

Shattering *the Façade*

A REPORT ON BAHRAIN'S
IMPLEMENTATION OF THE
BAHRAIN INDEPENDENT
COMMISSION OF
INQUIRY (BICI)
RECOMMENDATIONS
FOUR YEARS ON



Americans for Democracy
& Human Rights in Bahrain



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Americans for Democracy & Human Rights in Bahrain (ADHRB) is a non-profit, 501(c)(3) organization based in Washington, D.C. that fosters awareness of and support for democracy and human rights in Bahrain and the Arabian Gulf.

The Bahrain Institute for Rights and Democracy is a non-profit organization focusing on advocacy, education and awareness for the calls of democracy and human rights in Bahrain.

The Bahrain Center for Human Rights (BCHR) is a non-profit, non-governmental organization, registered with the Bahraini Ministry of Labor and Social Services since July 2002. Despite an order by the authorities in November 2004 to close, the BCHR is still functioning after gaining wide local and international support for its struggle to promote human rights in Bahrain.

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Introduction

In February 2011, almost half the population of Bahrain peacefully protested structural inequalities, corruption, oppression, and a lack of government representation. The protests reached across demographics, involving both youth and elderly, Sunni and Shia, and nearly every other major population in the country. In response, the government dispatched security forces to violently suppress the protests, leading to thousands of arrests, hundreds of injuries, and dozens of deaths. From union workers and athletes to lawyers and students to nurses and doctors, the government targeted all who dared express a dissenting voice through targeted media attacks, military trials, home raids, arbitrary detention, and even extrajudicial killing.

In the aftermath of the protests, the Government of Bahrain faced growing international pressure to address the mass abuses committed during 2011. The government responded by establishing the Bahrain Independent Commission of Inquiry (BICI) in July 2011 to investigate government abuses and recommend legal and policy changes to prevent a recurrence of such events. The BICI commission consisted of a team of internationally respected jurists and legal scholars who conducted more than 9,000 interviews to investigate the events of 2011.

In November 2011, the BICI commission issued a 500-page report addressing the government's response to the pro-democracy protests. The report confirmed that Bahraini officials used excessive and indiscriminate force against protesters, highlighting instances of abuse, torture, and death. It further rejected government claims that the protests stemmed from sectarian grievances or were influenced by Iran, rather stating that they were based on Bahrainis' political and socio-economic grievances with the monarchy. The BICI offered 26 recommendations to the Government of Bahrain that, if addressed, could offer a path to meaningful reform. Following the report's release, King Hamad publicly accepted the recommendations and called for their "swift" implementation. The international community welcomed the establishment of the commission and the findings of the BICI report. The 26 recommendations made represented a critical roadmap for resolving the country's political crisis.

Since the release of the BICI report in 2011, the government has failed to fully address many of the recommendations of the commission. Activists face detention and prison sentences for their peaceful exercise of free expression, and continued human rights violations have contributed to a growing culture of impunity amongst the security forces. Protests remain near daily occurrences, and reports of torture, abuse, sexual assault, and death in detention persist. The government has not created an environment conducive to national reconciliation, but has rather continued to target opposition activists and to censor voices critical of government policies.

Despite this, in March 2012 the government declared "unprecedented progress"¹ on the implementation of the BICI's recommendations, with then-Energy Minister Dr. Abdul Hussein Mirza noting, "Most of the recommendations are in place along with future plans to complete the remaining."² However, independent assessments in November 2012³ and August 2013⁴ found that no more than five out of 26 remaining recommendations had been fully implemented.

In September 2015, the Government of Bahrain declared "[o]ut of 26 recommendations, 19 were fully implemented, 6 are still in progress, and one is inapplicable,"⁵ in response to the 2015 joint statement made by 33 countries at the 30th session of the UN Human Rights Council expressing









concern over the human rights situation Bahrain.⁶ Four years after the release of the BICI report, however, ADHRB, BIRD, and BCHR have found that the government has only fully implemented two of the recommendations, while 24 remain either partially implemented or not implemented. If the Government of Bahrain takes its commitments to improving the human rights situation seriously, it must take meaningful steps to fully implement the remainder of the BICI report's recommendations.

