

# Torture Survivors

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**BAHRAIN CENTER FOR HUMAN RIGHTS**

*Defending and promoting human rights in Bahrain*

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## **Introduction**

Since 2011, with the beginning of the popular movement demanding rights and democracy in Bahrain, public and secret torture began to emerge as a result of a series of arrests carried out by the authorities, against a certain number of activists and human rights defenders. This arbitrary approach resulted in the death of a number of detainees in prisons, yet the perpetrators are not being held accountable. In this report, we shed light on international laws and provisions that criminalize torture, in addition to the provisions of the Bahraini constitution and local laws that prohibit these arbitrary practices which the authorities in Bahrain turn a blind eye on, in addition to a statistical presentation of cases and violations from degrading humiliating insults and threats to beatings and other forms of torture.



## **First: international laws against torture**

### **The Universal Declaration of Human Rights**

On top of international laws and legislations, the Universal Declaration of Human Rights, in its Article 5 prohibits all forms of verbal and physical violence against prisoners and others: “No one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment”.

### **International Covenant on Civil and Political Rights**

A trial cannot be fair if the confessions were extracted under torture because “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”, as stated in Article 7 of the International Covenant on Civil and Political Rights.

The state is required to guarantee and protect all human rights of the inmate, and to respect the Standard Minimum Rules for the Treatment of Prisoners, during the period of investigation or detention. “All persons deprived of their liberty shall be treated with humanity and with respect to the inherent dignity of the human person; Accused persons shall, except in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as not convicted persons”.

### **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

The term ‘torture’ is defined in Article 1 as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”. This is the most comprehensive definition of “torture” that goes beyond being a physical pain.

In order to prevent any cases of torture, Article 11 states that “Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture”.

## **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

It is noticeable that torture is not only limited to physical pain, but extends beyond that to the degradation of human dignity and inhumane treatment. Article 6 declares that “No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment”.

As for the prisoner's rights, Article 33 states that “1. A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhumane or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.

2. In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.

3. Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant”.

## **Rome Statute of the International Criminal Court adopted in Rome on 17 July 1998**

This Statute declares that torture is considered a crime against humanity. In Article 7 thereof, "Crime against humanity" means “any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: ... e. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; f. Torture”.

It defines torture as “the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions”.

## **Arab Charter on Human Rights/The latest version**

As for the Arab Charter on Human Rights, Article 8 stated that “No one shall be subjected to physical or psychological torture or to cruel, degrading, humiliating or inhuman treatment... Each State party shall guarantee in its legal system redress for any victim of torture and the right to rehabilitation and compensation”.



## **Second: Laws prohibit and authorities bypass**

Despite that the Constitution and Bahraini laws criminalize torture and inhumane treatment, the authorities bypass them which lead to deaths in prison as a result of torture, and neglect of necessary medical care according to the testimonies we received and monitored at BCHR.

### **Bahrain Constitution**

The Article 19 of the Constitution ensures personal freedoms, and the provision of care while in detention. Additionally, it affirms the punishment of torture perpetrators:

“a. Personal freedom is guaranteed under the law.

b. A person cannot be arrested, detained, imprisoned or searched, or his place of residence specified or his freedom of residence or movement restricted, except under the provisions of the law and under judicial supervision.

c. A person cannot be detained or imprisoned in locations other than those designated in the prison regulations covered by health and social care and subject to control by the judicial authority.

d. No person shall be subjected to physical or mental torture, or inducement, or undignified treatment, and the penalty for so doing shall be specified by law. Any statement or confession proved to have been made under torture, inducement, or such treatment, or the threat thereof, shall be null and void.”

As for Article 20: “It is forbidden to harm an accused person physically or mentally”.

### **Bahrain Penal Code**

Article 208 of the Penal Code criminalizes any public official who uses torture or force directly or indirectly. It states that “A prison sentence shall be the penalty for every civil servant or officer entrusted with a public service who uses torture, force or threat , either personally or through a third party, against an accused person, witness or expert to force him to admit having committed a crime or give statements or information in respect thereof. The penalty shall be life imprisonment should the use of torture or force lead to death”.

