



General Assembly

Distr.: General
14 February 2017

English only

Human Rights Council

Thirty-fourth session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Kham Rehabilitation Center for Victims of Torture, 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.

[07 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.17-02217(E)



* 1 7 0 2 2 1 7 *

Please recycle



Violations of Detainees Rights at Bahrain's Public Prosecution*

The Public Prosecution plays a major role in the justice system in Bahrain. It is responsible for investigating and accusing. It is the authority which judicial officers follow, as they work under its supervision in terms of law enforcement affairs; like arresting defendants or convicts, executing judicial verdicts and others, by virtue of the Code of Criminal Procedure

On that level, we registered many violations of rights of detainees, and those subjected to the Public Prosecution's authority, whether directly by the Public Prosecution or judicial control officers.

The accused is presumed innocent until proven guilty:

1. Article (20/C) of the Kingdom of Bahrain's Constitution states the humanitarian principle that the accused is presumed innocent until proven guilty. This comes with its consequences, as it is not allowed to arrest or detain any individual or his freedom, unless there were serious indicators that he committed a crime, dangerous enough to require necessary measures.

2. The exact opposite (of the aforementioned) is observed in the Public Prosecution behavior. Through its supervision over judicial control apparatuses, and investigations it receives, the Public Prosecution gives permission to the police forces' judicial control officers to conduct the investigations. Most of them [investigations] are considered to lack accuracy and seriousness, as the latter is inferred through confessions, often extracted under duress, threats, torture, or temptations in other cases.

3. The Public Prosecution often orders the detention of defendants, pending investigation, in various cases, without having any evidence against them. Some lawyers indicated that when they asked the Public Prosecution to release a defendant pursuant to the right to liberty, and to end his detention without a serious reason, some Prosecution attorneys respond that they want to make sure of the witnesses' testimonies first. There were many reported cases for individuals who were detained for up to seven days or more, before the Prosecution ordered to save their cases for lacking significant evidence.

The right to contact a lawyer:

1. The vast majority of detainees pending cases (investigations), especially those linked to February 14, 2011 events, are deprived from meeting lawyers; whether before or during questioning by investigations authorities, or before being subjected to Public Prosecution investigations. Many lawyers' requests to meet their clients, detained in those cases, before starting the investigations, are not approved. This deprives them a constitutional right to seek lawyers for legal consultation, and to defend them before the Public Prosecution and Judicial Authorities.
2. The Code of Criminal Procedures gave the police and Public Prosecution absolute authority in allowing lawyers to enter investigation rooms, to monitor investigations measure with defendants. This contradicts with the constitution, which states that a lawyer shall accompany each defendant accused of a felony. It has been observed that in many detention cases, lawyers were not allowed to be present with their defendants during interrogations in police stations. Although less frequent, yet there are similar cases that occur in the Public Prosecution.

Confessions under Duress

1. The Bahraini Constitution stipulates that any confession extracted under duress, torture, or even temptation, is invalid. Meanwhile, dozens of detainees declare to the Prosecution during interrogations, that their confessions in the Criminal Investigations Department were extracted under duress, torture, threat, or temptation that if they confessed they would be released. However, the Public Prosecution does not show any seriousness in looking into these claims. It most likely, adopts the confessions of those detainees, among which many are convicted based on those confessions.

2. The most of what prosecution investigators could do in those lawsuits, is that in some cases, they refer defendant claims of torture to the Special Investigations Unit, responsible for looking into torture and maltreatment allegations committed by security men. In most cases, the defendant does not see any result from filing his complaint before the Public Prosecution. The issue of referring a complaint of being subjected to torture or maltreatment becomes a factor that might drop the defendant's right.
3. What is worse is having a defendant subject to pressure and duress by Public Prosecution detectives, to extract confessions. He's be under psychological pressure via screaming at him, calling him a liar, in addition to other pressure methods that do not comply with the Public Prosecution's objective; achieving justice with the defendant and others.

Recommendations:

- The Special Rapporteur on the independence of judges and lawyers ought to request a visit to Bahrain and pressure the Bahraini authorities to accept the request for visit.
- Amending Code of Criminal Procedures to ensure separating the investigating authority from the convicting authority, to achieve impartiality in the investigations.
- Amending the Code of Criminal Procedures to limit the Prosecution's authority in imposing precautionary imprisonment on the defendant.
- Amending the Code of Criminal Procedures to guarantee the defendant contacts his lawyer in any situation; and to limit the authority of judicial control officers and Public Prosecution in denying lawyers entry to questioning and interrogation rooms.
- Enacting legislations that oblige the judiciary to show full seriousness in investigating any allegation of torture, duress, or temptation to extract confessions; and attaching these investigations to the case file, according to which the court looking into the case shall decide what occurred and what did not.
- Activating control mechanisms over the Public Prosecution's affairs, and those of its agents responsible for investigations, to ensure that the defendants are not subjected to any pressure or duress while they testify.

*Bahrain Forum for Human Rights (BFHR), NGO without consultative status, also shares the views expressed in this statement.