

H.M. King Hamad bin Isa Al Khalifa
Office of His Majesty the King
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Manama
Bahrain

29 July 2020

Your Majesty,

I am writing on behalf of the Bar Human Rights Committee of England and Wales (“BHRC”), to urge you to suspend or commute the death sentences against Mohamed Ramadan and Husain Ali Moosa without delay. Mr Ramadan and Mr Moosa have exhausted all legal remedies following the decision of the Court of Cassation to uphold their death sentences on 13 July 2020 and could be executed at any time. Both men allege that they have been tortured, and Mr Moosa has alleged that he was tortured into confessing to the charges against him and Mr Ramadan.

BHRC is the international human rights arm of the Bar of England and Wales. BHRC is an independent body of legal practitioners who work to protect the rights of advocates, judges and human rights defenders around the world and defend the rules of law and internationally recognised legal standards relating to human rights and the right to a fair trial.

The cases of Mr Ramadan and Mr Moosa have a long history in the courts of the Kingdom of Bahrain, and BHRC continues to call for the death sentences against them to be commuted.¹ On 22 October 2018, the Court of Cassation set aside the death sentences after the Public Prosecutor’s Special Investigation Unit (“SIU”) concluded there was sufficient evidence to raise suspicions that the men were subjected to serious ill-treatment after considering previously undisclosed medical reports. However, by judgment dated 8 January 2020, the Fifth Criminal Supreme Appeal Court dismissed the grounds for review and upheld the earlier convictions and sentences. The Court of Cassation upheld this decision on 13 July 2020.

On 29 June 2020, Pete Weatherby QC submitted an amicus curiae brief to the Court of Cassation on behalf of BHRC. The amicus considered the convictions in these cases to be fundamentally flawed, in accordance with both Bahrain and international law.² In its submissions, BHRC identified a number of serious problems with the approach and analysis of the court which have fallen far short of international standards, including:

- The court considered evidence only from a number of doctors from the Ministry of Interior of Bahrain, and without recourse to any independent expert review or analysis which is available in this case.³ Such analysis has found multiple failures to comply with the criteria of the Istanbul

¹ BHRC first intervened in these cases in a petition to His Majesty the King on 6 October 2017, at which point Mr Moosa and Mr Ramadan had exhausted all avenues of appeal for the first time. See <https://www.barhumanrights.org.uk/bhrc-calls-for-clemency-for-two-men-on-death-row-in-bahrain/>

² See <https://www.barhumanrights.org.uk/bhrc-submits-amicus-to-the-bahrain-court-of-cassation-in-fundamentally-flawed-proceedings-against-two-men-on-death-row-who-allege-they-were-tortured/>.

³ Dr Brock Chisholm, a UK expert in examination of torture victims reviewed the Ministry of Interior medical reports, asserting that they were non-compliant with international standards, and advised that they ought to be “completely disregarded.” Professor Jason Payne-James of the Independent Forensic Expert Group, IFEG, has provided further expert opinion that there were multiple failures to comply with the Istanbul Protocol, and that Ministry of Interior medical examinations were “superficial” and “ineffective”.

Protocol, which sets out the procedural requirements for the State to properly investigate allegations of torture and forced confession.

- Mr Ramadan and Mr Moosa were denied access to lawyers for the whole of the relevant period, and the interrogations during which the alleged confessions occurred. It is well-established in international law, that where a suspicion of a violation of the prohibition on torture and inhuman and degrading treatment arises, the State has an increased burden to explain its actions or omissions.⁴
- Mr Ramadan and Mr Moosa had no access to independent doctors during the relevant period, or at all.

Further, the allegations against Mr Ramadan and Mr Moosa should not be considered in a vacuum. The Bahrain Independent Commission of Inquiry, whose findings were fully accepted by Your Majesty, found that Bahraini security forces committed serious violations of the prohibition on torture. More recently, the UN Committee against Torture recognised that there “continue to be numerous and consistent allegations of widespread torture and ill-treatment” in Bahrain, in order to extract confessions or as punishment.⁵

BHRC opposes the death penalty in all circumstances. In a letter to Your Majesty, dated 3 March 2017, we noted that it was highly regrettable that a country that appeared to have abandoned capital punishment had now taken the regressive step of executing three men by firing squad after a moratorium of nearly seven years.⁶ It is indeed lamentable that further executions took place on 27 July 2019, and we hope that the Kingdom of Bahrain will return to moratorium, and to abolition, in line with the tide of international opinion against the continuance of capital punishment.

International law requires ‘super due process’ wherever capital punishment is contemplated, in recognition that it is impossible to rectify any defect after the sentence has been carried out. Although the death penalty, per se, is not a breach of international law, it is clear that the execution of an individual will violate international law in circumstances where a state party has not ensured strict adherence to the fair trial rights protected by Article 14 of the International Covenant on Civil and Political Rights, in conjunction with both the substantive and procedural obligations of the United Nations Convention Against Torture, both of which Bahrain has ratified.

The execution of these men will undermine the work that the Bahrain government has been doing with its international partners, including the United Kingdom, to establish robust adherence to the rule of law. The circumstances of these cases are particularly disturbing given the conclusions of the SIU investigation and the serious failures of the court process noted above, as well as the continuing allegations of torture and ill-treatment in Bahrain.

BHRC once again calls on Bahrain to renounce the death penalty and to suspend or commute the sentences against Mr Ramadan and Mr Moosa, and other detainees in Bahrain who are at imminent risk of execution.

Yours sincerely,



Schona Jolly QC

Chair

Bar Human Rights Committee of England and Wales

⁴ *Bleier v Uruguay* (30/78) at §13.3, *Mukong v Cameroon*(458/91).

⁵ UN Committee against Torture concluding observations on the second and third periodic reports of Bahrain, 29 May 2017, CAT/C/BHR/CO/2-3 at [8].

⁶ See <https://www.barhumanrights.org.uk/bhrc-calls-on-bahrain-to-halt-executions-amid-torture-allegations/>.

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