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**Human Rights Council**

**Working Group on Arbitrary Detention**

 Opinions adopted by the Working Group on Arbitrary Detention at its ninetieth session, 3–12 May 2021

 Opinion No. 4/2021 concerning Mohamed Ramadhan Isa Ali Husain and Husain Ali Moosa Hassan Mohamed (Bahrain)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 42/22.

2. In accordance with its methods of work,[[1]](#footnote-2) on 18 December 2020, the Working Group transmitted to the Government of Bahrain a communication concerning Mohamed Ramadhan Isa Ali Husain and Husain Ali Moosa Hassan Mohamed. The Government submitted two late responses on 17 February 2021 and 25 February 2021. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

 (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

 (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

 (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

 (d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

 (e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

 Submissions

 Communication from the source

4. The source submits the cases of Mohamed Ramadhan Isa Ali Husain and Husain Ali Moosa Hassan Mohamed.

 a. Mohamed Ramadhan Isa Ali Husain

5. Mohamed Ramadhan Isa Ali Husain is a national of Bahrain, born in 1982. Mr. Ramadhan has three young children, all under the age of 11. Prior to his arrest, he was the sole provider for his family.

6. At the time of his arrest, he was 31 years old and an employee of the Ministry of the Interior. He worked as head of corporals for the airport police at Bahrain International Airport. Following the arrest, the Minister of the Interior ordered that Mr. Ramadhan be dismissed from his employment on 25 June 2015.

 i. Context

7. Prior to his arrest, Mr. Ramadhan had attended peaceful pro-democracy marches in Bahrain to demand equal representation for all Bahraini citizens. On 14 February 2014, he participated in a peaceful protest for democratic reform in his hometown of Al-Dair. The protest marked the third anniversary of the popular pro-democracy uprisings in Bahrain that were inspired by Arab Spring protests elsewhere in the region. It was one of the largest protests in Bahrain since the 2011 protest movement, with tens of thousands of Bahrainis taking to the streets across the country.

 ii. Arrest and detention

8. The source reports that on 18 February 2014 at around 2:20 a.m., Mr. Ramadhan was arrested at his place of work, Bahrain International Airport. Two individuals in civilian clothing, accompanied by the Deputy Chief Corporal, entered Mr. Ramadhan’s workplace and informed him that they were from the Preventive Security Department of the Ministry of the Interior. They asked him to accompany them to their vehicle without stating a clear purpose. As Mr. Ramadhan entered the vehicle, the individuals handcuffed his hands behind his back. The arresting officers presented no warrant for his arrest.

9. According to the source, Mr. Ramadhan did not realize that the individuals who had detained him were with the criminal investigation directorate until they arrived at the premises of the directorate. There, the officers accused him of killing a police officer in a bomb attack in Al-Dair on 14 February 2014.

10. The source alleges that the officers kept Mr. Ramadhan’s whereabouts secret for at least 10 days following his arrest. He was permitted only one telephone call to his family, in which he was forced to inform them that he was fine.

11. On 18 February 2014, upon arriving at the premises of the directorate, officers blindfolded Mr. Ramadhan and kept his hands cuffed behind his back. They asked him to stand against the wall, where he was sexually assaulted by officers, who also hit him on the face, head and neck. The officers brought Mr. Ramadhan to a cold room and forced him to stand for a prolonged period of time until he collapsed. Still blindfolded, he was then transferred to the so-called “black room”, where he endured the worst of the torture. The officers allegedly beat, slapped, and kicked him all over his body.

12. During the interrogation and torture, Mr. Ramadhan reportedly informed the officers that he suffered from an existing back injury and had undergone fertility treatment. After learning of his medical conditions, the officers deliberately targeted their beatings on his back and genitals. In addition, they forced Mr. Ramadhan to stand naked while they sexually assaulted him. They also threatened to rape his family members in front of him and forced him to listen to the screams of other prisoners being tortured.

13. The source further alleges that the officers then transferred Mr. Ramadhan to another interrogation room, where he was beaten with iron bars. The officers mentioned his participation in demonstrations and cursed him as a traitor, telling him that they were waiting for a major case to frame him in.

14. The officers tortured Mr. Ramadhan to coerce a false confession. Throughout his torture and interrogation, they ordered him to sign papers without allowing him to read them.

15. On 19 February 2014, a member of Mr. Ramadhan’s family filed a complaint with the Ombudsman of the Ministry of the Interior, alleging that proper legal procedures had not been followed in connection with Mr. Ramadhan’s arrest. However, the Ombudsman’s investigation concluded that the arrest procedures had been legal.

16. On 20 February 2014, Mr. Ramadhan was taken to the Office of the Public Prosecutor. Before his transfer and upon arrival, he was warned that if he did not confess, he would be tortured further. The source reports that Mr. Ramadhan met with two prosecutors, without a lawyer present. He informed them both that he had been tortured and forced to make a false confession. Mr. Ramadhan reportedly asked the first prosecutor: “Do you want me to tell you the truth or do you want me to tell you the story that they told me and forced me to tell?” The prosecutor shouted at Mr. Ramadhan and sent him out of the room.

17. Mr. Ramadhan spent approximately three hours being interrogated. According to the notes written by the Public Prosecutor, he denied playing any role in the killing of the police officer, either in regard to intention or participation or in obtaining a bomb, and confessed only to participating in the protest in Al-Dair on 14 February 2014.

18. After being interviewed between 20 and 21 February 2014, Mr. Ramadhan was taken to Al-Qal’ah Hospital for medical examinations, then transferred to Asri Military Prison at 3:45 a.m. Following an order by the Office of the Public Prosecutor to detain him for 60 days, Mr. Ramadhan was transferred to the East Riffa station on 21 February 2014 at around 10:30 p.m.

19. The source states that during the first 11 days of detention at the East Riffa station, Mr. Ramadhan was taken to the criminal investigation directorate building on most days and tortured by directorate officers until they were able to extract false confessions. He was also subjected to psychological torture throughout his detention through repeated insults and threats to both himself and his family.

20. On 24 February 2014, Mr. Ramadhan’s family member filed another complaint with the Ombudsman, expressing concern that Mr. Ramadhan’s whereabouts were unknown and requesting a visit. In response, the Ombudsman located Mr. Ramadhan and arranged for his family to visit him on 28 February 2014.

21. According to the source, Mr. Ramadhan was visibly weak during the visit and shaken from his ill-treatment. He was unable to speak freely about what had happened to him due to the restrictive conditions under which the visit was conducted. The visit took place under video surveillance, transmitting live sound and images to a control room, and three guards were present in the room during the 30-minute meeting. The visit made Mr. Ramadhan’s family more frightened for his safety. His family was not permitted to visit again until 16 March 2014, after being granted permission by the Office of the Public Prosecutor in a letter dated 10 March 2014.