Article 232 declares: “The punishment shall be imprisonment for at least six months if the torture or use of force results in harming the safety of the body”.

### **Code of Criminal Procedure (46/2002)**

Article 61 ensures that “No one shall be arrested nor imprisoned except by an order of the legally competent authority. He shall be treated in such a manner as to maintain his human dignity and shall not be subjected to any bodily or psychological harm”.



### **Third: Torture and trials**

There were numerous forms of torture in Bahraini prisons. It is worth noting that torture does not include only acts that cause psychological and mental pain and suffering. Torture includes refraining from providing food or water, denying contact with the outside world, or not allowing the practice of worship and other treatment that degrades human dignity. All the practices that we witness in Bahraini prisons, of which BCHR has monitored a number, confirm that Bahrain does not adhere to international treaties and covenants. In addition to the practices of the authorities, turning a blind eye to criminals and the lack of accountability of the prisoners who carry out criminal practices result in the prevalence of the policy of impunity, and consequently the increase of these practices, and depriving the prisoner of his basic rights as a human being first.

Among the most important consequences of these practices is the confession that is extracted from prisoners under torture and which cannot be judged according to international laws. A trial is considered unfair if it is based on a confession extracted by force.

### **Fourth: Documentation of Cases**

The Bahrain Center for Human Rights (BCHR) has monitored cases of torture, ill-treatment, use of excessive force, and forced confessions at different stages (arrest, investigation, imprisonment ...) which will be presented in detail as evidence of the authorities' use of torture and the failure to hold perpetrators accountable.

#### **First case: the victim Hussain Ali Moosa**

Age: 28 years old

Date of arrest: 21/2/2014

Issues: 2, Al-Dair bombing, February 14<sup>th</sup>, 2014

Verdict: Death penalty

First detention:

On 18 December 2011, Hussain was arrested with a group of other people from his grandfather's house; they were all transferred to Al-Hidd police station. He was subjected to physical torture which resulted in fractures in one of his legs. He was accused for protesting in an illegal march and attacking police officers. After that, they were transferred to Al-Hidd Central Prison and then to Jau Central Prison. They spent 6 months there before they were released on 16 June 2013.

On 13 February 2013, a warrant was sent to him to present himself at Samaheej on 28 February 2013. He was then interrogated about the hot air balloons that were launched in the areas around Bahrain International Airport. He was then accused on charges related to those hot air balloons. He was presented before the prosecution which detained him for a week under pending investigation. He was released one month later on 28 March 2013.

In less than a month before his release, their house was raided in mid-April 2013, but they did not find him so they started to target him for almost one year before his last detention on 21 February 2014.

Third detention: On 21 February 2014, he was arrested at 3:30 a.m. from an apartment at Samaheej after they had raided the apartment. He contacted his family and stated that he was at the Central investigation Department (CID) and then they did not hear from him for 4 days. However, on the fourth day, he contacted his parents again and stated that he was transferred to El-Hidd central prison and he was detained for 60 days on charges of murdering a police officer.

Verdict date: 29 December 2014/Death sentence/ he is the first suspect in the case.

### **Second case: the victim Hadeer Abdallah Hassan Abady**

Date of arrest: 13/01/2019

On 10 January 2019, at 2:30 a.m. she was summoned by a call from the CID requesting her presence on Sunday 13 January 2019 at 9:00 a.m. On that mentioned day, she went to the CID in the morning and then disappeared. Her family had contact with her at 9:00 p.m. and she seemed scared. The call was from the police station of Isa town and lasted for 4 minutes. She said she has been asked to acknowledge that she had handed over a sum of money to her detained nephew. Hadeer was presented before the prosecution, and detention was renewed for 30 days without the presence of a lawyer, and without her knowing the charge.

