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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.

[31 May 2019]

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

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## Bahrain: Halt the executions of two men sentenced to death after torture

Americans for Democracy & Human Rights in Bahrain (ADHRB) wishes to take the opportunity at the 41<sup>st</sup> session of the United Nations (UN) Human Rights Council (HRC) to draw attention to Bahrain's use of the death penalty, in particular in the case of Ahmed AlMalali and Ali AlArab, two men sentenced to death on the basis of confessions obtained under torture.

### Arrest

On 9 February 2017, officers from the General Directorate for Criminal Investigation and Forensic Science, the Special Security Force Command, and the National Security Agency arrested Ahmed Isa Ahmed Isa AlMalali in a joint security operation.<sup>1</sup> The officers arrested Ali Mohamed Ali Mohamed Hakeem AlArab later that same day at the home of an acquaintance in the village of Barbar, in a related operation.<sup>2</sup> Both men were arrested without warrants in the context of security forces apprehending "escapees from Jau prison [attempting] to flee to Iranian waters."<sup>3</sup>

During arrest, Ahmed AlMalali was reportedly struck by two bullets in his right hand during the arrest. The bullets were allegedly only removed 23 days later.<sup>4</sup>

### Interrogation and Torture

Following the arrest, officers held AlMalali *incommunicado* for a month at the Ministry of Interior's Criminal Investigations Directorate (CID) in Manama. The officers forced Ahmed to sign a statement saying that he did not wish to receive visitors, as well as a statement which AlMalali did not know the contents of at the time, and which served as his "confession." During this month-long period, officers subjected AlMalali to torture, including forced standing, exposure to cold, beatings (including blows to the genitals), and electric shock. This torture continued when he was transferred to Building 1 of Jau Prison on 7 March 2017.<sup>5</sup>

After his initial arrest, officers took AlArab to the CID, where he was held until 7 March 2018. During this time they coerced him into signing a confession while blindfolded. On 7 March, officers transferred AlArab to Dry Dock Detention Center. He arrived there bearing clear signs of torture, including having all of his toenails removed. On the same day that he arrived at Dry Dock, the guards beat him for refusing to kiss one of the guards' boots. He was unable to stand at all, even to pray, for the next day. After the beating he was reportedly taken to the prison clinic in a wheelchair.<sup>6</sup>

### Unfair Trial

On 31 January 2018, Bahrain's Fourth High Criminal Court convicted both men to capital punishment and stripped them of their Bahraini nationality in a mass trial of 60 individuals.<sup>7</sup> AlMalali was convicted on the charges of killing a police officer during the Jau Prison escape, firing on a security patrol and injuring one of its officers, assisting individuals who were sentenced to life imprisonment in an attempted prison escape, and possession of firearms.

<sup>1</sup> Kingdom of Bahrain Ministry of Interior, *MOI issues statement on Feb. 9 operations* (Feb. 9, 2017), <http://www.policemc.gov.bh/en/news/ministry/60161>.

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Urgent Appeal to the Government of Bahrain, U.N. Ref. UA BHR 6/2018 (Dec. 11, 2018).

<sup>5</sup> Americans for Democracy & Human Rights in Bahrain, *Profiles in Persecution: Ahmed Isa AlMalali*, ADHRB (Feb. 23, 2018), <https://www.adhrb.org/2018/02/profiles-in-persecution-ahmed-isa-almalali/>

<sup>6</sup> Americans for Democracy & Human Rights in Bahrain, *Profiles in Persecution: Ahmed and Ali AlArab*, ADHRB (Feb. 16, 2018), <https://www.adhrb.org/2018/02/profiles-in-persecution-ahmed-and-ali-alarab/>

<sup>7</sup> Bahrain News Agency, *High Appeals Court rules in terror group case*, BNA (Jan. 28, 2019), <https://www.bna.bh/en/HighAppealsCourtrulesinterrorgroupcase.aspx?cms=q8FmFJgiscL2fwIzON1%2bDq8XDazp6OgeQDjjRbY4gM8%3d>

AlArab was convicted on the charges of possession of firearms and membership in a terrorist cell, and the alleged killing of a security officer.

Both men alleged to the court that their confessions had been coerced through torture, but the court ignored these allegations and used the confessions to convict them. AlMalali was not even present in the courtroom during sentencing – officers transported him from the prison to court, but then forced him to remain on the bus for the duration of the court’s proceedings.<sup>8</sup> Both men also reported that they did not have access to legal counsel until late in the trial court proceedings.

On 28 January 2019, the Bahraini High Court of Appeals confirmed AlArab and AlMalali’s death sentences.<sup>9</sup> On 6 May 2019 the Court of Cassation, Bahrain’s highest court, also upheld both sentences.<sup>10</sup> Both men have now exhausted all domestic avenues for redress, and are now at imminent risk of execution.

