

الإعدام في البحرين: إخفاق للعدالة DEATH PENALTY IN BAHRAIN: FAILURE OF JUSTICE



Gulf Institute for Democracy and Human Rights (GIDHR), is a civil non-governmental and non-profit organisation aiming to promote the respect for democratic principles, as well as establishing the human rights and social justice principles, and stopping the human rights violations in the Gulf Region. Headquartered in Sydney, Australia GIDHR has the right to open branches in other regions, has legal character and independent financial disclosure. GIDHR is seeking to be in the ranks of the major organisations defending democratic and human rights principles and values through contributing to achieve peace and justice for all in the Gulf States.

### Introduction:

Death penalty is regarded as one of the extremist convictions. It is also one of the crucial sentences as almost all human rights organizations call for outlawing death penalty. These organisations strongly believe that no individual has the privilege to violate the sanctity of others' right to life. Although (130) country worldwide cease or impose a moratorium on execution, it is still legalized in certain countries.

Death penalty is still confirmed in the kingdom of Bahrain. Dozens of pro-democracy citizens; who peacefully demonstrate against the repressive regime, were sentenced to death. They were prosecuted in martial courts throughout the emergency period, in 2011. Then, the civil courts continue to issue death penalties against many citizens, while the government turns blind eyes on the so called "Security Forces" men who are deliberately involved in murdering innocent civilians, whether torturing them while in prisons or targeting them by shotguns firing birdshots, during the peaceful protests, on daily basis.

The Higher Criminal Court had issued three death penalties in February,26 2015 against three Bahrainis at a trail called "Al Dayeh Blast", on charges of killing three of the security men, among them an Emirati officer called Tarek Al Chehi. In December 4 2017, the court of appeals in its sixth hearing affirmed the death sentences against the three defendants. The international community demanded to cease the implementation of the decree, which based on illegal methods, due to the allegations of unfair trail, and reliance on 'confessions' extracted under severe torture.

## The death penalty in the International Law

Indeed, right to life is a substantial and holy right in International Laws and charters. Besides, almost; all humans rights organizations seek to insure this right, and to restrict all sorts of violation against it; particularly death penalty.

Article three of the Universal Declaration of Human rightsl states, "Everyone has the right to life, liberty and security of person."

Furthermore, article six of the International Covenant on Civil and Political Rights2 stresses that "Every human being has the inherent right to life. This right shall be arbitrarily deprived of his life.", in addition that "In countries which have had not abolished the death penalty, sentence of death may be imposed only for serious crimes in accordance with the law in force at the time of the commission of the crime...This penalty can only be carried out pursuant to a final judgement rendered by a competent court."

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty3 noted, "abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights", and it prevent all the states from implementing death penalty, and convinced that all measures should be considered "to abolish the death penalty within its jurisdiction."

Covenants in certain regions agreed upon the abolition of the death penalty including the American convention on Human Rights4 which states in Article 3.4, "The death penalty shall not be re-established in states that have abolished it."

The European Convention on Human Rights5, in Article 6 of the Sixth Protocol annexed to the covenant for the Protection of Human rights and Fundamental Freedoms, emphasizes that "Death Penalty is abolished, and no one should be convicted to death, nor to implement this sentence". In accordance to Article 2, death penalty could be implemented "in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime." However; Protocol (13) abolished the implementation of death penalty in whatever condition.

- 1. http://www.claiminghumanrights.org/udhr\_article\_3.HTML
- 2. http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx
- 3. http://www.ohchr.org/EN/ProfessionalInterest/Pages/2ndOPCCPR.aspx
- 4. http://www.oas.org/dil/treaties\_B-32\_American\_Convention\_on\_Human\_Rights.htm
- 5. http://www.echr.coe.int/pages/home.aspx?p=basictexts



Abbas Al Samiea, Sami Al Meshymea'h, Ali Al Singais

# Transcending the Conditions of Fair Trial

In May 2 2014, the office of Lawyer Mohammed Al Tajer6 issued a statement7, he stated that "The unfair procedures for the trial assert that the prosecuted Sami Al Meshymea'h and his other two companions who have been convicted of "Al Dayeh Blast" will be inevitably sentenced to death. The court sets a dangerous precedent as it denies the requests to submit the proceedings of the trails".