ACRONYMS

Bahrain Independent Commission of Inquiry	BICI
Public Prosecution Office	PPO
Special Investigations Unit	SIU
Ministry of Interior	MOI
Ministry of Defense	MOD
Office of the Ombudsman, Ministry of Interior	MOI Ombudsman
Criminal Investigations Directorate	CID
National Security Agency	NSA
National Security Agency Inspector General	NSA IG
Bahrain National Institute for Human Rights	B-NIHR
Bahrain News Agency	BNA
National Safety Courts	NSC
Prisoners' and Detainees' Rights Commission	PDRC
US Department of State	DOS
US Commission on International Religious Freedom	USCIRF
US Department of Labor	DOL
International Labor Organization	ILO
Americans for Democracy & Human Rights in Bahrain	ADHRB
Bahrain Institute for Rights and Democracy	BIRD
Bahrain Center for Human Rights	BCHR

Status of the Implementation of the BICI Recommendations

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 1715	Establish independent, impartial commission consisting of personalities representing the Government of Bahrain, opposition political parties, and civil society to implement BICI recommendations and recommend legislative reform.	9
 1716	Establish independent, impartial mechanism to determine accountability of those in government, including those in the chain of civil and military command, who have committed unlawful or negligent acts resulting in the deaths, torture and mistreatment of civilians to bring legal and disciplinary action against those found to be responsible under international standards of superior responsibility.	10
 1717	Make the Inspector General's office a separate entity independent of the Ministry of Interior's hierarchical control. Tasks should include those of an internal "ombudsman's office," including protecting complainants, independently investigating complaints, and conducting disciplinary and criminal proceedings. The office should also enforce professional police conduct and carry out legal and sensitivity training for police officers.	11
 1718	Ensure NSA is an intelligence-gathering agency without law enforcement capabilities or powers of arrest. Establish independent office of inspector general to carry out same internal "ombudsman" functions mentioned in recommendation 1717. Legislate so that power of arrest is in accordance with the Code of Criminal Procedure even under State of National Safety.	13
 1719	Legislate to require the Attorney General to investigate claims of torture and other forms of inhumane treatment and use independent forensic experts. Guarantee safety of claimants and provide them remedies if they also claim retribution for raising claims of torture or inhuman treatment.	14
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 FULLY IMPLEMENTED

 PARTIALLY IMPLEMENTED












 NOT IMPLEMENTED

	PAGE
<p>■ 1722a Investigate all deaths attributed to security forces and all allegations of torture and similar treatment under the applicable principles. Investigate and prosecute individuals at all levels of responsibility, ensuring punishment is consistent with the gravity of the offense.</p>	18
<p>■ 1722b Establish standing independent body to examine all claims of torture, ill-treatment, excessive use of force, or other abuses at the hands of the authorities. The burden of proof for treatment complying with the prohibition of torture and ill-treatment should be on the State.</p>	20
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<p>■ 1722d Avoid detention without prompt access to lawyers or to the outside world for more than two or three days. Subject all detentions to effective monitoring by an independent body. Give a copy of the arrest warrant to every arrestee. Do not hold any person incommunicado. Arrestees should have access to their legal counsel and family visits as provided by Bahraini law.</p>	23
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■ FULLY IMPLEMENTED

■ PARTIALLY IMPLEMENTED

■ NOT IMPLEMENTED

 1722j	Compensate families of deceased victims in a manner commensurate with the gravity of their loss.	32
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 1724a	Relax censorship and allow the opposition greater access to television broadcasts, radio broadcasts and print media.	37
 1724b	Establish professional standards and an ethical code for the media with an enforcement mechanism in order to avoid incitement to hatred, violence, and intolerance.	39
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 1725a	Develop educational programs at the primary, secondary, high school, and university levels to promote tolerance, human rights, and rule of law.	41
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 FULLY IMPLEMENTED

 PARTIALLY IMPLEMENTED

 NOT IMPLEMENTED

1715.

To establish an independent and impartial national commission consisting of personalities of high standing representing both the government, opposition political parties and civil society to follow up and implement the recommendations of this Commission. The newly established national commission should examine the laws and procedures that were applied in the aftermath of the events of February/March 2011 with a view to making recommendations to the legislature for appropriate amendments to existing law and the development of new legislation, in particular with respect to legislative reform as contained in this recommendation.