On 21 April 2019, AlMalali and AlArab were among 551 Bahrainis whose citizenship was reinstated by royal order.<sup>11</sup>

### Detention

Following their conviction, officers returned AlMalali to Jau Prison and transferred AlArab from Dry Dock to Jau on 2 February 2018. Both men allege that they were beaten at the prison again on 2 February, and that AlArab was held in solitary confinement for five days. Both men report that around 11:00pm on 11 February 2018, guards woke them and began beating them in their cells, before removing them and beating them together until approximately 3:45am. The guards then took them both to the prison clinic, where a doctor described them as bearing no apparent injuries, though both AlArab and AlMalali stated that bruises “covered” their heads and legs.<sup>12</sup>

Both men are held in Building 1 of Jau Prison, which houses death row inmates, and prison officials have allowed this building to deteriorate below domestic and international detention standards. Prisoners in Building 1 live in unhygienic and cramped conditions – there is only one bed per cell, and it is only wide enough for one prisoner to sleep on his side. The prison authorities hold two prisoners in each cell, so the other prisoner is forced to sleep on the floor.<sup>13</sup> Both men have reported being prevented from attending the appeals hearings in their cases during their detention.

### Commentary by the UN and NGOs

UN experts have commented on AlMalali and AlArab’s cases multiple times, with AlArab as the subject of an Urgent Appeal in July 2017,<sup>14</sup> and both of their cases were discussed in an Urgent Appeal concerning the death penalty in December 2018.<sup>15</sup>

On 21 May 2019, five UN experts issued a press release in their case, urging the Government of Bahrain to halt their executions in light of their coerced confessions and unfair trials, and

<sup>8</sup> ADHRB, Profiles in Persecution: Ahmed Isa AlMalali, supra n. 5.

<sup>9</sup> BNA, *High Appeals Court rules in terror group case*, supra n. 7.

<sup>10</sup> Bahrain Public Prosecution (@bppbahrain), Instagram (May 6, 2019), [https://www.instagram.com/p/BxHltoSFX8H/?utm\\_source=ig\\_web\\_button\\_native\\_share](https://www.instagram.com/p/BxHltoSFX8H/?utm_source=ig_web_button_native_share) (Arabic only).

<sup>11</sup> Bahrain News Agency, *MOI: Procedures to reinstate convicts' citizenship taken*, BNA (Apr. 27, 2019) [https://www.bna.bh/en/MOIProcedurestoreinstateconvictscitizenshiptaken.aspx?cms=q8FmFJgiscL2fwIzON1%2bDIIS%2fBEq8da5KUv0Si1tyYc%3d;names available at Bahrain News Agency \(Apr. 27, 2019\)](https://www.bna.bh/en/MOIProcedurestoreinstateconvictscitizenshiptaken.aspx?cms=q8FmFJgiscL2fwIzON1%2bDIIS%2fBEq8da5KUv0Si1tyYc%3d;names%20available%20at%20Bahrain%20News%20Agency%20(Apr.%2027,%202019)), <https://www.bna.bh/MOIProcedurestoreinstateconvictscitizenshiptaken.aspx?cms=q8FmFJgiscL2fwIzON1%2bDIIS%2fBEq8da5KUv0Si1tyYc%3d> (Arabic only).

<sup>12</sup> ADHRB, Profiles in Persecution: Ahmed Isa AlMalali, supra n. 5; ADHRB, Profiles in Persecution: Ahmed and Ali AlArab, supra n. 6.

<sup>13</sup> ADHRB, *Profiles in Persecution: Ahmed Isa AlMalali*, supra n. 5.

<sup>14</sup> Urgent Appeal to the Government of Bahrain, U.N. Ref. UA BHR 7/2017 (Jul. 6, 2017).

<sup>15</sup> Urgent Appeal to the Government of Bahrain, U.N. Ref. UA BHR 6/2018, supra n. 4.

to establish a moratorium on the death penalty.<sup>16</sup> The experts in particular stated: “The two individuals should have never been convicted on the basis of what appears to be seriously flawed trials. Executions in these conditions would amount to arbitrary executions.”<sup>17</sup>

On 30 May 2019, 13 international human rights organizations sent an open letter to King Hamad of Bahrain, urging him to refrain from ratifying their death sentences and to otherwise ensure they are not executed.<sup>18</sup>

As of 31 May 2019, no response to either the UN or the organizations has been published.

### **Conclusion**

AlMalali and AlArab are among nine men at imminent risk of execution on death row in Bahrain, with their sentences requiring only ratification by the King.

ADHRB echoes the recommendations made by the UN experts, chiefly:

King Hamad should not ratify their executions.

- Bahrain should immediately halt all pending executions and establish an official moratorium on the death penalty.
- Bahrain should commute the convictions against AlMalali and AlArab in light of their allegations of torture, and order a re-trial that meets international standards and laws for fair trials, including access to legal counsel.
- Bahrain should investigate allegations of torture and ill treatment, with a view to holding perpetrators responsible.

Further, ADHRB calls on the international community and particularly HRC Member States to raise these and other cases with Bahrain, and to hold Bahrain accountable for human rights violations, as a new Member of the Council.

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<sup>16</sup> Press Release, *UN experts call on Bahrain to halt executions of two individuals amid torture allegations*, OHCHR (May 21, 2019), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24635&LangID=E>.

<sup>17</sup> Id.

<sup>18</sup> Human Rights Watch, *Joint Letter to the King of Bahrain on the Death Penalty*, HRW (May 30, 2019), <https://www.hrw.org/news/2019/05/30/joint-letter-king-bahrain-death-penalty#>.