



The Death Penalty against Bahraini Citizens in Saudi Arabia is Arbitrary and a Violation of the Application of Local Law

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Our organizations consider the death sentences issued by the Saudi Criminal Court against Bahraini citizens Jaafar Muhammad Ali Muhammad Juma Sultan, and Sadiq Majeed Abdul Rahim Ibrahim Thamer, a transgression of spatial jurisdiction by the Saudi judiciary. It is an arbitrary contravention of the application of Saudi domestic laws, specifically laws designed to combat terrorism and its financing, along with explosives and fireworks regulations, in terms of verifying the elements of the crime and assessing the penalty.

On May 8, 2015, the two men were arrested at the King Fahd Causeway crossing between Bahrain and Saudi Arabia. The Public Prosecution applied 7 charges against them, 6 of which had occurred inside Bahrain.

On October 7, 2021, the Saudi Arabian Specialized Criminal Court sentenced them to death based on these charges, some of which had been previously adjudicated by the Bahraini judiciary in their absence and which had sentenced them to life imprisonment. The ruling of the Specialized Criminal Court (Saudi Arabia) was based on insufficient evidence and the alleged statements of both men, which they refuted before the court as having been coerced.

On January 11, 2022, the Court of Appeals upheld the death sentences, and the men were left with only one month to appeal the ruling before the ultimate decision of the Saudi Supreme Court.

Our organizations recommend swift action be taken by the Saudi Judicial Authorities to reverse these unjust death sentences, which violate international human rights charters and treaties, as well as the local laws in force in Saudi Arabia.

Furthermore, we insist there be a retrial for the defendants, with the charges reduced to the single charge of “smuggling of explosive materials”. This should take place without additional charges, outside the jurisdiction of the Saudi judiciary, and without any violation of the limits of the laws in force in terms of assessing the penalty and basing the judgment on valid and legal evidence sufficient for a conviction.

Subject Background:

On 19 Rajab 1436 AH, corresponding to Friday 8 May 2015, the two men, Jaafar Muhammad Ali Muhammad Juma Sultan, (d.o.b. 10 February 1992 - a Bahraini citizen and university student), and Sadiq Majeed Abdul Rahim Ibrahim Thamer, (d.o.b. 11 July 1989 - a Bahraini citizen and university student), were arrested while crossing the border into the Kingdom of Saudi Arabia at the King Fahd Causeway. Their car was found to contain 11 plastic bags wrapped in tin, containing a pasty substance that was hidden behind mattress, weighing 30 kilograms, 780 grams of RDX and 50 capsules used for detonation, and a 6-meter cable, which could be used as a detonator. They were arrested for possessing explosives and engaging in terrorist activity, and were incarcerated at the General Investigation Prison (Saudi Arabia).

The Specialized Criminal Court (Saudi Arabia) sentenced them to death as a disciplinary punishment on 1 Rabi' al-Awwal 1443 AH / Thursday 7 October 2021, after the following accusations were brought against them by the Saudi Public Prosecution:

- 1- Joining a terrorist cell led by Muhammad al-Mumin, which received training in camps belonging to Iran, with the aim of destabilizing the security of Saudi Arabia and Bahrain;

- 2- Participation in the smuggling of explosive materials with the intent of disturbing the security of Saudi Arabia and communicating with terrorists inside Saudi Arabia;
- 3- Participation in smuggling RDX, 50 detonating capsules and detonation wires;
- 4- Participation in the demonstrations which took place in Bahrain;
- 5- Destroying evidence of where explosive materials are stored in Bahrain;
- 6- Misleading Saudi investigation authorities; and
- 7- Possession of three memory card flash drives containing security and intelligence lessons, types of weaponry, shooting, and lessons regarding bombs and explosive materials.

The Fourth High Criminal Court (Bahrain) also sentenced them on May 31st 2016, to life imprisonment on the following charges:

- 1- Joining a terrorist group;
- 2- Importing and possessing explosive materials; and
- 3- Agreeing and helping to train people in terrorist acts.

Remarks on the Ruling:

First: Transcending Spatial Jurisdiction in 6 Charges:

Since the accused were of Bahraini nationality, the origin of jurisdiction in criminal trials belongs to the Bahraini judiciary for the charges that occur inside Bahrain. However, since the arrested were charged with smuggling explosive materials, a charge criminalized by Anti-Terrorism Crimes and Financing System in Article 31 and criminalized in Article 15 of the Explosives and Fireworks regulation, and since they were arrested while entering Saudi Arabia via the King

Fahd Causeway, the jurisdiction of the Saudi judiciary is limited to acts criminalized by Saudi laws and regulations as the criminal principles and rules in spatial jurisdiction determine the right of the state to prosecute persons who commit crimes within the state's territory.

Since the Saudi Public Prosecution has directed a set of charges against the two arrested persons, which are not related to the third charge (smuggling explosive materials), the judiciary has erred by issuing a ruling on charges that do not fall within the limits of its jurisdiction, in addition to the fact that these charges have already been adjudicated by the Bahraini judiciary and it is not legally permitted to punish a person twice on the same charges.

Second: The Court Erred in its Reasoning

The crime is based on three pillars (legal, material, and moral), a text that criminalizes the behavior, act of a person, and the intention of the person to achieve the criminalized result. It is evident in the indictment presented by the Public Prosecution to the court that statements attributed to the two arrested were denied by them before the court. Their denial of confessions, which they claimed was due to coercion, were not considered by the court.

It is clear that in all of the charges leveled against the accused, that the court did not abide by the text of Article (91) of the (Saudi) Law on Combating Terrorist Crimes and its Financing, which states: “Proving intent, knowledge, or purpose in committing a terrorist offense or a terrorist financing offense is achieved through the circumstances of the commission of the criminal act,” and the Saudi legislator did not allow the security and judiciary to arbitrarily prove intent through the confessions of the accused, including a coerced confession.

Third: Misestimation of the Penalty:

Saudi explosives and fireworks regulation does not stipulate the death penalty as punishment (neither a punishment nor a disciplinary action). Why did the court determine a verdict on the death penalty for the two arrested? The text of Article 15 of the Explosives and Fireworks Law is clear and unambiguous: “Whoever is proven to have committed - with the intent of disturbing the security of the Kingdom - any act... smuggling explosives into the Kingdom shall be punished with imprisonment for a period not exceeding twenty years.” Also, the system for combating terrorism and its financing does not have the penalty for murder unless the act results in death. We are facing facts that are not related to the death of anyone, and for this we see that the court has clearly transcended the limits of its texts.

SIGNATORIES:

ALQST for Human Rights

Bahrain Forum for Human Rights

Coalition Tunisienne Contre la Peine de Mort

Gulf Institute for Democracy and Human Rights

Human Rights SENTINEL

International CURE

lifespark – movement against the death penalty.

Ligue Française des droits de l'Homme

Rights Realization Centre

Salam for Democracy and Human Rights

The German Coalition to Abolish the Death Penalty