STATUS: Partially Implemented

On 26 November 2011, King Hamad bin Isa Al Khalifa decreed Royal Order No. 45,⁷ establishing the National Commission to follow up on the recommendations made by the BICI report. On 28 November 2011, he appointed the National Commission members through Royal Decree No. 48 of 2011.⁸ While the government claimed that the commission would represent “all segments of society,” the king appointed all 19 members of the commission, the majority of whom serve in other appointed positions within the government itself.⁹ The National Commission only includes two members representing the political opposition: Hassan Madan, Secretary General of the al-Minbar Democratic Tribunal, one of Bahrain’s smallest opposition groups, and Mr. Abdulla Ahmed al-Durazi, the former president of the Bahrain Society for Human Rights.¹⁰

The National Democratic Opposition declined to participate in the Commission as a result of not being consulted during the Commission’s formation and for fear the Commission “would not be balanced or would not go far enough to ensure change.”¹¹ The king decreed Ali bin Saleh al-Saleh, chairman of the Shura Council upper-appointed house of Bahrain’s parliament, to chair the National Commission. He submitted, and then later withdrew, his resignation as the Commission’s chair due to accusations of bias when he reportedly reinstated four members of the Shura Council who had been removed as a means to placate the unrest in 2011.¹²

Following the issuance of its only progress report on 20 March 2012, the National Commission declared that the majority of the BICI recommendations had been implemented and that it had successfully fulfilled its mandate.¹³ On 29 April 2012, the king’s Cabinet established a second “BICI Follow Up Unit” under the supervision of Justice Minister Khalid bin Ali Al Khalifa, who had provided the legal justification for the government’s actions during the uprising in 2011.¹⁴ The government has never released the membership list of this secondary unit, and there is no evidence that officials gave the political opposition or civil society any opportunity to participate in the unit. In total, the BICI Follow Up Unit has published four reports: in June 2012,¹⁵ November 2012,¹⁶ December 2013,¹⁷ and February 2014.¹⁸ Although these reports claim, “Bahrain has turned a corner on the events of early 2011,”¹⁹ this report will show that progress remains limited. Where the government has instituted reform, these reforms remain surface-level at best.

ADHRB, BIRD, and BCHR consider this recommendation to be *partially implemented*. Though the king established the National Commission to follow up on the implementation of the BICI, the commission largely excluded the political opposition and independent civil society. The commission’s premature announcement in 2012 that the majority of the recommendations had been implemented challenges the impartiality of the Commission. The facts that the second commission was created under the auspices of the Ministry of Justice, which provided the legal justifications for the government’s actions in 2011, and that its membership was not made public nor drawn from independent civil society or from the political opposition, further calls into

question the independence and impartiality of this institution. To successfully fulfill and implement all 26 recommendations of the BICI, it is essential that members of the political opposition and independent civil society comprise an equal part of the government-established reform bodies. This cannot be said of the two national commissions set up to monitor the BICI implementation.

1716.

To establish a national independent and impartial mechanism to determine the accountability of those in government who have committed unlawful or negligent acts resulting in the deaths, torture and mistreatment of civilians with a view to bringing legal and disciplinary action against such individuals, including those in the chain of command, military and civilian, who are found to be responsible under international standards of “superior responsibility”.

STATUS: Partially Implemented

Attorney General Ali bin Fadhul al-Buainain, who has administrative oversight of the Public Prosecution Office (PPO), issued Attorney General Decision No. 8 of 2012 on February 28, 2012, which established the Special Investigations Unit (SIU) within the PPO.²⁰ The SIU’s mandate focuses on investigating and determining the accountability of government officials in cases of death, torture, and abuse of civilians during the events of 2011.²¹ The SIU can also take up “any other case as the Attorney General may deem appropriate to refer...for any reason whatsoever.”²² As head of the PPO, Ali bin Fadhul al-Buainain oversees the work of the unit and the unit’s leader, Chief Public Prosecutor Nawaf Hamza. In April 2013, CEARTAS (Irish Lawyers for Human Rights) submitted a complaint to the International Association of Prosecutors (IAP) that urged the expulsion of al-Buainain²³ after an investigation found that he “has and continues to oversee the prosecution of individuals for expressing their political opinions...engaging in political protest... without adherence to their rights to due process and fair procedures. The office of Public Prosecution is not capable of investigating matters of torture, nor is it in a position to investigate impartially.”²⁴