22. On 2 March 2014, a forensic doctor with the Office of the Public Prosecutor conducted a forensic medical examination of Mr. Ramadhan. The Office asked the forensic doctor to determine any injuries, how they were sustained, the date of their occurrence and the methods used.

23. The source alleges that the officers escorting Mr. Ramadhan to the medical examination threatened to subject him to additional torture if he disclosed any ill-treatment. They stated that “the doctors here are all subordinate to us, so if you say that you were tortured, we will know that and more will happen to you than what was previously done to you”.

24. According to the source, the forensic doctor examined Mr. Ramadhan in a booth with no ceiling. The escorting officers waited outside the booth within earshot. Mr. Ramadhan feared that the officers could overhear, so he used facial gestures to try to inform the doctor of his torture. During the examination, the doctor photographed and measured bruising on Mr. Ramadhan’s leg. In a cursory two-page report, the doctor concluded that the bruising witnessed and described were contusions that “occurred with collision to the body with an object”. The doctor did not record any other injuries, despite the bruising all over Mr. Ramadhan’s body, nor did he determine the date on which the injuries likely occurred or their likely causes, as requested by the Office of the Public Prosecutor.

25. On 4 March 2014, Mr. Ramadhan was transferred back to Asri Military Prison, where he remained until July 2015.

 b. Husain Ali Moosa Hassan Mohamed

26. Husain Ali Moosa Hassan Mohamed is a national of Bahrain, born in 1986. At the time of his arrest, Mr. Moosa was 27 years old and employed as a driver at the Diplomat Radisson Blu Hotel, Residence and Spa in Manama. Prior to his arrest, he attended pro-democracy rallies in Bahrain, including the peaceful protest for democratic reform in Al-Dair on 14 February 2014 (see para. 7 above).

 i. Arrest and detention

27. The source reports that in the early morning of 21 February 2014, criminal investigation directorate officers in civilian clothing and police uniforms arrested Mr. Moosa at a friend’s apartment in Galali, Muharraq. The arresting officers presented no warrant. The officers arrested three other individuals, later named as co-defendants, at the apartment. Mr. Moosa was separated from the rest of the group and transported in a bus to the directorate premises. There, the officers accused him of killing a police officer in a bomb attack in Al-Dair on 14 February 2014.

28. The source alleges that the officers tortured Mr. Moosa at the directorate premises for three days following his arrest – until 24 February 2014. During the torture, the officers restrained Mr. Moosa’s hands behind his back using zip ties, which caused his hands and wrists to swell so severely that the officers had to use cloth restraints instead. The officers took turns beating him with batons, targeting his face and back. They sexually assaulted him and threatened him with further sexual assault. They also deprived him of food and water.

29. The officers ordered Mr. Moosa to confess to the Al-Dair bombing throughout his torture. According to the source, in order to put an end to the torture, Mr. Moosa confessed to participating in the bombing and implicated Mr. Ramadhan as a co-conspirator. Mr. Moosa made the confession in front of a video camera on 21 February 2014 before being taken to the Office of the Public Prosecutor.

30. On 21 February at 10 p.m., Mr. Moosa was taken to the Office of the Public Prosecutor in Manama and presented before the Public Prosecutor without a lawyer present. He was threatened that if he did not repeat his coerced confession, he would face additional torture. When Mr. Moosa denied the charges against him and attempted to tell the prosecutor that he had been tortured into providing a false confession, the prosecutor reportedly called officers to escort him back to a bus where he was beaten. That happened twice. When he was brought before the prosecutor for the third time, Mr. Moosa repeated his coerced confession to avoid being sent back to the bus and tortured.

31. The source reports that officers then transported Mr. Moosa to Al-Dair village to re-enact the crime. The Public Prosecutor who had interrogated Mr. Moosa was present and gave instructions. As part of the re-enactment, the prosecutor handed him a garbage bag and told him to hold it while a photograph was taken.[[2]](#footnote-3) When he saw that Mr. Moosa was bleeding from the mouth, he told officers to give him water to wash his mouth to ensure nothing came out. Mr. Moosa was returned to the criminal investigation directorate on 21 February 2014.

32. On 22 February 2014 at 2:56 a.m., directorate officers brought Mr. Moosa to Al-Qal’ah Hospital, where a doctor under the Ministry of the Interior examined him. Mr. Moosa asked to be admitted to hospital. The doctor performed an X-ray and blood test on Mr. Moosa. In the examination report, he noted that Mr. Moosa had severe swelling in his hands, pain in his back and leg, and blood in his mouth. The doctor gave Mr. Moosa ibuprofen tablets, a pain relief gel and other pain relief tablets. He recommended that Mr. Moosa be referred to the Bahrain Defence Force hospital to see an orthopaedist, as he suspected that Mr. Moosa’s left thumb may have been broken. Following the examination, Mr. Moosa was returned to the directorate.

33. At some point between 22 and 24 February 2014, Mr. Moosa was taken to the Bahrain Defence Force hospital for treatment of the severe swelling in his wrists. He was put on an intravenous line. On 24 February 2014, directorate officers brought him to Al-Qal’ah Hospital, where he was examined by another Ministry of the Interior doctor and then transferred to Dry Dock Detention Centre.

34. On 2 March 2014, Mr. Moosa was examined by a forensic doctor from the Office of the Public Prosecutor; the same doctor who examined Mr. Ramadhan. The source states that when Mr. Moosa was transferred to the examination, four officers escorted him, two walking in front and two behind. En route, they warned that if he said anything about his torture he would be taken back to the directorate and tortured again.

35. The examination reportedly took place in a room described as a booth with an open top, with the officers standing outside the door within earshot. According to the source, Mr. Moosa did not tell the doctor about his torture for fear of being overheard. The doctor saw the injuries on his wrists and back, noted his impaired movement and birdshot wounds, and photographed the injuries. The swelling continued in Mr. Moosa’s hands for six months and he was left with a scar. However, after examining Mr. Moosa, the forensic doctor wrote a cursory two-page report that claimed that he had no signs of torture on his body.

 c. Trial and appellate proceedings

 i. Charges

36. The source reports that Mr. Ramadhan and Mr. Moosa were among 12 defendants charged in case No. 4974/2014/07.

37. According to the source, they were charged with one count of premeditated murder and four counts of attempted murder for their alleged involvement in the Al-Dair bombing. One police officer was killed and four other police officers were injured. The source adds that Mr. Ramadhan and Mr. Moosa were charged with preparing the plan to kill any police officer tasked with preserving security and confronting riotous acts, and with causing an explosion with the intent to execute a terrorist purpose. Mr. Ramadhan was charged with procuring the explosive device.