Al Tajer raised doubts about referring the case to the court urgently, followed by the consecutive press conferences of the Interior Ministry and Public Prosecution; in which the personal photos of the defendants were published, in addition to extracts of the confessions accompanied with unprecedented political statements and security measures. He considered that these steps incited widespread and critical public opinion, and it exposes the flagrant Bahraini Justice System that disregard its international obligations of fair trail, and the claims to respect constitutional and judicial principles which stress that the defendant is innocent until his is proven guilty through fair and impartial trail.

He pointed that the court had refused to disclose a hard copy of the trail to the

6.The lawyer of the three executed men who were accused of killing the Emirati officer; Tarek Al Chehi. 7. http://bahrainmirror.com/en/news/36067.HTML



Mohammed Al Tajer

defences, disregarding the complaints of the staff who evidenced their rejection in one of the proceedings. The court denied the complaints, and the lawyers were not given access to the evidences in order to take possible defensive actions.

Al Tajer emphasized that "The denial of due process shows the obvious transgressions against the standards of fair trial. The Bahraini government is a signatory to the International Covenant on Civil and Political Rights which in Article 14.3 states, "In the determination of any criminal offence shall be entitled to the following minimum guarantees, in full equity: (b) To have adequate time and facilities for the preparation of his defence and to communicate with council of his own choosing".

He said, "The denial by the court cleric's office to respond to the advocates' calls to access the full hard copy of the trails' proceedings, is considered an obstructionism against the defence duty."

Al Tajer added, "The court refused to provide the advocates with the full hard copy of the trail on "Al Dayeh Blast". Apparently, this is an illegal action and unfair situation in which other defendants; in different cases, have more rights and opportunities to defend themselves. This indicates that the law is enforced unequally.



Muhammad Al Mutawa'a

Lawyer Al Tajer accused the court of violating the conditions of fair trial and the national and international laws, as well as abstaining to provide the advocates with hard copies of the prosecution process which is "a serious indicator which shows that the defendants are deprived from their basic rights to stand up for their selves, and to enable the advocates of accomplishing their mission without any obstacles. Further, it reveals the serious concerns of the advocates who are anxiously worried about the imminent probability that these procedures are the preliminary of issuing cruel sanctions up to the death penalty."

On October 30th 2014, the defence team backed out on the case for their incapableness to make use of the evidences attained by the Public Prosecution, that they legally have the right to access; including the footages and photographs which document the incident "Al Dayeh Blast". The defence mentioned in a letter8 to the court, the seriousness of the accusations which may result in putting the defendants to death. The letter said further, "Obviously, preventing the advocates to access the full evidences, and hard copies of the trial will consequently results in the incompetency to advocate, precisely and entirely, for the three defendants before the judicial court, in addition to refute the accusations and the evidences presented by the Public Prosecution. Therefore, the right to defend is violated and they are not having a fair prosecution."

8. http://bhmirror.myftp.biz/news/19947.html

The defence emphasized, "The defence devoted serious effort to attempt the facts, and they looked forward the objectiveness of the Public Prosecution and the court, assisting them to accomplish their duties. Throughout the court's sessions the defence demanded the evidences behind the blast, as they aspired to reveal the truth in accordance to the facts which are crystal clear to the Public Prosecution. However; it concealed and made them unreadable by the court and the advocates."