The BICI Follow Up Unit’s 2013 report claimed, “all members of the Unit act with total independence and do not take any instructions from any entity or person within the government hierarchy.”²⁵ However, due to the SIU’s creation as part of the PPO, it remains a part of the government hierarchy and operates under the authority of the Attorney General, whose own impartiality and willingness to uphold international legal standards of justice remain in question.²⁶ However, the US Department of State (DOS) found that five out of eight employees of the SIU were former Ministry of Interior (MOI) employees.²⁷ Additionally, the SIU sits in the same building as the PPO.²⁸ The SIU’s own chief, Nawaf Abdullah Hamza, previously held the position of Deputy Attorney General and worked in the Criminal Investigations Department (CID).²⁹ The government claims that the SIU employs “investigators who are independent of the police,”³⁰ which incorrectly assigns sole responsibility for human rights abuses to the police force despite evidence of the involvement of PPO, MOI, and other high-ranking officials.³¹ Bahraini residents continue to level allegations of torture at both the PPO and the CID, calling into question the impartiality and effectiveness of an organization with ties to both.

The BICI explicitly recommends that the mechanism should be aimed at bringing legal and disciplinary action against officials in the chain of command, both military and civilian. While the government says that the SIU’s consultation with international legal specialists facilitates “the long-term development of expertise” to justify it remaining within the PPO, the fact remains that the SIU has made little effort to hold high-level officials accountable for the abuses of 2011, which

the BICI declared to be “systemic”³² rather than isolated instances of misconduct. As of 2014, the SIU has only investigated 150 cases, with only 7 resulting in convictions;³³ the BICI alone documented 300 instances of torture.³⁴ In November 2012, the government reported 45 case closures “due to the lack of evidence of any criminal act.”³⁵

When investigations did result in trial, courts found few members of the security forces guilty.^{36,37} However, the majority of sentences were later commuted or reduced.³⁸ For example, on 2 September 2015 the head judge of the High Criminal Court acquitted five police officers accused of beating a man during arrest even though the SIU’s own evidence confirmed that the police had inflicted injuries on the victim during arrest.³⁹ While several officials have faced prosecution, all were low-ranking personnel in the MOI. A July 2013 meeting between the Prime Minister of Bahrain Sheikh Khalifa bin Salman al-Khalifa and police officer Mubarak bin Huwail highlights the government’s failure to provide proper accountability. In footage of this meeting, the Prime Minister stated: “These laws cannot be applied to you. No one can touch this bond. Whoever applies these laws against you is applying them against us. We are one body.”⁴⁰ At the time, Huwail had just been acquitted of torturing 6 medical professionals.⁴¹ The SIU has failed to prosecute any high-ranking individual in either the military or the public security forces since 2011⁴² and has thus failed to investigate and hold accountable those high level officials who would be responsible under the legal principle of “superior responsibility”.

ADHRB, BIRD, and BCHR find this recommendation to be *partially implemented*. The SIU is led by the chief public prosecutor, remains under the purview of the PPO, and primarily employs former employees of the MOI, one of the main ministries complicit in the abuses reported in the BICI and thus a key focus of SIU investigations. These issues call into question the SIU’s ability to carry out unbiased investigations that seek to hold government officials responsible for abuses committed.

1717.

To place the office of the Inspector General in Ministry of Interior as a separate entity independent of the Ministry’s hierarchical control, whose tasks should include those of an internal “ombudsman’s office”, such as that which exists in many other countries. The new Inspector’s General’s office should be able to receive individual or organizational complaints, protect the safety and privacy of the complainants, carry out independent investigations and have the authority to conduct disciplinary and criminal proceedings as required by CAT, the ICCPR and the Bahrain Criminal Code to the Prosecutor General. The office should also promulgate and enforce police professional standards and carry out legal and sensitivity training for police officers.