38. According to the source, Mr. Ramadhan and Mr. Moosa were charged under the following provisions of Bahraini law: articles 25/2, 36/1, 37, 178, 179, 277 (bis), 280 and 333 of the Penal Code; articles 1 (2), 3 (1) and 18 (2) of Law No. 16/1976 on explosives, weapons, and ammunition; articles 1 (1) and 2 of Minister of the Interior Decree No. 23/1985 specifying materials equivalent to explosives; and articles 1 (2), 2 (1) (3) and(5), 3, and 10 (1) and (2) of Law No. 58/2006 on the protection of society from terrorist acts.

 ii. Trial

39. The trial of Mr. Ramadhan and Mr. Moosa (and the 10 other defendants) began on 19 June 2014 in the Fourth Superior Criminal Court of Bahrain. At the first session, the two men entered pleas of not guilty, recanted their confessions and told the court that the police had tortured them into confessing while they were in the custody of the criminal investigation directorate. Both Mr. Ramadhan’s and Mr. Moosa’s lawyers submitted a motion for their acquittal on the ground of invalidity of their confessions. However, the court asserted its right to admit the defendant’s confession incriminating himself or another defendant at any stage of the investigation or trial, even if he subsequently retracted it, if the court was persuaded of its veracity, and dismissed the defence motions.

40. In the initial judgment of 29 December 2014, Mr. Ramadhan and Mr. Moosa were sentenced to death on the basis of the confessions of Mr. Moosa and the co-defendants. Mr. Ramadhan’s confession was limited to his attendance at the protest where the bombing took place. According to the source, his confession only confirmed his presence at the crime scene. Other evidence included a death certificate of the police officer killed in the bombing; technical forensic reports, photographs of crime scenes and video footage of a re-enactment of the crime; testimony from the four injured police officers who only commented on their injuries without noting any suspects; and testimony from four of the criminal investigation directorate arresting officers. However, no physical evidence placing Mr. Moosa or Mr. Ramadhan at the scene was presented. The judgment dismissed statements from both men that they had been tortured, and did not mandate any oversight body to investigate those claims.

41. The source alleges that Mr. Moosa was not able to meet with a lawyer at any stage of his detention in police custody or during his interrogation, from the time of his arrest until his trial concluded. After Mr. Ramadhan’s arrest, his lawyer made at least five applications to the court to have power of attorney granted to him and made several requests to be present during interrogations, which were ignored. Mr. Ramadhan was only able to provide power of attorney to his lawyer on 11 January 2015, after he had been sentenced to death.

42. On 27 May 2015, the Court of Appeal confirmed the death sentences of Mr. Ramadhan and Mr. Moosa. On 16 November 2015, the Court of Cassation again confirmed the death sentences. All legal remedies available to Mr. Ramadhan and Mr. Moosa were exhausted, leaving them at risk of imminent execution.

43. The source notes that the defence counsel wanted to call witnesses to testify that while the two men had taken part in the protest on the same day as the bombing, they were not present at the time of the explosion. However, when the defence submitted its motion to call those witnesses, the Court of Cassation dismissed it, along with all of the other defence motions.

44. On 15 June 2016, the Ombudsman of the Ministry of the Interior issued a statement confirming that it had begun an investigation into allegations of ill-treatment against the two men.

45. On 7 August 2016, the complaints of torture were referred to the Public Prosecutor’s special investigation unit, which considered evidence from the doctors who had examined the men after their arrest, and concluded that there was sufficient evidence to raise suspicion that the men had been subjected to serious ill-treatment. As this evidence had not been put before the trial or appellate courts, the Public Prosecutor sought a review of the convictions by the Court of Cassation.

46. On 18 March 2018, following sustained campaigning by human rights groups, the special investigation unit recommended that the case be reviewed in light of the medical reports not considered by the courts during the trial or appeals process. On 28 March 2018, the Attorney General of Bahrain announced the review. The unit closed its dossier of the investigation without determining what happened, as that was left to the court to decide.

47. On 22 October 2018, the Court of Cassation concluded that the investigation by the special investigation unit merited further consideration, particularly the medical reports that were not previously assessed by the courts. The Court of Cassation quashed the death sentence and referred the case back to the Court of Appeal with a new panel of judges. The Court of Cassation mandated the Court of Appeal to investigate the findings of the unit, review the new medical reports and determine the validity of the evidence used in the previous rulings, specifically of Mr. Moosa’s confession.

48. In its judgment of 8 January 2020, the Court of Appeal reinstated the death sentences of both Mr. Ramadhan and Mr. Moosa after establishing that Mr. Moosa’s torture had occurred after his voluntary confession. The Court of Appeal was only mandated to determine whether Mr. Moosa’s torture happened before or after his confession, but not to investigate the torture itself.

49. On 13 July 2020, the Court of Cassation confirmed the death sentences of Mr. Ramadhan and Mr. Moosa in a hearing that lasted only a few minutes. Mr. Ramadhan’s family member was reportedly denied entry to the courtroom. The two men have exhausted all their legal remedies and they are once again at risk of imminent execution. They are currently held on death row at Jau Prison.

 d. Recent developments

50. The International Rehabilitation Council for Torture Victims recently conducted an independent expert review of the investigation into the torture allegations of Mr. Moosa and Mr. Ramadhan and the judgment sentencing them to death. According to the source, the Council concluded that the investigation had failed to meet the minimum professional standards and minimum international legal standards to which Bahrain was subject, and that the 8 January 2020 decision of the Court of Appeal had been premised upon insufficient and ineffective investigation in violation of established professional and legal standards and should thereby be considered as critically flawed.[[3]](#footnote-4)

51. The source reports that since the verdict in July 2020, access by Mr. Ramadhan and Mr. Moosa to telephone calls has been severely restricted. They are allowed telephone calls with only five contacts and cannot speak freely, including about their prison conditions. They are locked in small cells for 23 hours a day. In addition, conditions in the prison have been adversely affected by the coronavirus disease (COVID-19) pandemic. Since 25 February 2020, when the Ministry of the Interior announced that all family visits would be suspended due to the pandemic, the two men have been prevented from seeing their loved ones. They consider that this restriction is punitive as it has lasted over nine months, with no indication of when they will be able to see their families again.

52. Towards the end of September 2020, Mr. Ramadhan began experiencing increasing mental distress, which seems to be connected to fear that his execution is imminent. The source is concerned that Mr. Ramadhan may be experiencing the death row phenomenon and emphasizes that he needs a mental health assessment and appropriate treatment.

53. Mr. Moosa is also experiencing medical issues. His back and feet were injured three years ago and left untreated for several months. The consequences are ongoing and he has not been provided with proper medical treatment. As a result, Mr. Moosa suffers from a problem in a nerve in his foot. He was recently seen by a specialist who examined him at Jau Prison. Despite the doctor’s recommendation to provide Mr. Moosa with medication and creams, the prison authorities are delaying his access to the medication.

 e. Analysis of violations

54. The source submits that the detention of Mr. Ramadhan and Mr. Moosa is arbitrary under categories I, II, III and V.

 i. Category I

55. According to the source, article 56 of the Code of Criminal Procedure stipulates that a judicial arrest officer may arrest a person accused of committing a felony only if there is sufficient evidence to indict the accused. Article 19 of the Constitution guarantees that a person cannot be arrested, detained or imprisoned, and or have his or her freedom of movement restricted, except under the provisions of the law and under judicial supervision.