Later, by the very beginning of March 2015, the lawyer of the three defendants, Muhammad Al Mutawa'a expressed that, "In second session of defence, the advocates staff got detailed information about the case which shows that as the due to a wireless contact from one of the blast's custodians, a bomb went off, while two other bombs were disarmed. However, the truth is that the bomb exploded while dismantling it and not as a result of the contact."9

He also stated, "We; the lawyers, requested the court on several occasions to access the evidences to ascertain the truth of the matter, and not to relay only on the interrogatories of the police and the investigations. In addition, the courts in Bahrain usually lean on arbitrary incontrovertible convictions, despite we made a request to listen to the (13) witnesses who testified before the court inourabsence."10

Lawyer Muhammad Al Mutawa'a expressed that the advocates had no information about the substances that was used to cause the explosion, and the clothes that were worn by the killed policemen which cause them to separate and go in various directions, as the court claimed. He added that the medical examiner who the lawyers asked to investigate before the court submitted his report based on assumptions, and he had no information about the location of the killed officer. Regarding the photographs of the incident, which the Bahraini authorities claimed that it was taken accurately, lawyer-Al Mutawa'a denied that he neither accessed any of them, nor he knew who took them, he said, "The Interior Ministry select particular photographs to support its bias view."

It is newsworthy to report that "Al Rawabi School" where Abbas Al Samiea; one of the three executed men, had issued an official statement confirmed that he was in the school at the time of the blast. However, family, neither his lawyer were able to present this statement which confirms his innocence, as both the Public Prosecution and the court of appeals refused to be submitted.ll

9. http://bhmirror.myftp.biz/news/22586.HTML

10. Ibid

11. http://mirror.no-ip.org/en/news/36067.html



Agnes Callamard

## Torture and Harassment

A statement issued by Amnesty International, in January 11 2017, after the declaration of death sentence, stated that "The ten defendants, in the case of the murder of the Emirati officer, had no chance to call both their parents and lawyers, and they were severely beaten, within three weeks of investigation in the Criminal Investigations Department. Sami Al Meshymea'h and Abbas Al Samiea told their families that they were subjected to electric shocks, severe physical beatings, cigarettes' burns, prohibition of sleep, and sexual harassment."12

Later, on February 15 2017, and after the implementation of the verdict, the organization stated that "The death penalties were carried out amid allegations of torture and after unfair trial." 13

The two UN Special Rapporteurs on summary executions; Agnes Callamard and Nils Melzer, said in accordance to the information they accessed that "the death penalty was implemented after an illegal procedures which violate the international standards. As what was reported, the three men were allegedly tortured while in prison and coerced to confess their 'crime' under intense beatings (as from electric shocks and sexual harassments). In addition to preventing them from having advocates to support them before the judicial court, in accor-

<sup>12.</sup> https://www.amnesty.org/en/documents/mdell/5454/2017/en/

<sup>13.</sup> https://www.amnesty.org/en/latest/news/2017/01/bahrain-first-executions-in-more-than-six-years-a-shocking-blow-to-human-rights/

#### dance to the allegations."14

The lawyer Manar Maki, on April 30 2014, reported after the first trial session, "The two brothers; Sami and Reda Al Meshymea'h, and Taher Al Samiea spoke about the torture exercised against them, such as sexual harassment and electric shocks." She further said, "Sami and Reda Al Meshymea'h mentioned that sharp instruments were inserted into their ears which cause them deficient in the sense of hearing. Taher Al Samiea had informed that he was tortured in the Criminal Investigation Department and in the Public Prosecution building."15

The advocates demanded to introduce the defendants before an objective medical commission of an ENT specialist to check-up their health condition, and an urologist according to what the defendants claimed of being raped.

Abbas Al Samiea, in a smuggled footage, emerged after his execution expressed, "...The third point, since the very beginning of the uprising in 2011, the security forces used to chase me regularly and persistently with the intention of fabricating accusations on each incident that occur in in my residence, "Al Dayeh Blast" was one of these fabrication that has baseless evidences.

The fourth point: After the blast, the government had to please its proponents and the UAE government, therefore I, my brethren, and my neighbours were to be the sacrificial scapegoats, as what we were told in the torture chambers.

