

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

REFERENCE: UA
BHR 8/2014:

8 July 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 24/7, 17/2, 25/13, and 17/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the sentencing of **Mr. Maher al-Khabbaz** to death, allegedly on the basis of a false confession extracted by means of torture.

According to the information received:

Mr. Maher al-Khabbaz (hereinafter Mr. al-Khabbaz), born in July 1985, is a 28-year-old Bahraini citizen (Central Population Registration No. [REDACTED]). On 19 February 2013, security officers dressed in plainclothes arrested him at his workplace at Golden Tulip Hotel in Manama without a warrant. They took him to the Roundabout 17 police station in Hamad Town. For approximately one week after his arrest, his fate and whereabouts remained unknown.

During his detention at the Roundabout 17 police station, security officers tortured Mr. al-Khabbaz. They punched him, beat him with wires and sticks. He was also subjected to "falakah" whereby security officers repeatedly whipped the soles of his feet and the palms of his hands. They forced him to stand for prolonged periods, sprayed him with water and kept him blindfolded throughout. They did not allow him to pray, eat, or use the bathroom. Additionally, they insulted him and his religion.

At some point during his interrogation, the security officers showed Mr. al-Khabbaz a flare gun and told him that they would cease torturing him if he confessed that he had used it to kill a policeman. Mr. al-Khabbaz admitted to using the weapon in order to stop the torture. He was requested to sign a piece of paper that he believed was his false confession. Mr. al-Khabbaz is illiterate and was blindfolded when he signed the paper.

On several occasions, the security officers took Mr. al-Khabbaz to the public prosecutor's office for interrogation. Although he asked the public prosecutor to allow his lawyer to be present, the public prosecutor denied his request and proceeded with the interrogation and verbally abused and humiliated him. Another public prosecutor threatened that he would be subjected to ill-treatment again if he did not confess to killing the police officer.

After the interrogation, the public prosecutor ordered Mr. al-Khabbaz to be detained at Dry Dock detention center, pending trial. In March 2013, approximately one month after his arrest, he was able to inform his family by phone that he was detained in Dry Dock detention centre. When his family visited him several days later, Mr. al-Khabbaz informed them that he had been tortured. His family noticed that he was exhausted and unable to walk normally, and his sight seemed to be impaired.

Mr. al-Khabbaz was charged with killing a police officer and his trial began in about October 2013, eight months after his arrest. During his trial, the court admitted as evidence his forced confession, as well as similar forced confessions from others allegedly obtained under torture. Additionally, the court did not allow him to call witnesses and his relatives were not allowed to attend the trial. On 19 February 2014, the court convicted and sentenced him to death. He is currently detained in Jaw prison, waiting for the review of this case in appeal. His appeal was scheduled for 30 June 2014.

We express serious concerns at the allegations that Mr. al-Khabbaz was arrested without a warrant; that he was held in incommunicado detention without charges for approximately one month; that he was subjected to torture and forced to sign a confession against his will; and that he was sentenced to death, allegedly on the basis of such evidence and following legal proceedings that appear to fall short of international fair trial standards. In particular, we are concerned that Mr. al-Khabbaz's was denied access to a lawyer and that he was denied the right to call for witnesses.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. al-Khabbaz is arbitrary or not, these allegations appear to be in contravention of the right not to be deprived arbitrarily of his life and liberty as set forth in articles 3 and 9 of the Universal Declaration of Human Rights (UDHR) and articles 6 (1) and 9 of the International Covenant on Civil and Political Rights (ICCPR), which Bahrain acceded to on 20 September 2006. They also appear to be in violations of the right to fair proceedings before an independent and impartial tribunal, as set forth in

article 10 of the UDHR and article 14 of the ICCPR, in particular the rights to be presumed innocent until proven guilty (Article 14. 2), to be promptly informed of charges (article 14.3(a)), to be allowed to properly prepare one's defence with a lawyer of one's choice (Article 14.3 (b) and (d)); to be given a public and fair hearing (Article 14 (1); to call for witnesses on his behalf (Article 14 (3(e)); and not to be compelled to testify against oneself (Article 14. 3 (g). In this latter regard, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Bahrain acceded on 6 March 1998, prohibits torture absolutely and without exception (Article 2) and the use of any evidence in court obtained under torture (Article 15).

We are further drawing your attention to the fundamental principle of Article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty, that states that capital punishment may only be imposed following trials that scrupulously respect the guarantees of due process and fair trial as stipulated in international human rights law. Only such respect distinguishes capital punishment as possibly permitted under international law from a summary execution.

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 allegations of unfair trial leading to the imposition of the death sentence against Mr. al-Khabbaz, we call upon your Excellency's Government to invalidate the sentence and take all steps necessary to ensure a fair retrial of the defendant.

In view of the urgency of the matter, we respectfully recommend that the arrest, detention and treatment of, and judicial proceedings against, Mr. al-Khabbaz be thoroughly reviewed by an independent court in compliance with the international human rights obligation of Bahrain, and other related 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 are soliciting your cooperation to provide us with any information and observations concerning the proceedings against this person including:

1. The details of the charges retained against him and of the evidence on which he was convicted;
2. The details of the judicial proceedings that led to the imposition of the death penalty on Mr. al-Khabbaz and how they comply with the international standards for fair trial ratified by Bahrain;
3. The details of any investigation, judicial or otherwise, carried out in relation to the allegations that Mr. al-Khabbaz was tortured during interrogation and

forced to confess against his will; if no inquiries have taken place, or if they have been inconclusive, please explain why.

4. In the event that the investigations confirm that the allegations are correct, the details of any accountability measure taken against any officer found to be responsible for the alleged violations.

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.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

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