56. The source submits that the authorities arrested Mr. Ramadhan and Mr. Moosa without sufficient evidence and without presenting a duly issued warrant. In addition, the Government invoked no exception to excuse its gross violation of the rights of Mr. Ramadhan and Mr. Moosa rights under domestic law. As a result, Bahrain violated its internal law and failed to establish a legal basis for their arrests.

57. Moreover, the arresting officers actively misled Mr. Ramadhan as to their identity. The arresting officers, dressed in civilian clothes, initially identified themselves as the Preventive Security Department of the Ministry of the Interior so as not to raise his suspicion. It was only after he accompanied the officers to their vehicle that they placed him under arrest. Mr. Ramadhan was not made aware of their true identity until he arrived in restraints at the criminal investigation directorate building. By then, he had already been arbitrarily deprived of his liberty.

58. By failing to secure a warrant for the arrests of Mr. Ramadhan and Mr. Moosa, the authorities cannot objectively satisfy the requirement that there were grounds for the arrests. Due to the lack of adherence to the procedure under the law of Bahrain, there is no legal basis justifying the arrest and detention of either man.

59. The source submits that incommunicado detention and/or enforced disappearance violates the right to challenge the legality of the arrest.[[4]](#footnote-5) Both Mr. Ramadhan and Mr. Moosa were held in incommunicado detention. Mr. Ramadhan was held incommunicado and tortured for 10 days in the custody of the criminal investigation directorate following his arrest. During that period, his family was not informed of his whereabouts. Mr. Moosa was tortured at the premises of the directorate for three days following his arrest.

60. The source refers to article 57 of the Code of Criminal Procedure, which requires an arresting officer to present an accused person to the Office of the Public Prosecutor within 48 hours of arrest. It also requires that the Office of the Public Prosecutor question the accused within 24 hours, and order his or her imprisonment or release. Mr. Ramadhan was not presented before the Office within 48 hours of his arrest.

61. The source concludes that Bahrain has failed to bring the arrest and detention of Mr. Ramadhan and Mr. Moosa into conformity with the law, rendering their continued detention arbitrary under category I.

 ii. Categories II and V

62. The source submits that the Government arbitrarily deprived Mr. Ramadhan and Mr. Moosa of their liberty in retaliation for the lawful exercise of their rights to express political opinions, assemble and participate in government under articles 19, 20 and 21 of the Universal Declaration of Human Rights and articles 19, 21 and 22 of the International Covenant on Civil and Political Rights. Their detention is also arbitrary for reasons of discrimination based on political opinion.

63. According to the source, the interrogators told Mr. Ramadhan that the Government knew he was innocent, but that his participation in pro-democracy protests while employed by the Ministry of the Interior made him a traitor to the State. Mr. Moosa’s attendance at pro-democracy protests also made him a target for political reprisals.

64. With reference to concluding observations of the Human Rights Committee adopted in 2018, the source notes that Bahrain uses its Criminal Code as a tool for political repression and in order to impose restrictions on the right to freedom of expression, assembly and association.[[5]](#footnote-6)

65. In the present case, Bahrain invoked Law No. 58 of 2006 to charge Mr. Ramadhan and Mr. Moosa and sentence them to death. The source refers to the concerns expressed by the Human Rights Committee that Law No. 58 includes an overly broad definition of terrorism that provides too much room for interpretation, and at reports of the extensive use of the Law outside the scope of terrorism, including against human rights defenders and political activists.[[6]](#footnote-7) The source notes that Mr. Ramadhan and Mr. Moosa had expressed dissent and had advocated for greater respect for their human rights.

 iii. Category III

66. The source submits that the Government violated the fair trial and due process rights of Mr. Ramadhan and Mr. Moosa under articles 3, 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant.

67. The source asserts that the authorities failed to inform them promptly and in detail of the nature and cause of the charges against them in accordance with article 14 (3) (a) of the Covenant. Mr. Ramadhan and Mr. Moosa were not told of the charges until after their arbitrary arrest and detention.

68. Furthermore, both men were denied adequate time and facilities to prepare their defence and to communicate with counsel of their choosing as guaranteed by article 14 (3) (b) of the Covenant. Mr. Moosa has not been able to meet with a lawyer at any stage during his detention, while Mr. Ramadhan was not permitted to instruct a lawyer until he had already been sentenced to death. The source asserts that Mr. Ramadhan and Mr. Moosa were deprived of their right to examine prosecution witnesses and call defence witnesses, in violation of the principle of equality of arms enshrined in article 14 (3) (e) of the Covenant.

69. In addition, the Government violated the non-derogable prohibition of torture and ill-treatment under articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 7 of the Covenant. Mr. Ramadhan and Mr. Moosa were tortured during their interrogations and forced to sign confessions. Criminal investigation directorate officers blindfolded Mr. Ramadhan, stripped him naked, and took him to a freezing room where he was repeatedly beaten, punched and kicked while being forced to stand for a prolonged period. They handcuffed his hands behind his back and threatened to rape his relatives. During Mr. Ramadhan’s interrogation, officers regularly sexually assaulted him. The source also alleges that directorate officers handcuffed Mr. Moosa and hung him from the ceiling, leaving him in that position for three days. Interrogators took turns beating him with police batons and sexually assaulting him. The source submits that the authorities tortured the two men with the specific purpose of extracting false confessions.

70. The source refers to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), which provides guidelines for the investigation of torture in line with international law and in a prompt, independent, impartial and effective manner. The source submits that Bahrain failed to investigate the torture allegations of Mr. Ramadhan and Mr. Moosa promptly, in violation of articles 12 and 13 of the Convention against Torture. Despite numerous complaints of torture, the Ombudsman failed to open an investigation until 13 June 2016, by which time both men had exhausted their legal remedies.

71. Moreover, the medical examinations of the two men were not prompt, independent, impartial or effective. The medical examiner did not examine them until 9 and 12 days after their arrests, respectively. The source notes that independent experts have concluded that the initial medical examinations of Mr. Ramadhan and Mr. Moosa failed to meet the Istanbul Protocol minimum standards. Specific concerns were raised about the independence of the examinations, since the medical examiner was employed by the Office of the Public Prosecutor, which was one of the targets of the torture allegations.

72. With reference to the concluding observations of the Committee against Torture adopted in 2017, the source notes that the investigative bodies of Bahrain, including the Ombudsman and the special investigation unit, are not independent or effective. The Committee noted that since their establishment in 2012, the Ombudsman and the special investigation unit had had little or no effect, and that the authorities had provided negligible information regarding the outcome of their activities.[[7]](#footnote-8)

73. Pursuant to article 15 of the Convention against Torture and article 14 (3) (g) of the Covenant, any statement made as a result of torture must not be invoked as evidence in any proceedings. The source submits that the Fourth Superior Criminal Court relied almost exclusively on torture-tainted confessions to sentence Mr. Ramadhan and Mr. Moosa to death. The Court of Appeal and the Court of Cassation subsequently upheld the death sentences on the same evidentiary basis.