The fifth point: I was told in the torture cells that they will fabricate the accusation of the blast to me, for I presumably had to be killed.

The sixth point, the psychological and physical torment was unbeatable, in addition my family was threatened, and the lawyers were under the threat of firing them from their jobs and dissociating their licence, in case they boycott the court sessions."

Mother of Sami Al Meshymea'h pointed that after releasing her son in 2011, one of the officers told him that they will fabricate to him another critical accusation. In a footage, published in February 26 2015, after the declaration of the death penalty, she spoke about how severely her son was tortured, in which his teeth were crashed, he was placed in a freezer, and they poured over him cold water and ice to enforce him to confess that he involved in the murder of the Emirati officer in March 3 2014.

Ali Al Singias's mother assured that although the Public prosecutor did not investigate with her son on the issue of the Emirati officer Tarek Al Chehi, he was sentenced to death with the two others. His sister said in a footage, after the arrest of her brother, that he was early beaten, and the security forces asked him

<sup>14.</sup> http://www.un.org/arabic/news/story.asp?newsID=28032#.WNUG-cvRbqC

<sup>15.</sup> http://bh-mirror.no-ip.org/news/21403.html

to work as a mercenary spy but he refused. As a punishment he was accused of various criminal issues including the murder of the Emirati officer.

Here we present further evidences that emphasize the torture and harassment exercised against the three executed men:

The testimony of one of the detainees in Jaw Prison, he stated: "...During that visit, I met my hero-friend Abbas Al Samiea, there were torture traces on his face and body... He was violently beaten. I was so astonished, I queried him and he replied that he was brutally punished after transforming him from the prison building to the administration, where he faced the cruellest sorts of torture." 16

The testimony of Reda Al Ghasra 17, in which he said, "Martyr Abbas Al Samea was hobbling, they passed him by our cell; although he was enduring pain and distress, he smiled. I noticed that his front tooth was broken." 18 He added, "Martyr Abbas Al Samiea was bleeding from his mouth and nose because of the extreme torture. In a similar way, the police officers had roughly punished the martyr Sami Al Meshymea'h. We were in the same cell, and I saw the injuries all over his body. His thigh was tumid because of the atrocious torment." 19

Abbas Al Samiea testimony: "There I was subjected to fiercest sorts of flogging and insulting ...My hair was shaved, cold water was poured over my body, while my back was beaten with a cudgels. The most painful was when they struck out my face against the wall with their feet which cause my front teeth to shatter. This torture had been exercised against me for ten days. Assaults were escalated and I was prohibited from sleeping and drinking water." 20

Ali Al Singais testimony, "When they transfer me to the State Security Agent, and throughout the investigation I got fragile and unconscious due to the systematic torture. Unwillingly, I confess that I commit various fabricated 'crimes' which I never did, inasmuch as I am a political opponent."21 He added, "In my first day in Jaw Central Prison, they hit me on my head, my eyes were injured and I wasn't not able to see properly, they transferred me to the clinic. Unexpectedly, the doctor was the same man who tortured me along with the mercenaries. They resumed torturing me instead. I was been suffering for 30 days."22 Ali Al Singais revealed that he was subjected to sexual harassment, he was treated in an unsavoury matter, and his parents were prevented from visiting him for 40 days owing to the torture traces and injuries on his eyes and face.

<sup>16.</sup> Page 286 in "Jaw", novel in Arabic, published by Bahrain Mirror, a literary work written by a Bahrain political prisoner, for more details: http://bahrainmirror.com/en/news/36745.HTML

<sup>17.</sup> Reda Al Ghasra, one of the political detainees in Jaw Central Prison, he was assassination later while attempting to escape.