On Monday 14 January 2019, her family went to the CID to give her clothes and asked for a visit. They told them that there was no permit for the visit, without mentioning a reason.

On Tuesday 14 January 2019, her family received a call from her. She said that she was forced to confess that she received an amount of money from abroad and handed it over to her nephew. She has also been subjected to insults during the interrogation and was taken to the forensic doctor. She said that, at the Public Prosecution, she denied all that she confessed at the CID.

### **Third case: the victim Salman Issa Ali Salman**

Date of arrest: 27 December, 2014

On 27 December 2014, Salman was arrested after a house raid at Al-Ekr area by civilian forces at 11 p.m. The house owner stated that he was beaten before he was arrested by them. On 28 December Salman contacted his family and stated that he is at the Central Investigation Department (CID). He was targeted since 2012 and his house was raided more than 50 times searching for him. Salman is facing a sentence up to 65 years in prison in accusation of many cases. The court sentenced him to nationality revocation and

imprisonment for 10 years on 20 November, 2014, for being in charge for a bombing in Al-Ekr area.

When he was arrested, his car was confiscated and there was an amount of BD 1100 inside that has not been returned yet.

On 28 November, his family went to the Ombudsman and filed a complaint.

Salman was sentenced to death penalty on 29 April 2015, in the murder case of the police officer Mahmood Fareed in Al-Ekr area. There were 12 other individuals accused in the same case. He was sentenced to 70 years in addition to death penalty and his nationality was revoked for the second time.

Salman stated that he was tortured at Jau central prison. His family went to visit him and noticed bruises on his face and both hands due to the physical torture which has also led to a hearing loss. He told his family that he was deprived from prayer, fasting and reading Qur'an.

After his arrest, he was transferred to the CID. He was subjected to electric shock all over his body, sexual assault, and threats.

#### **Fourth case: the victim Maher Abbas Ahmad Yousef Kazem Al-Khabbaz**

Age: 29

Date of arrest: 18 February 2013

Maher was arrested from his office at the Golden Tulip Hotel, by civilian forces, and taken to the Hamad Town police station (round 17) where he stayed for 7 days.

His brother said that on the third day, Maher was transferred to Al Qala'a Hospital and then to Al Askari Hospital for two days. He was then returned to the police station 17 where he stayed for additional 3 days.

Maher has been tortured in the police station round 17:

He was subjected to severe beatings for long periods of time as well as forced to stand for a whole day in a cold room, stripped of clothes. He was also subjected to sexual assault and verbal harassment. He was also prevented from using the restroom, eating, drinking or praying.

After 7 days of his presence at the police station round 17, on 25 February 2013, he was transferred to the Public Prosecutor's Office without a lawyer. He signed on papers of which he did not know the content. He was then detained for 60 days.

The cases that were presented happened in previous years, but it is worth noting that the perpetrators of torture were not held accountable by the competent authorities, despite filing complaints.



## **Conclusion**

In the year 2020, the crisis in Bahrain reaches its tenth year. The violations of human rights increase, including the violations of prisoners' rights. In the first rule of the Nelson Mandela Rules, "All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment". Therefore, torture cannot be separated from trials resulting from forced confessions. That leads to unfair trials that contravene with human rights principles.

## **Recommendations**

The Bahrain Center for Human Rights (BCHR) calls on the Bahraini authorities to:

1. Release all political prisoners and prisoners of conscience;
2. Stop using torture as a means of extracting confessions from prisoners and investigating with them in various cases;
3. Cancel the judicial rulings issued on the background of confessions under torture;
4. Implementing Bahraini laws related to preventing and punishing perpetrators of torture amongst public figures;
5. Allow the UN Special Rapporteurs to visit Bahrain especially the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

BCHR also calls on the international community and Bahraini authorities allies to:

1. Urge Bahrain to take appropriate measures to monitor the human rights situation in the country;
2. Urge the government to work on new laws to guarantee the prisoner's right to a fair trial and not be subjected to physical and psychological torture;
3. Review laws restricting the human rights work.

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