74. Following the investigation by the special investigation unit, the Court of Cassation remanded the case to the Court of Appeal, but only mandated it to decide whether Mr. Moosa’s torture had occurred before or after his confession. The Court of Appeal erroneously concluded that Mr. Moosa had been tortured after making his confession and that his confession was therefore valid. The Court of Appeal’s ruling is inconsistent with the evidence.

 Response from the Government

75. On 18 December 2020, the Working Group transmitted the allegations from the source to the Government under its regular communication procedure. The Working Group requested the Government to provide detailed information by 16 February 2021 about the situation of Mr. Ramadhan and Mr. Moosa. The Working Group also requested the Government to clarify the legal provisions justifying their continued detention, as well as its compatibility with the obligations of Bahrain under international human rights law. Moreover, the Working Group called upon the Government to ensure the physical and mental integrity of Mr. Ramadhan and Mr. Moosa.

76. The Government submitted its response on 17 February 2021, one day after the deadline. The Government also submitted a supplementary response on 25 February 2021, nine days after the deadline. The Working Group cannot accept the late responses as if they were presented within the time limit. In accordance with paragraph 16 of its methods of work, the Working Group will render its opinion based on all the information it has obtained.

 Discussion

77. In the absence of a timely response from the Government, the Working Group has decided to render the present opinion in conformity with paragraph 15 of its methods of work.

78. In determining whether the detention of Mr. Ramadhan and Mr. Moosa is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case of breach of the international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.[[8]](#footnote-9)

 Category I

79. The source alleges that Mr. Ramadhan and Mr. Moosa were arrested on 18 and 21 February 2014 respectively, without an arrest warrant. According to the source, there was insufficient evidence that they had committed a crime to justify their arrest.

80. The Government did not address the allegation that there was a lack of evidence justifying the arrest of Mr. Ramadhan and Mr. Moosa, nor did it provide information in a timely manner in relation to the lack of arrest warrants. The Working Group considers that the source has presented a credible case, which was not rebutted by the Government, that the men were arrested without warrants. While both men participated in the protest on 14 February 2014, they were arrested several days later and there is no suggestion that they were arrested in flagrante delicto.[[9]](#footnote-10)

81. Pursuant to article 9 (1) of the Covenant, no one shall be deprived of liberty except on such grounds and in accordance with such procedure as are established by law. Both Mr. Ramadhan and Mr. Moosa were arrested without a warrant, in violation of that article. In order for deprivation of liberty to have a legal basis, it is not sufficient for there to be a law authorizing the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case through an arrest warrant.[[10]](#footnote-11) This did not take place in the present case.

82. Based on the information provided by the source, it also appears that neither Mr. Ramadhan nor Mr. Moosa was informed of the reasons for the arrest at the time of their arrest. In both cases, it was only after Mr. Ramadhan and Mr. Moosa had been arrested, detained and transported to the criminal investigation directorate premises that they were accused of killing a police officer in a bomb attack on 14 February 2014. The source alleges that in Mr. Ramadhan’s case, the arresting officers concealed their identity by announcing that they were from the preventive security department of the Ministry of the Interior, and that Mr. Ramadhan did not realize that they were with the directorate until they arrived at the premises of the directorate. In its second late response, the Government states that Mr. Ramadhan was informed of the reason for the presence of the arresting officers at his place of employment, and that Mr. Moosa was informed of the “capacity” and “responsibility” of the arresting officers. The Government did not specifically rebut the source’s allegation.

83. Article 9 (2) of the Covenant provides that anyone who is arrested is to be informed, at the time of arrest, of the reasons for his or her arrest and is to be promptly informed of the charges. The reasons for arrest must be provided immediately upon arrest.[[11]](#footnote-12) As the Working Group has stated, an arrest is arbitrary when it is carried out without informing the arrested person of the reasons for the arrest.[[12]](#footnote-13) Mr. Ramadhan and Mr. Moosa were not informed of the reasons for their arrest at the time of their respective arrests, in violation of article 9 (2) of the Covenant. The source did not, however, specify when both men were informed of the charges against them, noting only that they were not informed until after their arrest and detention. The Working Group is unable to determine whether there was a further violation of their right under article 9 (2) to be promptly informed of the charges.[[13]](#footnote-14)

84. Moreover, it appears that neither Mr. Ramadhan nor Mr. Moosa was brought promptly before a judge after arrest or at any time before the commencement of their trial in June 2014. According to article 9 (3) of the Covenant, anyone arrested or detained on a criminal charge is to be brought promptly before a judge. As the Human Rights Committee has noted, 48 hours is ordinarily sufficient to satisfy the requirement of bringing a detainee “promptly” before a judge following his or her arrest; any longer delay must remain absolutely exceptional and be justified under the circumstances.[[14]](#footnote-15) In the absence of information or justification from the Government, the Working Group finds that neither individual was brought promptly before a judicial authority, in violation of article 9 (3) of the Covenant. While both men were brought before the Office of the Public Prosecutor within a few days of their arrests, a prosecutorial body cannot be considered a judicial authority for the purposes of article 9 (3).[[15]](#footnote-16) As a result, the Government did not establish a legal basis for the detention of Mr. Ramadhan and Mr. Moosa in accordance with the Covenant.

85. The source further alleges that both Mr. Ramadhan and Mr. Moosa were held incommunicado and/or were subjected to enforced disappearance contrary to their right to challenge the legality of their arrest. According to the source, the period of incommunicado detention was 10 days for Mr. Ramadhan and 3 days for Mr. Moosa.

86. In its second late response, the Government denied the allegation in respect of Mr. Ramadhan, stating that he was allowed to call his family the day after his arrest. The source states that Mr. Ramadhan was forced to make this telephone call to tell his family that he was fine and that he was at the premises of the criminal investigation directorate, but was prohibited from speaking openly with them and specifically prohibited from informing them that he had been tortured. The fact that Mr. Ramadhan was able to inform his family of his whereabouts suggests that he was not subjected to enforced disappearance.[[16]](#footnote-17) However, the restriction on his ability to contact or speak freely with his family, which the Government has not rebutted, suggests that he has been unable to effectively exercise his right to challenge his detention in accordance with article 9 (4) of the Covenant. Moreover, Mr. Ramadhan did not have access to his lawyer prior to his trial, despite repeated attempts by his lawyer to be permitted to act on his behalf and to be present during interrogations. Without a lawyer, Mr. Ramadhan was deprived of an essential safeguard in challenging the legal basis for his detention.[[17]](#footnote-18)

87. The Government did not respond to the allegation that Mr. Moosa was held incommunicado for three days following his arrest, or rebut the contention that he was unable to meet with a lawyer prior to his trial. As a result, it appears that Mr. Moosa was unable to effectively exercise his right to challenge his detention so that a court could decide without delay on its legality in accordance with article 9 (4) of the Covenant.

