

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Appeals Court Should Void Flawed Convictions

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(Beirut) Medical staff convicted by a military court of alleged serious crimes during the period of anti-government protests in Bahrain in early 2011 were subjected to abuse and torture in detention, Human Rights Watch said today. Given the fundamental unfairness of the trial, including that civilians were tried in a military court, Bahrain's High Court of Appeals should reverse the convictions of 20 medical staff when they hear their appeal on October 23, 2011, and order an independent investigation into the defendants' allegations of abuse and torture.

The prosecutors should drop all charges based solely on their exercise of freedom of speech and assembly, and ensure a new trial for defendants in a civilian court only if there is evidence of possible criminal activity, Human Rights Watch said. On October 5, Attorney General Ali Al Buainain announced that the appeal will be equivalent to a retrial. Human Rights Watch interviewed 7 of the 20 medical staff convicted of serious crimes, who told of severe abuse in detention and extensive violations of their rights to a fair trial.

The appeals court should decisively overturn the unfair verdicts against the medics and dismiss outright all politically motivated charges, said [Joe Stork](#), deputy Middle East director at Human Rights Watch. The new hearing should also disallow allegedly coerced confessions.

On September 29, the National Safety Lower Court, a special military court, convicted the 20 doctors, nurses, and paramedics on charges including forcibly taking over the Salmaniya Medical Complex and refusing treatment to patients based on sectarian affiliation. The court also convicted the 20 of transparently political offenses, such as instigating hatred against the ruling system, incitement to overthrow the regime, and spreading false news.

On March 16, the Bahrain Defense Force (BDF) took control of the Salmaniya Medical Complex, the largest medical complex in Bahrain. Beginning on March 17, security forces arrested 48 medics, 28 of whom separately face lesser misdemeanor charges before a civilian court for speech-related offenses.

Medical staff interviewed by Human Rights Watch said that interrogators subjected them to physical and psychological pressure during pretrial detention, typically to coerce confessions. Authorities held many of them for weeks, much of that time incommunicado. None could meet with their lawyers to prepare their defenses prior to the military court trial. Many saw family members and lawyers for the first time on June 6, at their first trial session.

I was handcuffed and blindfolded [and] interrogated for seven days, Dr. Rula al-Saffar, 48, head of the Bahrain Nursing Society, told Human Rights Watch. The interrogations started at 3:30 p.m. and went on until 5 or 6 a.m. the next day. I was electrocuted in my face and my head. They said, We are going to rape you.

Procedural flaws in the treatment of the detainees and in their trials violated both international human rights law and Bahraini laws, Human Rights Watch said. Authorities refused to allow defense lawyers access to the defendants until immediately prior to the first session of the trial, resulting in inadequate time for preparation of their defenses. The court refused to order independent medical exams of those claiming they were tortured, and relied on coerced confessions in reaching verdicts. It is never appropriate to try civilians before military courts, which do not meet international fair trial standards, including on the independence of the judiciary.

Defense lawyers and medical staff told Human Rights Watch that they asked the court to nullify the confessions because defense lawyers had not been present during the formal interrogations at the Office of the Public Prosecutor. But the court verdict, which Human Rights Watch has reviewed, states that neither the defendants nor their lawyers had made such requests during the interrogations period.

He was the investigator, the interrogator, the torturer, and then he was a witness who testified against us in the court, said Dr. Ali al-Ekri,

44, one of those interviewed by Human Rights Watch, referring to the interrogator who was the main witness against them at their trials.

Human Rights Watch's review of the court verdict as well as testimony of defendants and their lawyers indicate that the special military court judges relied on confessions where there was evidence these had been coerced, and secret evidence submitted by the chief interrogator.

Bahrain is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights (ICCPR), and the Arab Charter on Human Rights, all of which prohibit torture and inhuman and degrading treatment. Bahrain's constitution also prohibits torture. Article 19 (d) says:

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

These trials were a mockery of justice from start to finish, and the verdicts should be completely overturned, Stork said.

III-Treatment, Torture in Detention

Authorities arrested Dr. Rula al-Saffar, 48, head of the Bahrain Nursing Society, on the evening of April 4 after summoning her to the Ministry of Interiors Criminal Investigation Directorate (CID). She told Human Rights Watch:

I was handcuffed and blindfolded [and] interrogated for seven days. The interrogations started at 3:30 pm and went on until 5 or 6 a.m. the next day. I was electrocuted in my face and my head. They said, We are going to rape you. I was held in a very cold cell. They turned on the air conditioner, which made the cell even colder and I had no blanket. They forced me to stand and sit for long hours on the dirty floor.

Al-Saffar said interrogators forced her to sign a confession that she encouraged people to protest, refused treatment to Sunni patients, and stole blood from the blood bank so that protesters could simulate wounds. After 17 days, authorities transferred her to the Womens Detention Center in Isa Town, where she was held until her release on bail on August 21. Al-Saffar said that during more than four months in detention she was allowed to speak with her family only once, for three minutes, and to meet with them another time for one hour. The special military court sentenced her to 15 years in prison.