STATUS: Partially Implemented

The Office of the Inspector General of the MOI was established in 2007⁴³ to investigate complaints of torture and abuse by police forces. Ibrahim Habib al-Ghaith has led the office since its inception. The Inspector General’s office formerly included a Directorate of Complaints and Human Rights; the Office of the Ombudsman in the MOI, established on 28 February 2012, superseded this directorate.⁴⁴ No publicly available evidence suggests that the Inspector General has ever seriously investigated human rights violations committed by the Public Security Forces before or since 2011. Al-Ghaith routinely rejects allegations of systematic torture, alleging that there was “evidence that the allegations had been fabricated” and that the reported victims were “trying to arouse political sympathy.”⁴⁵ In a 2014 press release, the Inspector General announced that reports of hunger strikes within prisons were “untrue” and that allegations of the torture of detainees were false.⁴⁶

The MOI also updated the police code of conduct to more closely match international standards in 2012.⁴⁷ The Office of the Ombudsman of the Ministry of the Interior (MOI Ombudsman) is responsible for investigating complaints of abuses committed by MOI personnel⁴⁸ in contravention of the police code of conduct. In 2013, the king expanded the mandate of the Ombudsman to include “monitoring detention facilities, visiting juvenile prisoners, ensuring legal procedures are properly applied and prisoners have been informed of their legal rights, and evaluating whether detainees are subjected to torture or inhuman treatment.”⁴⁹ The MOI Ombudsman functions by receiving complaints from citizens, expatriates (or even visitors), or their representatives. Witnesses and civil society organizations can also submit these complaints.

The Ombudsman’s office suffers most from its lack of independence. Contrary to the government’s assertion that the Ombudsman is “completely independent from the Ministry of Interior, administratively and financially,”⁵⁰ the Ombudsman wholly depends on the MOI in both areas. The laws governing the Ombudsman states that the Minister of Interior first nominates both the Ombudsman and his Deputy, and upon the agreement of the Prime Minister, grants them their roles by decree.⁵¹ The Ombudsman appoints his staff “in accordance with the conditions established by the consent of the Minister of Interior.”⁵² The Minister of Interior can remove the Ombudsman and his vice-chair from their positions if he decides they fail to perform their jobs adequately.⁵³ The laws do not define what failure entails.

Further, the MOI apportions the Ombudsman’s budget.⁵⁴ According to the law, the Ombudsman has full independence in dispensing his budget, but this is practically unachievable. Since the Minister of Interior maintains total vetting control over the office’s personnel, and since the Minister can dismiss the Ombudsman under the vague pretext of “failure,” the Ombudsman cannot realistically pursue controversial matters without putting his job at risk. As the Ombudsman is, by design, totally reliant on the goodwill of the MOI for both his job security and budget, his office effectively exists as part of the Ministry it is intended to regulate.

Although the Secretary General of Grievances, Nawaf al-Moawda (*alternatively* al-Muaawdah), who leads the Office of the Ombudsman, stated that the Office would exercise its functions in a framework of independence and in a neutral, impartial and transparent manner,⁵⁵ the Ombudsman has not held MOI employees responsible for human rights abuses.⁵⁶ Because the Ombudsman is unable to act independently of the MOI, the MOI is effectively reviewing complaints against itself. As a result, the Ombudsman continually ignores complaints against the MOI by classifying them as not concerning the MOI, as resolved, or as not upheld.⁵⁷ Further, despite its claim that it has responded to every complaint it has received,⁵⁸ ADHRB has submitted more than 40 complaints to the Ombudsman, and has been able to document meaningful investigation occurring in only a handful of these instances.

Additionally, the Office of the Ombudsman does not adequately protect the privacy or the safety of the complainants and victims it serves.⁵⁹ Earlier this year, ADHRB received two separate reports that MOI security agents had engaged in retaliatory acts of torture against victims who had submitted complaints to the Ombudsman. In both cases, Jau Prison inmates alleged to their family members and ADHRB that MOI officers had severely assaulted them.^A Both prisoners stated that the officers involved had specifically cited complaints they had filed with Ombudsman as the reasons for their severe beatings.

A The information concerning the victims of retaliation has been anonymized upon request of the victims’ families. The non-anonymized information may be available upon request.