<sup>18. «</sup>Zafarat», book published by Bahrain Al Youm, page 97

<sup>19.</sup> Ibid, page 99

<sup>20.</sup> Ibid, page 112

<sup>21.</sup> Ibid, page 115

<sup>22.</sup> Ibid, page 117



Mother of Sami Al Meshymea'h

#### The Violations after the Verdict

After the implementation of the three death penalties by the Bahraini authorities, the families of the murdered martyrs issued a statement on the violations they faced, "The regime was not satisfied with torturing, targeting, fabricating accusations, and finally assassinating our sons. It continued its brutal systemic plot through performing various sorts of revenge and vengeance acts, even after murdering them. Below are some of those violations:

- 1) The families' right to set the place of burial and the time of the martyrs' funeral, was denied and violated.
- 2) Relatives, friends and the public were not allowed to attend the funeral throughout the three days of mourning.
- 3) The martyrs' detained siblings were not able to attend the funeral, even though the lawyers called the authority to temporarily release them, but it deliberately did not reply.
- 4) The families were inspected in a scornful way before allowing them to attend to the cemetery.
- 5) The security men practiced immoral psychological assaults, as they gloated upon the families, they used to glance admiringly with triumphant and ma-



After the assassination of the three men

licious satisfaction and gratification. They congratulated one another, and they uttered sectarian slogans.

6) Arresting Munear Al Meshymea'h, brother of Martyr Sami Al Meshymea'h merely on the charge of mourning his brother, and referring him to the Public Prosecution.

After the assassination of the three men, the Bahraini authorities refused to give the families the corpses, and it prevented them to hold a funeral procession. This is an obvious violation of Article (70) of the Reform and Rehabilitation Association Law which expresses that "The corpse of the sentenced to death; after the implementation of the penalty, is to be given to his relatives or their representatives. In case of the absence of the relatives and their representatives, or if they refused to receive the corpse, the state bury it on its own expense."23

Until the moment of recording this report, "Al Mahuz" cemetery; where the martyrs are buried, is still under the siege of the Bahraini security forces. The families, relatives and public are not allowed to attend it, a thorough violation of ethical conventions and moral regulations.

#### Recommendations

- 1) The concerned human rights organizations, as the Human Rights Council; body of the United Nations, are recommended to abolish the death penalty verdicts in countries such as Bahrain which lacks the requirements of justice and liberty, and which make use of courts for its political advantages, particularly to carry out conventions against the pro-democracy opposition figures and human rights activists.
- 2) We call upon the Bahraini government to ban the death penalty to abolish it consequentially, replacing it with alternative penalties for serious and actual criminal acts imposed by independent and impartial judiciary.
- 3) We call upon the Bahraini government to review the decisions of the courts which issued death penalty against many of the detainees, and to ensure a re-trial of the defendants in accordance to fair and equitable conditions.
- 4) We call upon the Bahraini judiciary to abolish all the false accusations which were based on confession under torture, in accordance to Article (15) of "The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" which proscribes "to invoke to confession stated under torture as an evidence."
- 5) We call upon the Bahraini government to take immediate and serious actions to stop the torture in prisons, harassment and insults as means to humiliate the detainees.
- 6) We exhort the Bahraini government to stick to the international standards of fair trial guaranteed by Articles (9&14) of the Universal Human Rights Declaration on Civil and Political Rights.
- 7) We call for immediate and impartial investigation on the allegations and complaint about severe torture which were filed to the General Secretariat of Grievances, and to prosecute the officers who have been proved to be guilty of torture by a court.
- 8) We call upon the Bahraini government to disable the implementation of "Anti- Terrorism Legislation" to prosecute the opposition figures, political and human rights activists and the public majority who demand their legislated ordinary rights.
- 9) We call upon the Bahraini government to invite the high commissioner of the United Nations; who are concerned about the issues of Death Penalty and Torture, to visit Bahraini. An immediate and unconditioned invitation, in order to access the prisons and detention centres.
- 10) We call upon the Bahraini government to ensure the independency of the Judiciary, the General Secretariat of Grievances, The Criminal Investigations Directorate, and the Public Prosecution to ensure the accuracy and reliability of investigation on several issues.

