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Written statement* submitted by Americans for Democracy & Human Rights in Bahrain Inc, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Torture Victim Hakeem AlAraibi Arbitrarily Detained in Thailand for 76 Days

Americans for Democracy & Human Rights in Bahrain (ADHRB) takes this opportunity at the 40th Session of the United Nations (UN) Human Rights Council (HRC) to raise concerns about the recent unlawful detention of Hakeem AlAraibi, a Bahraini-born resident of Australia who was arrested in Thailand in November 2018. Hakeem is a football player who was tortured in Bahrain, and feared that he would be tortured again if extradited to Bahrain. He was detained in Thailand for 76 days at Bahrain's request, despite having refugee status in Australia, before he is set to be released on 12 February.

Detention and Torture

Hakeem is a former football player for the Bahrain national team and he currently plays for Pascoe Vale FC in Melbourne, Australia.

On 7 November 2012, Bahrain security forces arrested Hakeem on charges of vandalizing a police station. They held him in detention for three months, during which he claims they tortured him. He has since spoken publicly about his torture, stating "They blindfolded me . . . They held me really tight, and one started to beat my legs really hard, saying: 'You will not play soccer again. We will destroy your future.'"¹ He was released on bail after three months.

Trial in Absentia

On 6 January 2014, Bahrain's High Criminal Court convicted Hakeem and sentenced him to ten years in prison *in absentia* - at the time of the trial, Hakeem was playing for the Bahrain national team in Qatar.

The Court convicted Hakeem based on the coerced confession of his co-defendant and brother, despite the fact that at the time of the alleged crime, Hakeem was playing in a televised match for his local club Al-Shabab at Muharraq Stadium. His club and the Bahrain Football Association confirmed this to the Court. The Court ignored this information and disregarded allegations that his brother's confession was obtained through physical and psychological duress.

The presiding judge in Hakeem's case was Sheikh Mohammed bin Ali AlKhalifa, a member of the ruling family. He has presided over similar cases, including a case concerning the alleged arson of property owned by another AlKhalifa family member.² Multiple defendants in that case reported security forces tortured them to coerce confessions, although the Court ignored the claims.

Escape to Australia

On 5 May 2014, Hakeem fled to Australia and sought refugee status. On 30 November 2017, he was granted a Permanent Protection Visa. This allows him to reside in, and travel to and from, Australia, so long as he does not travel to Bahrain.

Since seeking refuge, Hakeem has been critical of Sheikh Salman AlKhalifa, a relative of Bahrain's king and the current president of the Asian Football Confederation (AFC). In particular, Hakeem spoke out during Sheikh Salman's candidacy for the presidency of FIFA in 2016, blaming him in part for failing to intervene on behalf of athletes who were arrested and tortured for participating in pro-democracy protests in 2011.

¹ Rebecca R. Ruiz, *Shadow of Human Rights Abuse Follows Contender in FIFA Vote*, New York Times (24 Feb. 2016), <https://www.nytimes.com/2016/02/25/sports/soccer/sheikhs-candidacy-opens-new-door-to-criticism-of-fifa-human-rights.html>.

² Human Rights Watch, *Torture Redux: The Revival of Physical Coercion During Interrogations in Bahrain* (8 Feb. 2010), <https://www.hrw.org/report/2010/02/08/torture-redux/revival-physical-coercion-during-interrogations-bahrain>.

Recent Arrest in Thailand

On 27 November 2018, Hakeem travelled to Thailand with his wife. Upon his arrival in Bangkok, Thai authorities detained him on the basis of an INTERPOL Red Notice. The Red Notice, issued upon the request of Bahrain on the basis of his criminal conviction, violated the formal policy of the INTERPOL Executive Committee, which states that Red Notices will not be issued if the recipient is a confirmed refugee or asylum-seeker.³ On 4 December 2018, INTERPOL cancelled the Red Notice, but Thai authorities did not release Hakeem.

On 11 December 2018, the Bangkok Criminal Court remanded Hakeem for 60 days, during which Thai Immigration authorities could process Bahrain's request for his extradition. They transferred him from the immigration detention center to Bangkok Remand Prison.

On 28 January 2019, the Bahraini government submitted its formal extradition request to Thailand's Ministry of Foreign Affairs, which forwarded the request to the Attorney General, who submitted a formal request to the Criminal Court to extradite Hakeem on 1 February 2019. The same day the authorities submitted this request, Bahrain's Ministry of Interior published a statement seemingly in response to the international community's attention to the case, stating that "external interference in the internal affairs of Bahrain is unacceptable," and that questioning the Bahraini judicial system is "intolerable."⁴

On 4 February 2019, Hakeem was brought to the Criminal Court for a hearing on his extradition – he was handcuffed and shackled.⁵ The Court informed Hakeem that his attorneys have until 5 April to submit a written objection to his extradition.

On 11 February 2019, it was announced that Bahrain had informed Thailand's Ministry of Foreign Affairs that the Bahraini government would not pursue Hakeem's extradition, and that he would be released and returned to Australia the following day.⁶ Bahrain's Ministry of Foreign Affairs released a statement confirming the halt of extradition proceedings, but noting that Bahrain "reaffirms its right to pursue all necessary legal actions" against Hakeem.⁷

Response from the Australian, Thai, and Bahraini Authorities

The Australian authorities' consistent calls for Hakeem's safe return have been supported and echoed by the human rights and sporting communities. On 9 December 2018, Australia's Foreign Minister Marise Payne issued a statement demanding Hakeem's "safe return" to Australia.⁸ The Australian Council of Trade Unions and members of the Australian Greens political party have called for official inquiries into the actions of Australian police and the INTERPOL officers who informed Thailand of Hakeem's travel plans, although he is a refugee and the Red Notice was erroneously applied to him.⁹

³ Michelle Estlund, *INTERPOL's Refugee Policy Red Notice Law Journal* (30 Sept. 2016), <https://www.rednoticelawjournal.com/2016/09/1351/>.