Though the Ombudsman can carry out investigations, its mandate appears to be limited with regard to its ability to investigate certain types of deaths. According to its first annual report, the Ombudsman cannot investigate allegations of government misconduct in a death if the SIU undertakes its own review.⁶⁰ As a result, the MOI can preempt the Ombudsman from investigating cases that the MOI considers problematic for its reputation. For example, the Ombudsman received and attempted to investigate a complaint regarding a 19-year-old referred to as Mr. D, who perished from gunshot wounds on 8 January 2014. The case of Mr. D almost undoubtedly refers to the death of 19-year-old Fadhil Abbas, who died on 8 January 2014 from a gunshot wound to the back of his head and about whose death substantial government misconduct has been alleged.⁶¹ When the Ombudsman attempted to investigate the allegations of government misconduct, the SIU commenced its own private investigation, thereby preempting public reporting on the issue. According to the Ombudsman's report, the SIU has blocked Ombudsman investigations on multiple occasions.⁶²

The Office of the Ombudsman also fails to address the prevalent issue of torture in Bahraini prisons. The word "torture" does not appear in its first annual report and appears only a handful of times in its second.⁶³ The subject of abuse is only tangentially addressed as it relates to police training standards, while the BICI report recommended establishing an Office of the Ombudsman in part to counteract what it considered to be "systemic" practices of torture and abuse in the Bahraini prison system⁶⁴ and documented 300 individual cases in which torture occurred.⁶⁵ Even in the unlikely event that Ombudsman employees are not encountering evidence of torture in their site visits and routine investigative efforts, the complaint program has provided overwhelming notice of torture and abuse.⁶⁶ ADHRB alone has submitted approximately 40 complaints documenting instances of torture, while other NGOs on the ground have additionally raised a significant number of complaints on the subject.⁶⁷

ADHRB, BIRD and BCHR find this recommendation to be *partially implemented*. The establishment of the Ombudsman in Bahrain is a single step in the right direction. Now that the government has established this institution, however, its practices must be brought in line with international standards. Until the Ombudsman is removed from the control of the MOI and begins to demonstrate that it can credibly tackle the human rights situation in the country, prevent reprisals against victims, and reform the MOI and Public Security Forces in line with established international norms, it cannot be considered anything more than a subservient institution tasked with perpetuating the practices of the government it serves.

1718. *To amend the decree establishing the NSA to ensure that the organization is an intelligence-gathering agency without law enforcement and arrest authorities. The NSA should also have an independent office of inspector general to carry out the same internal "ombudsman" functions mentioned above with respect to the Ministry of Interior. Legislation should be adopted to provide that even during the application of a State of National Safety the arrest of persons should be in accordance with the Code of Criminal Procedure.*

STATUS: Fully implemented

During the uprising in 2011, the National Security Agency (NSA), which the BICI found to be "essentially an internal intelligence and counter-espionage agency," arrested nearly 3,000 people and committed widespread torture against detainees.⁶⁸ Following the BICI report's release in 2011, the king rescinded the NSA's law enforcement and arrest power through Royal Decree No. 115 of

2011.⁶⁹ On 28 February 2012, the king issued Decree No. 28, establishing an Office of the Inspector General and an Office of Professional Standards inside the NSA.⁷⁰ On 12 September 2012, the king appointed Judge Mohamed Rashid Abdullah al-Rumaihi, a longtime MOI employee, to be the NSA's Inspector General (NSA IG).⁷¹

While Article 3 of Royal Decree No.67 of 2012 declares that the NSA IG's complaint program exists outside the control of the rest of the NSA, it also requires the Inspector General to seek approval for much of its activities. For example, Article 4 of the decree mandates that the NSA IG submit a biannual report on its activities to the president of the NSA, who then passes on the report for review by the Prime Minister.⁷² The NSA has released a number of updates on employee trainings and official meetings,⁷³ but the NSA IG has not released the content of the trainings, a public annual report, any public statistics regarding its complaint program, or information on the status of investigations undertaken since its establishment.

The government approved legislative amendments on 8 January 2012 to ensure that arrests, even during a state of national safety, will be in accordance with the Code of Criminal Procedure. Due to the fact that there has not been a period of National Safety since the events of 2011, it is not possible to know to what extent this provision would be upheld in such a state.

ADHRB, BIRD, and BCHR find this recommendation to be *fully implemented*. In 2012, the Government of Bahrain removed the arrest powers of the NSA and established the NSA IG. Although the NSA IG has held employee trainings and has begun accepting complaints, there is no public evidence of its investigations nor that the NSA IG has recommended any NSA employees for prosecution. While the government's legislative actions fulfill the recommendation, it remains to be seen whether NSA employees will uphold the Code of Criminal Procedure in a future State of National Safety.