88. Holding persons so that they have no or restricted access to the outside world, particularly to their family and lawyers, violates their right to challenge the lawfulness of detention before a court under article 9 (4) of the Covenant.[[18]](#footnote-19) Judicial oversight of detention is a fundamental safeguard of personal liberty[[19]](#footnote-20) and is essential in ensuring that detention has a legal basis. Given that Mr. Ramadhan and Mr. Moosa were unable to challenge their detention, their right to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant was also violated.

89. The Working Group finds that the detention of Mr. Ramadhan and Mr. Moosa is arbitrary under category I.

 Category II

90. The source alleges that Mr. Ramadhan and Mr. Moosa were detained for the lawful exercise of their rights to freedom of opinion and expression, to freedom of assembly, and to participate in government under articles 19, 20 and 21 (1) of the Universal Declaration of Human Rights and articles 19, 21 and 25 (a) of the Covenant. According to the source, Mr. Ramadhan and Mr. Moosa were targeted because they participated in a pro-democracy protest.

91. In its first late response, the Government put forward a completely different version of events, alleging that Mr. Ramadhan and Mr. Moosa were part of a group of individuals who murdered a police officer in a bomb attack on 14 February 2014. According to the Government, Mr. Ramadhan, Mr. Moosa and others prepared an explosive device for the purpose of murdering law enforcement officers and then attacked public security forces with iron bars and Molotov cocktails in order to lure them to a place where the explosive device was detonated, killing one police officer and injuring four others. The Government contends that Mr. Ramadhan and Mr. Moosa were not detained as a result of the exercise of their rights and freedoms, but because of the commission of various criminal and terrorist offences.

92. The Working Group is faced with different accounts presented by the source and the Government, and has carefully assessed the available information. The source states that there was no physical evidence placing Mr. Ramadhan or Mr. Moosa at the scene of the crime, and that they were convicted solely on the confession of Mr. Moosa and some co-defendants. The source also stated that criminal investigation directorate officers had brought up Mr. Ramadhan’s participation in demonstrations, cursed him as a traitor andtold him that they were waiting for a major case to frame him in.

93. The convictions of Mr. Ramadhan and Mr. Moosa were based on multiple sources of evidence, including witness statements from the public security forces, confessions from the co-defendants, the report of the crime scene division, the report of the forensic research laboratory, the autopsy report, medical reports, pictures and photographs of a re-enactment of the crime, text messages from the cellular telephones of some of the defendants, and the criminal records of some of the defendants.

94. The source noted that none of this evidence established that Mr. Ramadhan or Mr. Moosa had been involved in the commission of the bombing. The source alleges that the re-enactment staged with Mr. Moosa was the result of torture and directed by the Public Prosecutor. The only evidence linking Mr. Ramadhan or Mr. Moosa to the bombing is Mr. Moosa’s forced confession. The confessions of other co-defendants appear to place Mr. Ramadhan and Mr. Moosa at the protest but do not link them to the bombing and, in any event, were alleged to have been coerced. The Government did not explain how the evidence proved Mr. Ramadhan or Mr. Moosa’s involvement in the bombing, nor did the Government refute the allegation that criminal investigation directorate officers had stated an intention to frame Mr. Ramadhan for his participation in pro-democracy protests. In these circumstances, the Working Group finds that the source has presented a credible case, which was not rebutted by the Government, that Mr. Ramadhan and Mr. Moosa were detained for the peaceful exercise of their rights.

95. The Working Group considers that, by participating in a peaceful pro-democracy protest, Mr. Ramadhan and Mr. Moosa were exercising their right to freedom of opinion and expression, which protects the holding and expression of opinions, including those which are critical of, or not in line with, government policy.[[20]](#footnote-21) Mr. Ramadhan and Mr. Moosa were also exercising their right to peaceful assembly and association with other like-minded individuals involved in the protests. Moreover, in protesting to demand democracy and equal representation for all citizens of Bahrain, Mr. Ramadhan and Mr. Moosa were exercising their right to take part in the conduct of public affairs.[[21]](#footnote-22)

96. There is nothing to suggest that the permissible restrictions on the rights exercised by Mr. Ramadhan and Mr. Moosa set out in articles 19 (3), 21, 22 (2) and 25 of the Covenant would apply. Mr. Ramadhan and Mr. Moosa were detained for exercising their rights under articles 19, 20 and 21 (1) of the Universal Declaration of Human Rights and articles 19, 21, 22 and 25 (a) of the Covenant. The Working Group refers the case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

97. The Working Group concludes that the detention of Mr. Ramadhan and Mr. Moosa is arbitrary under category II.

 Category III

98. Given its finding that the detention of Mr. Ramadhan and Mr. Moosa is arbitrary under category II, the Working Group emphasizes that no trial of the two men should have taken place. However, they were convicted and sentenced to death on 29 December 2014, a decision that was upheld by the Court of Appeal on 27 May 2015 and the Court of Cassation on 16 November 2015. Following an investigation into the torture of Mr. Ramadhan and Mr. Moosa apparently prompted by widespread international attention on their situation, the death sentences were quashed by the Court of Cassation on 22 October 2018. Those sentences were subsequently re-imposed by the Court of Appeal on 8 January 2020 following a rehearing, and upheld by the Court of Cassation on 13 July 2020.

99. The Working Group considers that the information submitted by the source discloses multiple violations of the right of Mr. Ramadhan and Mr. Moosa to a fair trial. The Government noted that the two men were convicted of offences under the law of Bahrain through proceedings which at every level fulfilled all the requirements of a fair trial.

100. The source alleges that neither Mr. Ramadhan nor Mr. Moosa was permitted to meet with a lawyer prior to trial, nor were they able to formally instruct a lawyer until after they had been convicted and sentenced to death. The Government’s first late response stated that Mr. Ramadhan and Mr. Moosa each had a lawyer appearing with him during court proceedings at every level. The source clarified that the two men were permitted to meet their lawyers only in the courtroom. The Working Group recalls that all persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including immediately after their apprehension, and such access is to be provided without delay.[[22]](#footnote-23) In this case, Mr. Ramadhan and Mr. Moosa were not afforded their right to adequate time and facilities for the preparation of their defence and to communicate with counsel of their choosing under article 14 (3) (b) of the Covenant, or their right to present an effective defence through counsel of their choosing under article 14 (3) (d) of the Covenant.