Fatima Haji, a rheumatologist sentenced to five years in prison, was arrested on April 17 and held for 22 days. She said interrogators forced her to sign a document saying she had not been tortured and that she would not talk to the international media. She has written about her [time in detention](#) on [doctorsinchains.org](#).

[The men started] asking me the size of my underwear, and the size of my bra. [One of them] kept asking me and I [was] not answering and he was hitting my head. My eyes were [in tears] ... Then they started making fun and joking about my breast size. Then one of them asked me, When [was] the last time you saw your husband? I said, Two or three days ago. He said, So you didnt have sex for the last two or three days, it seems you want someone to do it with you right now.

Dr. Ali al-Ekri, 44, told Human Rights Watch that men in military uniforms arrested him on March 17, while he was in the Salmaniya operating room. The special military court sentenced al-Ekri to 15 years on charges of possessing weapons and forming an organization to topple the regime. I spent 14 days in solitary confinement, he told Human Rights Watch. I was constantly beaten by cables, hoses, and fists. One time I was forced to stand up for 24 hours.

Dr. Ghassan Dhaif, 45, an oral and maxillofacial surgeon at Salmaniya, was arrested on March 19 at Bahrain International Airport while attempting to travel to the United Kingdom with his wife, Dr. Zahra al-Sammak, and their three children. He told Human Rights Watch that he was taken to a room at the airport where masked men in civilian clothes beat him. They then transferred him to the Interior Ministrys Criminal Investigation Directorate (CID), where he was blindfolded and handcuffed from behind for 21 days.

I spent seven days in a solitary confinement [cell] that was 6 feet by 5 feet. I was blindfolded and handcuffed from behind and was sleep-deprived ... I was not allowed to go to the toilet, that is why I had to pee in my pants. I was not allowed to sit or sleep. I collapsed several times. I was beaten every hour ... what really hurt was [when] they would cover my ear, temple, and my neck then they would hit me with their hands.

On April 8, Dhaif said, authorities interrogated him for 10 hours uninterruptedly, during which they severely beat him. I was not allowed to sit or drink water, he said. At one point, I was asked to sit down facing the wall. All of a sudden someone kicked my back. I felt like my back was broken. The same day, after he was hospitalized for a few hours for his back pain, he was forced to sign a confession about 40 pages long.

Dr. Basim Dhaif, 47, brother of Ghassan Dhaif, was arrested at his home on the evening of March 19 by security forces. He told Human Rights Watch:

I was insulted and beaten in front of my wife and children at my home. In detention I was forced to stand for more than 12 days except [when] eating. I was blindfolded and handcuffed from behind ... in total I was tortured for 26 days in CID. Eventually I was forced to sign confession papers under threat that they will hurt my family. I didnt know what the contents [of these papers were].

Al-Sammak, 45, an anesthesiologist at Salmaniya sentenced to 5 years in prison, and Nada Dhaif, a dentist sentenced to 15 years, also told Human Rights Watch that they were ill-treated in detention.

On September 7, the authorities released al-Ekri and the other medics still in detention on bail, including Ghassan and Basim Dhaif.

Due Process Violations

Some of the medical staff who spoke with Human Rights Watch said that they were not allowed to contact their lawyers for weeks after their initial arrests; others said that they only were allowed to meet with their lawyers at the first court session on June 6.

Al-Sammak told Human Rights Watch that authorities notified her of the charges against her just one day before the first court session. I was told that if I wanted I can bring a lawyer for me and my husband, she said.

Jalila Sayed, who represented Dr. Basim Dhaif, remembered the phone call she received from his wife:

[She] called me the night before the first hearing of June 6 to tell me that she [received] a call that her husbands court hearing was going to be held on the following day in the military court. At that time I knew that he was certainly facing charges but I did not know what they were. I met with Dr. Basim for the first time 10 minutes before the June 6 hearing started and I was not able to tell him what kind of charges were made against him. The court provided me with a copy of the case file just a couple of days before the second hearing of June 13.

Another defense lawyer who requested that his name not be used said he was notified about the first court session on June 4, two days before the trial began.

Nada Dhaif and Haji said that they were notified about the June 6 court session on June 4. Drs. al-Saffar, al-Ekri, Basim Dhaif, and Ghassan Dhaif told Human Rights Watch they first heard the charges against them at the first session of their special military trial on June 6.

The medical staff and defense lawyers told Human Rights Watch that they all had made requests to nullify confessions because defense lawyers had not been present during formal interrogations.

When I asked for my lawyer, the interrogator said, Over our dead bodies, Dr. Ghassan Dhaif told Human Rights Watch. Drs. Al-Ekri, al-Sammak, Basim Dhaif, and al-Saffar said that their requests were similarly rejected.