1719. *To adopt legislative measures requiring the Attorney General to investigate claims of torture and other forms of cruel, inhuman or degrading treatment or punishment, and to use independent forensic experts. Such procedures should guarantee the safety of those raising such claims. Furthermore, the legislation should provide for remedies for any person claiming retribution for having raised a claim of torture or other forms of cruel, inhuman or degrading treatment or punishment.*

STATUS: Not Implemented

The government reported on 8 January 2012 that the Cabinet accepted amendments to the Bahraini criminal code that gave the Attorney General's office the "exclusive authority"⁷⁴ to prosecute cases of torture and death in custody, as well as the responsibility for protecting victims who decide to file charges.⁷⁵ However, in November 2012, the Project on Middle East Democracy (POMED) found that "none of the new legislation states explicitly that the Attorney General *must*^B investigate claims of torture, and therefore leaves it open to question as to whether all such cases will indeed be examined."⁷⁶ In August 2012, Bahraini Ambassador to the United States Houda Nonoo stated, "The MOI issued an order referring all cases related to deaths, torture, and inhumane treatment by members of the police to the public prosecutor."⁷⁷ Although the MOI may refer such cases to the PPO, and therefore the Attorney General, the law still does not *require* the Attorney General to investigate.

B Emphasis added.

Indeed, over the past four years, there have been limited prosecutions for charges of “torture” or accountability for deaths caused by security forces in 2011 and beyond.⁷⁸ CEARTAS (Irish Lawyers for Human Rights) found that the office of PPO, headed by the Attorney General, is “not capable of investigating matters of torture, nor is it in a position to investigate impartially. In addition, the office has shown patterns of failure in the use of its statutory powers to supervise and investigate state detention facilities, which in turn has fostered a culture of impunity towards torture.”⁷⁹ For additional analysis on the impartiality of the PPO and Attorney General, please see this report’s analysis of recommendation 1716.

Additionally, there have been no legislative changes to the law since 2012, and Bahrain’s legal definition of torture remains problematic. Royal Decree No. 56 of 2012 amended the definition of torture as it appears under Article 208 of the penal code,⁸⁰ but it still does not match the standards of the definition provided in Article 1 of the UN Convention against Torture (CAT),⁸¹ to which Bahrain acceded in 1998. The new law defines torture as an act committed by a public official upon a “prisoner or detainee.” This wording fails to provide protections for persons who may have been tortured, but were not detained or in prison at the time of the torture. Where torture or use of force leads to death, Article 208 of the penal code prescribes life imprisonment. As of writing, no public official has been convicted of this crime, despite a number of deaths in custody. In 2014, Human Rights Watch found that MOI officers prosecuted for torture and extrajudicial killings (almost exclusively low-ranking officers) received acquittals or disproportionately light sentences.⁸²

In one case, a court found a police officer guilty of assault and sentenced him to seven years imprisonment for the death of a protestor in 2011. An appeals court later reduced his sentence to six months. Despite evidence that the officer had fired twice at the protestor from a distance of approximately three feet, the court ruled that the officer had not acted with intent to kill.⁸³ In 2013, a Bahraini court acquitted two police officers accused of torturing medics in 2011.⁸⁴ In 2014, the Court of Cassation (Bahrain’s civilian appeals court) rejected the application to appeal the acquittal of these two officers.⁸⁵ In September 2015, Dr. Ali al-Ekri recounted his torture at the hands of state military forces, in which he “was sexually assaulted and forced to eat feces” when he was arrested for treating injured protestors and speaking to the media in 2011.⁸⁶ The government opened an investigation in 2012 regarding acts of torture alleged by Dr. al-Ekri and three other medics; the investigation was subsequently put on hold to “await medical reports.” To date, the SIU has not followed up on this investigation, nor has it ever referred any official for prosecution.⁸⁷ During his appeal hearing before a civilian court, the judge refused to consider his allegations of torture.⁸⁸ As of writing, Dr. al-Ekri remains imprisoned in Bahrain’s Jau Prison. Further, within its own documentation, ADHRB has received several hundred allegations of torture from Bahraini detainees. These cases make clear that the legislation adopted in 2012 to redefine torture does not ensure that victims of torture are able to safely redress their grievances and hold their abusers accountable.

