably in the context of Juvenile justice procedures, including the conditions for the use of incarceration in the case of juvenile offenders. Please explain how those measures are consistent with the international human rights obligations of Bahrain.
5. Please provide information on any investigations which may have been undertaken with regard to the alleged acts of torture and ill-treatment detailed above and on the reported more general pattern of extracting confessions under torture by the CID officers. Please explain what steps

have been taken to prosecute the perpetrators and their superiors, and to provide victims and their families with adequate redress and rehabilitation.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

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

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

The prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as a norm of international customary law, is reflected *inter alia*, in article 5 of the Universal Declaration of Human Rights (UDHR), and codified in articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and in article 7 of the International Covenant on Civil and Political Rights (ICCPR).

We would like to draw the attention of your Excellency's Government to article 15 of the Convention against Torture provides that, "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." We also recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States "To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment."

Furthermore, the best interests of the child is a core principle enshrined in the Convention on the Rights of the Child (CRC), ratified by Bahrain on 12 February 1992, and its optional protocols on 21 September 2004. The CRC explicitly states this principle, notably in the context of administrative and legal procedures in articles 3(a), stating that "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration"; article 20 on deprivation of family environment and alternative care; and article 40, paragraph 2(b)(iii) on procedural guarantees, including presence of parents at court hearings for penal matters involving children in conflict with the law.

We would like to further recall paragraph 27 of General Assembly Resolution 68/156, which, "[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished."



Furthermore, we would like to refer to article 9 of the CCPR, taking into account the Human Rights Committee (HRC) general comment No. 35 (2014) on liberty and security of person. The State should, inter alia, ensure that, in practice, all persons deprived of their liberty are informed promptly of their rights and guaranteed all fundamental legal safeguards from the very outset of detention, including prompt access to counsel of their own choosing and confidential meetings with counsel. The State should also ensure that any failure in that regard constitutes a violation of procedural rights entailing appropriate sanctions and remedies. In addition, holding persons incommunicado violates their right to challenge the lawfulness of detention before a court under article 9(3) and 9(4) of the Covenant. Judicial oversight of detention is a fundamental safeguard of personal liberty and is essential in ensuring the legality of detention and the right to *Habeas Corpus*, consequently the right to an effective remedy as stated under article 8 of the Universal Declaration of Human Rights and article 2(3) of the Covenant.

We wish to refer to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance and in particular article 2 which prohibits enforced disappearances and article 7 that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances. Further, the Declaration establishes that any person deprived of liberty shall be held in an officially recognised place of detention (article 10.1), that an official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention (article 10.3). In this connection, we stress that a failure to acknowledge deprivation of liberty by state agents and refusal to acknowledge detention constitute an enforced disappearance, even if it is of a short duration. Accordingly, the HRC general comment n.35 paragraph 17 states that “Enforced disappearances violate numerous substantive and procedural provisions of the Covenant, and constitute a particularly aggravated form of arbitrary detention.”.

Furthermore, the Declaration sets out an obligation for States to take any lawful and appropriate action available to them to bring to justice all persons presumed responsible for an act of enforced disappearance, who are found to be within their jurisdiction or under their control (article 14).