⁴ Bahrain Ministry of Interior, *Interior Minister: Interfering in internal affairs, questioning Bahraini judiciary integrity are intolerable* (28 Jan. 2019), <https://www.bna.bh/en/InteriorMinisterInterferingininternalaffairsquestioningBahrainijudiciaryintegrityareintolerable.aspx?cms=q8FmFJgiscL2fwIzON1%2BDtXgI%2B%2B7sdneSmCWW7NWIUg%3D>.

⁵ Helen Davidson, *Hakeem al-Araibi faces further 60 days in Thai jail after extradition hearing*, *The Guardian* (3 Feb. 2019), <https://www.theguardian.com/sport/2019/feb/04/hakeem-al-araibi-bahrain-thailand-court-extradition>.

⁶ Austin Ramzy, *Thailand Releases Soccer Player Who Faced Extradition to Bahrain*, *New York Times* (11 Feb. 2019), <https://www.nytimes.com/2019/02/11/world/asia/thailand-soccer-hakeem-al-araibi.html>.

⁷ Bahrain News Agency, *Kingdom of Bahrain Ministry of Foreign Affairs Statement* (11 Feb. 2019), <https://www.bna.bh/en/KingdomofBahrainMinistryofForeignAffairsStatement.aspx?cms=q8FmFJgiscL2fwIzON1%2bDsndXqIA3LTmFWdBCAZFFos%3d>.

⁸ Australian Minister for Foreign Affairs, *Detention of Hakeem Ali Alaraibi in Thailand* (9 Dec. 2018) https://foreignminister.gov.au/releases/Pages/2018/mp_mr_181209.aspx.

⁹ Helen Davidson, *Hakeem al-Araibi: calls grow for inquiry into police role in refugee footballer's*

Bahraini and Thai authorities have largely ignored calls for Hakeem's release. On 1 December 2018, the Bahraini Embassy in Thailand issued statements on Twitter stating that they are "following up with the relevant security authorities" and that "the suspect is wanted for security cases."¹⁰ On 8 December 2018, Thailand's Ministry of Foreign Affairs issued a statement confirming it had received Bahrain's formal request for Hakeem's extradition on 27 November, and the documents for a provisional arrest warrant on 3 December 2018.¹¹

As recently as 5 February 2019, the Thai authorities absolved themselves of all wrongdoing and shifted blame to Australia and Bahrain, encouraging them to negotiate for a "mutually satisfactory (win-win)" situation.¹²

Conclusion and Recommendations

While ADHRB welcomes Hakeem's release, we emphasize that such proceedings should never have taken place, and the Thai authorities' detention of Hakeem was contrary to human rights. As a refugee, Hakeem should have been permitted to freely travel, and should have been protected from an INTERPOL Red Notice or *refoulement* by other methods. Once the Thai authorities were aware of Hakeem's status and unfair conviction, they should have immediately released Hakeem and allowed for his safe return to Australia. Instead, the Thai authorities knowingly held a refugee and victim of torture for possible unlawful extradition for 76 days.

ADHRB calls upon the international community and the Human Rights Council to urge Bahrain to:

- Vacate Hakeem's sentence, in light of the overwhelming exculpatory evidence and his unfair trial *in absentia*;
- Investigate Hakeem's claims of torture and ill treatment during his detention, and to investigate all claims of torture in prison facilities; and
- Refrain from pursuing the extradition of victims of torture and unfair trials in the future.

We further ask the international community to urge the Thai authorities to:

- Provide Hakeem with compensation for his arbitrary detention and suffering;
- Ensure that refugees, asylum seekers, and other individuals are not returned to countries from which they are fleeing; and
- Bring their legislation and practices in line with international human rights obligations.

Similarly, we call on the Australian government to:

- Investigate the actions of Australian police and INTERPOL officers in sending information to Thailand on Hakeem's travel; and
- Ensure that such coordination between Australian authorities and those of other countries does not result in similar circumstances.

arrest, The Guardian (19 Jan. 2019), <https://www.theguardian.com/australia-news/2019/jan/20/hakeem-al-araibi-calls-grow-for-inquiry-into-police-role-in-refugee-footballers-arrest>.

¹⁰ @BahrainEmbTH (Twitter) <https://twitter.com/BahrainEmbTH/status/1068765155096322048> (1 Dec. 2018).

¹¹ Thailand Ministry of Foreign Affairs(MoFA), *Press Release: The Case of Mr. Hakeem Ali Mohamed Ali Al Oraibi, a Bahraini national* (8 Dec. 2018), <http://www.mfa.go.th/main/en/news3/6886/97217>.

¹² Thailand MoFA, *Press Release: Ministry of Foreign Affairs' Statement on the Australian-Bahraini Issue concerning Mr. Hakeem Al Araibi* (5 Feb. 2019), <http://www.mfa.go.th/main/en/news3/6886/99433>.