## Synopsis

Death penalty has been abolish in almost all countries. Various conventions were issued, regionally and internationally, to ban the implementation of this sentence which violates the holiest human right; secured by the International Human Rights Declaration; namely the Right to life. However, some countries including Bahrain still imposing this sanction, when nothing can be done in case the defendant is proven innocent after the implementing of the penalty. Death penalty in Bahrain is a mean of assassination; to maliciously target the opposition figures, and to achieve systematic and illegal political agendas, according to the report of "The Bahraini Independent Commission of Inquiry (Paragraphs 1238-1204)24, in addition to the reports of the unbiased international human rights organizations; such as Humans Rights Watch and Amnesty International.

Prominent human rights organizations and bodies have emphasized that the death penalty is regarded a crime, as we detailed throughout this report. It is an illegal punishment due to the lack of fair trial standards, and the allegations of torture and brutal treatment, without taking these claims into consideration. "The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" states that it is illegal to torture the detainees, and to take into account the confession under torture.

Therefore, we call upon all the international human rights organizations and foundations, NGOs, legislators and the International Community to thoroughly cooperate in saving the lives of dozen of prosecuted; who are sentenced to death in Bahrain. We further demand to abolish implementation of the issued death penalties, or to postpone it. Besides, we do call to stop taking advantage of the law to punish the opposition public, and to take serious actions against the political systems which lack justice, devalue human rights and exploit the judiciary system; specifically to silence the opponents through biased and serious verdicts, such as the death penalty.

24. http://www.bici.org.bh/BICIreportEN.pdf

# Transcending the Conditions of Fair Trial:



Referring the case to the court urgently



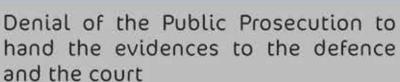


 Publicising the defendants' personal photos and confessions The court's refusal to disclose a hard copy of the trial to the defence





Preventing the defendants of their right to defence









The court testifies the witnesses in the defence's absence

The advocates had no information about the substances used to cause the explosion



None of the defences accessed the photographs of the incident

The medical examiner based his report on assumptions





The Public Prosecution refused to submit the official statement issued by "Al Rawabi School" that confirm the presence of Abbas Al Samie in the school at the time of the blast.



they were severely beaten, subjected to electric shocks, severe physical beatings, cigarettes' burns, prohibition of sleep, and sexual harassment.



A statement issued by Amnesty International (January 15 2017): The death penalties were carried out amid allegations of torture and after unfair trial



A statement issued by UN Special Rapporteurs on summary executions and on torture (January 25 2017): the death penalty was implemented after an illegal procedures which violate the international standards. As what was reported, the three men were allegedly tortured while in prison and coerced to confess their 'crime' under intense beatings (as from electric shocks and sexual harassments). In addition to preventing them from having advocates to support them before the judicial court.



Lawyer Manar Maki (April 30 2014): The two brothers; Sami and Reda Al Meshymea'h, and Taher Al Samiea spoke about the torture exercised against them, such as sexual harassment and electric shocks. Sami and Reda Al Meshymea'h mentioned that sharp instruments were inserted into their ears which cause them deficient in the sense of hearing. Taher Al Samiea had informed that he was tortured in the Criminal Investigation Department and in the Public Prosecution building.



## Abbas Al Samiea in a video



The psychological and physical torment was unbeatable, in addition my family was threatened, and the lawyers were under the threat of firing them from their jobs and dissociating their licence, in case they boycott the court sessions



I was told in the torture cells that they will fabricate the accusation of the blast to me, for I presumably had to be killed



Mother of Sami Meshymea'h spoke about how severely her son was tortured, in which his teeth were crashed, he was placed in a freezer, and they poured over him cold water and ice to enforce him to confess that he involved in the murder of the Emirati officer in March 3 2014