101. The source also alleges that the Court of Cassation did not permit the defence to call witnesses to testify that Mr. Ramadhan and Mr. Moosa had taken part in the protest but had not been present at the scene of the explosion when it took place. The Government stated in general terms that the defence witnesses had been heard. However, in the absence of a specific justification from the Government as to why the court did not permit relevant exculpatory evidence to be adduced or otherwise dealt with (for example, through quashing the convictions and ordering a retrial that took into account such evidence), the Working Group considers that the Court of Cassation’s conduct did not meet the standard of an independent and impartial tribunal under article 14 (1) of the Covenant. The right of Mr. Ramadhan and Mr. Moosa to the equality of arms under article 14 (3) (e) of the Covenant was also violated. The Working Group will refer the case to the Special Rapporteur on the independence of judges and lawyers.

102. In addition, the source alleges that Mr. Ramadhan and Mr. Moosa were subjected to torture and ill-treatment at the hands of criminal investigation directorate officers, detailed above. The Government provided inconsistent statements in its late responses, making blanket denials that the investigating officers had engaged in any form of assault or torture, but also appearing to accept that the injuries documented in the medical examination reports following the two individual’s arrests had been proven but had no effect on the confessions. The Working Group considers that the source has presented a credible prima facie case that Mr. Ramadhan and Mr. Moosa were subjected to physical and psychological torture and ill-treatment. The alleged conduct appears to violate article 5 of the Universal Declaration of Human Rights, article 7 of the Covenant, and articles 2 and 16 of the Convention against Torture. Given the serious allegations of torture and ill-treatment, the Working Group refers the case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

103. The source also claims that both Mr. Ramadhan and Mr. Moosa gave confessions as a result of torture, with Mr. Ramadhan admitting his presence at the protest, and Mr. Moosa implicating himself and Mr. Ramadhan in the bomb attack.[[23]](#footnote-24) The Government’s late responses denied that the confessions were coerced, and relied on the findings of the courts that the confessions had been freely given and unaffected by the proven injuries (which were said to pre-date arrest or post-date the confession).

104. The Working Group considers that the admission into evidence of a statement obtained through torture renders the entire proceedings unfair.[[24]](#footnote-25) The burden is on the Government to prove that the statements of Mr. Ramadhan and Mr. Moosa were given freely,[[25]](#footnote-26) but it has not done so. Neither individual had access to a lawyer prior to trial. The Working Group considers that confessions made in the absence of legal counsel are not admissible as evidence in criminal proceedings.[[26]](#footnote-27) As a result, the rights of Mr. Ramadhan and Mr. Moosa to be presumed innocent under article 14 (2) of the Covenant, and not to be compelled to confess guilt under article 14 (3) (g) of the Covenant, were violated. The intentional infliction of physical or psychological pressure to obtain a confession also violated the obligations of Bahrain under articles 2, 15 and 16 of the Convention against Torture.[[27]](#footnote-28)

105. The Working Group notes with concern the attempts by Mr. Ramadhan and Mr. Moosa to report their torture and ill-treatment to the Office of the Public Prosecutor and the courts at all levels, and that no steps to investigate were taken until the special investigation unit opened an investigation in 2016. According to the source, the unit has yet to issue any final conclusions on its investigation. The Working Group reiterates concerns previously raised about the unit’s independence and effectiveness.[[28]](#footnote-29)

106. Moreover, the courts should have ordered an independent investigation into the alleged torture and ill-treatment when it was first raised. The failure by a judge to intervene when torture or ill-treatment is alleged violates the right to be tried by an independent and impartial tribunal under article 14 (1) of the Covenant,[[29]](#footnote-30) and violates articles 12, 13 and 14 of the Convention against Torture. Moreover, the prosecutor was obliged to investigate and report the torture and forced confessions in accordance with guidelines 12 and 16 of the Guidelines on the Role of Prosecutors.[[30]](#footnote-31) Instead, the prosecutor was allegedly complicit by calling officers to escort Mr. Moosa back to a bus where he was beaten, and by hiding his injuries during the staged re-enactment of the crime.

107. The Working Group concludes that the violations of the right to a fair trial are of such gravity as to give the detention of Mr. Ramadhan and Mr. Moosa an arbitrary character under category III.

 Category V

108. Finally, the source alleges that the detention of Mr. Ramadhan and Mr. Moosa is discriminatory because it was based on their political or other opinion, as expressed through their participation in the pro-democracy protest. The Working Group has already established that the arrest and detention of Mr. Ramadhan and Mr. Moosa resulted from the peaceful exercise of their rights under international law under category II. In such circumstances, there is a strong presumption that the deprivation of liberty also constitutes a violation of international law on the grounds of discrimination based on political or other views.[[31]](#footnote-32) In its late responses, the Government did not provide any information to rebut this presumption.

109. The Working Group considers that Mr. Ramadhan and Mr. Moosa were deprived of their liberty on discriminatory grounds, namely their political or other opinion, contrary to articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant. Their detention is arbitrary according to category V.

 Concluding remarks

110. The Working Group is concerned for the well-being of Mr. Ramadhan and Mr. Moosa, who have now been detained for over seven years. They are currently on death row and may be experiencing the death row phenomenon, which itself can amount to torture or cruel, inhuman or degrading treatment.[[32]](#footnote-33) The Working Group urges the Government to immediately and unconditionally release them and ensure that they receive medical care. The Working Group refers the case to the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

111. This case is one of several brought before the Working Group in recent years concerning the arbitrary deprivation of liberty in Bahrain.[[33]](#footnote-34) The Working Group notes that many of the cases involving Bahrain follow a familiar pattern of arrest without warrant or reasons given; pretrial detention with limited access to judicial review; denial of access to lawyers; forced confession; incommunicado detention; prosecution under vaguely worded criminal offences for the peaceful exercise of human rights; trial by courts lacking in independence; torture and ill-treatment; and denial of medical care. The Working Group recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.[[34]](#footnote-35)

112. The Working Group would welcome the opportunity to conduct a country visit to Bahrain. It visited Bahrain in October 2001 and considers that it is now an appropriate time to conduct another visit. As a current member of the Human Rights Council, it would be timely for the Government to extend an invitation, and the Working Group looks forward to a positive response to its previous visit request.

 Disposition

113. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Mohamed Ramadhan Isa Ali Husain and Husain Ali Moosa Hassan Mohamed, being in contravention of articles 2, 7, 8, 9, 10, 11 (1), 19, 20 and 21 (1) of the Universal Declaration of Human Rights and articles 2 (1), 2 (3), 9, 14, 19, 21, 22, 25 (a) and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

114. The Working Group requests the Government of Bahrain to take the steps necessary to remedy the situation of Mr. Ramadhan and Mr. Moosa without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

115. The Working Group considers that, taking into account all the circumstances of the case, particularly the risk of harm to the physical and psychological well-being of Mr. Ramadhan and Mr. Moosa, the appropriate remedy would be to release both men immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law.[[35]](#footnote-36) In the current context of the COVID-19 pandemic and the threat that it poses in places of detention, the Working Group calls upon the Government to take urgent action to ensure their immediate release.

116. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Ramadhan and Mr. Moosa, and to take appropriate measures against those responsible for the violation of their rights.

117. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, for appropriate action.

118. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

119. The Working Group calls on the Government to establish an official moratorium on all executions with a view to abolishing the death penalty, and to accede to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.[[36]](#footnote-37)

 Follow-up procedure

120. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

 (a) Whether Mr. Ramadhan and Mr. Moosa have been released and, if so, on what date;

 (b) Whether compensation or other reparations have been made to Mr. Ramadhan and Mr. Moosa;

 (c) Whether an investigation has been conducted into the violation of the rights of Mr. Ramadhan and Mr. Moosa and, if so, the outcome of the investigation;

 (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Bahrain with its international obligations in line with the present opinion;

 (e) Whether any other action has been taken to implement the present opinion.

121. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

122. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

123. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.[[37]](#footnote-38)

*[Adopted on 3 May 2021]*

1. A/HRC/36/38. [↑](#footnote-ref-2)
2. The explosion on 14 February 2014 allegedly resulted from a bomb placed in a garbage bag. [↑](#footnote-ref-3)
3. See https://irct.org/uploads/media/2020\_07\_01\_PUB\_IRCT\_Statement\_MRamadhan\_HMoosa\_FINAL.pdf?utm\_source=rss&utm\_medium=rss. [↑](#footnote-ref-4)
4. Opinion No. 27/2018, para. 71. [↑](#footnote-ref-5)
5. CCPR/C/BHR/CO/1, paras. 53–58. [↑](#footnote-ref-6)
6. Ibid., para. 29. [↑](#footnote-ref-7)
7. CAT/C/BHR/CO/2-3, para. 28. [↑](#footnote-ref-8)
8. A/HRC/19/57, para. 68. [↑](#footnote-ref-9)
9. Opinion No. 9/2018, para. 38. [↑](#footnote-ref-10)
10. See opinions No. 59/2019, No. 46/2019, No. 33/2019 and No. 9/2019. [↑](#footnote-ref-11)
11. Human Rights Committee, general comment No. 35 (2014), para. 27; and opinion No. 30/2017, paras. 58–59. [↑](#footnote-ref-12)
12. Opinions No. 46/2020, para. 40; No. 59/2019, para. 46; No. 46/2019, para. 51; and No. 10/2015, para. 34. [↑](#footnote-ref-13)
13. Human Rights Committee, general comment No. 35, para. 30 (noting that article 9 (2) requires prompt notification of the charges, but not necessarily at the time of arrest). See also opinion No. 3/2019, para. 43. [↑](#footnote-ref-14)
14. Human Rights Committee, general comment No. 35, para. 33. See also CCPR/C/BHR/CO/1, paras. 39–40. [↑](#footnote-ref-15)
15. Human Rights Committee, general comment No. 35, para. 32; and opinion No. 5/2020. [↑](#footnote-ref-16)
16. A/HRC/16/48/Add.3 and Corr.1, para. 21. Mr. Ramadhan’s family member filed a complaint with the Ombudsman of the Ministry of the Interior on 24 February 2014, alleging that the family member did not know his whereabouts. According to the source, he was moved from the premises of the criminal investigation directorate to Asri Military Prison and then to the East Riffa Police Station on 21 February 2014. There is thus no inconsistency between telling his family on 19 February 2014 where he was and the fact that they did not subsequently know his whereabouts. The Ombudsman located him and organized a visit, thus there is no suggestion of the State refusing to acknowledge or disclose his whereabouts. [↑](#footnote-ref-17)
17. Opinions No. 61/2020, para. 70 and No. 40/2020, para. 29; and the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37, annex), principle 10. [↑](#footnote-ref-18)
18. See opinions No. 41/2020, No. 5/2020, No. 59/2019, No. 45/2019, No. 33/2019 and No. 32/2019. [↑](#footnote-ref-19)
19. A/HRC/30/37, para. 3. [↑](#footnote-ref-20)
20. Opinions No. 16/2020, para. 68; No. 15/2020, para. 65; No. 8/2019, para. 55; and No. 79/2017, para. 55. [↑](#footnote-ref-21)
21. Human Rights Committee, general comment No. 25 (1996), para. 8; and opinion No. 59/2019, para. 58. See also CCPR/C/BHR/CO/1, para. 35. [↑](#footnote-ref-22)
22. United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, principle 9 and guideline 8. See also CCPR/C/BHR/CO/1, paras. 39–40. [↑](#footnote-ref-23)
23. See, for example, opinion No. 47/2017, para. 27. [↑](#footnote-ref-24)
24. See opinions No. 59/2019, No. 52/2018, No. 34/2015 and No. 43/2012. [↑](#footnote-ref-25)
25. Human Rights Committee, general comment No. 32 (2007), para. 41; and CAT/C/BHR/CO/2-3, paras. 12–13. [↑](#footnote-ref-26)
26. Opinions No. 59/2019 and No. 14/2019. See also E/CN.4/2003/68, para. 26 (e); and A/HRC/45/16, para. 53. [↑](#footnote-ref-27)
27. CAT/C/BHR/CO/2-3, para. 16 (in which the Committee expressed concern about the widespread use of forced confessions). [↑](#footnote-ref-28)
28. Ibid., para. 28. [↑](#footnote-ref-29)
29. Opinions No. 53/2018, para. 77 (b); and 46/2017, para. 25. See also opinions No. 31/2020, para. 56 and No. 30/2018, para. 49. [↑](#footnote-ref-30)
30. Opinions No. 63/2020, para. 42; and No. 47/2017, para. 29. [↑](#footnote-ref-31)
31. See opinions No. 59/2019, No. 13/2018 and No. 88/2017. [↑](#footnote-ref-32)
32. A/67/279, paras. 42–51; and A/HRC/30/18, paras. 30–31. [↑](#footnote-ref-33)
33. See opinions No. 87/2020, No. 41/2020, No. 5/2020, No. 73/2019, No. 59/2019, No. 31/2019, No. 79/2018, No. 51/2018, No. 13/2018, No. 55/2016, No. 35/2016, No. 41/2015, No. 23/2015, No. 37/2014, No. 34/2014, No. 27/2014, No. 25/2014, No. 22/2014, No. 1/2014 and No. 12/2013. [↑](#footnote-ref-34)
34. See, for example, opinion No. 47/2012, para. 22. [↑](#footnote-ref-35)
35. See Working Group on Arbitrary Detention, deliberation No. 10 (A/HRC/45/16, annex I). [↑](#footnote-ref-36)
36. CCPR/C/BHR/CO/1, paras. 31–32; and CAT/C/BHR/CO/2-3, paras. 12–13. [↑](#footnote-ref-37)
37. Human Rights Council resolution 42/22, paras. 3 and 7. [↑](#footnote-ref-38)