Sayed, the defense lawyer, told Human Rights Watch that Basim Dhaifs previous lawyer had submitted at least seven letters to the Interior Ministry, the public prosecutor, the military prosecutor, and the National Safety Court asking to attend all interrogations with him. I have copies of all of them, she told Human Rights Watch. All those requests were totally disregarded.

Article 61 of Bahraains law of criminal procedure states, Every person who is arrested shall be informed of the reasons for his arrest. He shall have the right to contact any of his relatives to inform him of what has happened and to seek the aid of a lawyer.

The medics trial before the special military court violated article 14 of the ICCPR, which says that suspects must be informed immediately of the charges against them, have adequate time and resources to prepare their defenses, be able to communicate with their lawyers in private, and not be forced to confess to committing a crime.

Mushin al-Alawi and Sayed, two of the defense lawyers, told Human Rights Watch that during the second court session, on June 13, the defense team asked the court to authorize an independent medical committee to investigate the allegations of torture by the doctors, but the court never responded the request.

The defense team also contended in court that the confessions of the defendants should not be allowed as evidence because they were obtained under physical and psychological duress.

The court verdict states that the court has total freedom to assess the veracity and probative value of the confessions ... [The court has] established ... that the confessions given by the defendants in the preliminary investigations ...were detailed and extremely consistent with witness statements and the criminal lab report ... The documents contained no evidence that any defendant was subjected to torture or duress, and they did not affirm this before the prosecution when they appeared for questioning.

Those who testified in court against the defendants were seven Salmaniya medical staff members and an investigator, defense lawyers told Human Rights Watch. More than 20 witnesses testified on behalf of the accused medics, the defense lawyers and defendants said.

Haji told Human Rights Watch that the main charges against her were stealing blood, participating in protests, spreading hate against the regime, and spreading false news. She said that the only witness to testify against her was the person she identified as her main interrogator in detention.

He testified that he had his own secret sources against us, she said. And they used our confessions against us confessions they had written themselves.

He was the investigator, the interrogator, the torturer, and then he was a witness who testified against us in the court, al-Ekri said.

The same interrogator, who had tortured all of us, all of us, was one of the witnesses against us, al-Saffar said.

A criminal lab report, according to the court verdict, states that two firearms (AK47s), live ammunition, and sharp weapons such as knives were found in the hospital. According to the court verdict, the only witness, in addition to the confession from an accused nurse, to testify about the weapons possession charge was the investigator/interrogator. He said in his testimony that his investigations had shown that there were weapons stashed away in the hospital, the verdict states.

Dhia Ibrahim, a nurse, whose confession has been used in the testimony saying she heard from a colleague that there were weapons in the hospital, told Human Rights Watch that she confessed under screams and threats from the investigators.

They said, All your colleagues have confessed against you, you better confess, then they were asking questions and answering the questions at the same time, said Ibrahim, who spent 25 days in detention and was sentenced to five years in prison.

Al-Alawi, the defense lawyer, recounted the cross-examination of the investigator:

Whenever we asked him a question, for example: Who told you this? he would say, My confidential source for his safety I cannot reveal the source. He was like the witness who had seen nothing.

The court did not respond to requests to allow the doctors and medics to testify in their own defense in the trial, the medics and defense lawyers said.

I submitted requests to the court twice [in the June 13 and the August 22 sessions] to give my client a chance to defend himself in the court but the requests were never answered, Sayed said. I know that other colleagues submitted similar requests.

Background

The special military courts, called the Courts of National Safety, were established on March 15 by decree of King Hamad bin Isa Al Khalifa to try protesters and others who supported or were perceived as supporting the street protests over the previous four weeks.

The Bahrain Defense Force (BDF) commander-in-chief, Field Marshal Khalifa bin Ahmed Al Khalifa, appointed the military judges who preside over the special courts, as well as two civilian judges. All cases are prosecuted by the military public prosecutor. On June 29, King Hamad announced that cases pending before the special military courts would be transferred to civilian courts, but on August 18, a subsequent decree ordered that all cases of serious crimes remain in the special military courts.

The commanding role of the BDF with regard to the National Safety Courts violates a provision of the Bahraini constitution that states that jurisdiction of military courts does not extend to other persons except when martial law is declared. The king's decree explicitly stated that the State of National Safety did not constitute martial law and that basic rights protected in Bahrain's constitution were not suspended.

Although international human rights law does not prohibit the establishment of special courts, the UN Human Rights Committee has made clear that the trial of civilians by such courts can only take place under conditions which afford full guarantees of a fair trial. These include: the right to presumption of innocence and against self-incrimination; the right to be tried before an independent tribunal meaning judges should be outside the military chain of command and fully independent of the executive and ruling monarchy; the right to a lawyer of the defendant's choice, and adequate time and facilities to prepare a defense including the right to adequate communication with a lawyer and the right to call and cross-examine witnesses.

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