Abbas Al Samiea: There I was subjected to fiercest sorts of flogging and insulting ...My hair was shaved, cold water was poured over my body, while my back was beaten with a cudgels. The most painful was when they struck out my face against the wall with their feet which cause my front teeth to shatter. This torture had been exercised against me for ten days. Assaults were escalated and I was prohibited from sleeping and drinking water



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A detainee in Jaw Prison: I met my hero-friend Abbas Al Samiea, there were torture traces on his face and body... He was violently beaten. I was so astonished, I queried him and he replied that he was brutally punished after transforming him from the prison building to the administration, where he faced the cruellest sorts of torture



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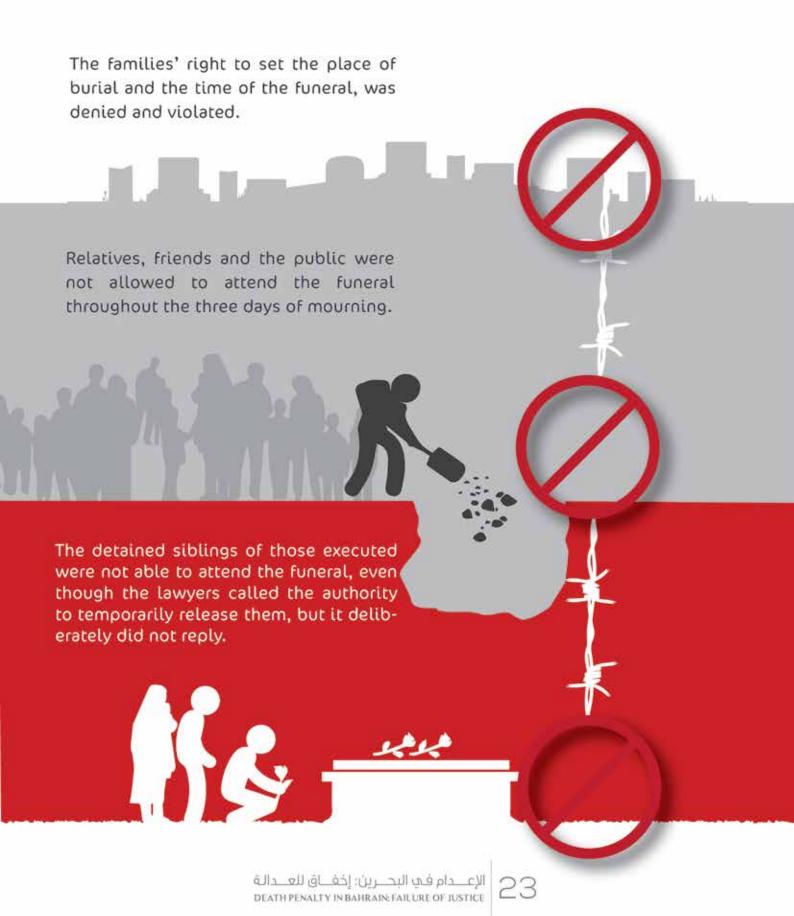


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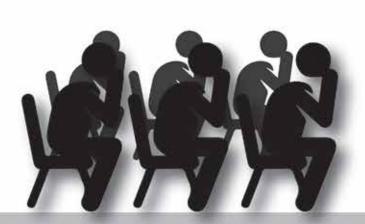
Ali Al Singias's mother assured that the Public prosecutor did not investigate with her son on the issue of the Emirati officer



# The Violations after the Verdict:







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The security men practiced immoral psychological assaults, as they gloated upon the families, they used to glance admiringly with triumphant and malicious satisfaction and gratification. They congratulated one another, and they uttered sectarian slogans.





Arresting Munear Al Meshymea'h, brother of Sami Al Meshymea'h merely on the charge of mourning his brother, and referring him to the Public Prosecution.



The Bahraini authorities refused to give the families the corpses, and it prevented them to hold a funeral procession.

The cemetery is still under siege of the Bahraini security forces



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