Procedures that “guarantee the safety” of those raising claims have also not been adequately implemented. Victims and their families report that during interviews with the SIU, investigators often ask questions concerning the source of their information and the persons encouraging them to file complaints rather than focusing on the incident itself. This creates a hostile environment for victims, who fear reprisals. Some families have stated that they would not feel comfortable filing another complaint. In 2013, the DOS criticized investigative procedures, stating, “While judges in some cases order investigation into allegations of torture, including the cases of 14 high-profile

activists, there is no use of independent experts. While the attorney general requests complainants to take medical exams to verify claims of torture, these exams reportedly occur months after the complaint is filed, by which time, evidence of abuse may no longer be visible. The allegations of torture are often then dismissed.” Additionally, the Bahraini government has twice cancelled visits by UN Special Rapporteur on Torture Juan Mendez.⁸⁹ Despite his public calls for the visit to be rescheduled,⁹⁰ including a public reiteration of his request at the UN Third Committee in October 2015,⁹¹ there has thus far been no effort from the Government of Bahrain to schedule a new visit.⁹² ADHRB, BIRD, and BCHR find this recommendation to be *not implemented*. While the Government of Bahrain took steps towards adopting legislation under this recommendation, the legislation does not require the Attorney General, or his proxies in the form of the SIU, to investigate claims of torture or cruel and inhumane punishment. Evidence since 2012 makes clear that when the Attorney General does initiate an investigation into torture, it disproportionately results in acquittals or light sentences and does not lead to an investigation of high level officials. Further, while Royal Decrees No. 50 of 2012 and No. 52 of 2012 were passed into law to provide protection to those raising claims of abuse, the decrees do not define the specific remedies for those who allege retribution for filing claims, nor do they provide mechanisms to protect claimants. Finally, there remains limited evidence that the government regularly utilizes independent forensic evidence in investigations into torture and abuse by public officials.

1720.

To make subject to review in ordinary courts all convictions and sentences rendered by the National Security Courts where fundamental principles of a fair trial, including prompt and full access to legal counsel and inadmissibility of coerced testimony, were not respected be subject to full review in the ordinary courts.

STATUS: Partially Implemented

Royal Decree No. 18 of 2011 established the National Safety Courts (NSC)^C on 15 March 2011. These military courts assumed jurisdiction over certain crimes that allegedly occurred during the events of February and March 2011. According to Article 11 of the same decree, a final verdict of the NSC could not be appealed or overturned.⁹³ Following the release of the BICI, the Bahraini government transferred NSC cases, which had not yet reached a verdict to the civilian court system. For those cases in which a verdict had been reached, the government established a panel in January 2012 to review convictions in cases initiated by the NSC.⁹⁴ According to the state-run *Bahrain News Agency (BNA)*, the NSC had issued 165 convictions to 502 defendants, with 135 of these verdicts referred to the civilian courts for appeal as of 2012.⁹⁵ The review panel refrained from referring the 30 remain verdicts to ordinary civilian courts, as mandated by the BICI. Nineteen of the NSC convictions stand to this day⁹⁶ despite independent documentation that hearings before the NSC did not meet international due process or fair trial standards.⁹⁷

In February 2012, the review panel announced that 1,622 cases were transferred from the NSC to the PPO, with 1,185 cases reportedly being “shelved”^D and 334 charges related to “freedom of opinion and expression” dropped.⁹⁸ These 334 charges only represent a minute portion of all the charges filed in the more than 1,600 cases transferred and do not cover individuals tried and

C The United Nations described Bahrain’s National Safety Courts as “headed by a military judge, along with two civilian judges. All three judges are directly appointed by the Bahrain Defence Force (BD) commander-in-chief, while the cases are prosecuted by the military public prosecutor.”

D Based on private interviews with Bahraini legal experts, the term “shelved” here means that the cases were either not taken to court, the trial was suspended, or the case was acquitted.

convicted by civilian courts in the first place. Additionally, they do not include other charges violating universal human rights, including the charge of “participation in illegal protests.” Despite this, on 25 February 2012, the state news agency *BNA* reported that the government had “completed its work regarding the implementation of recommendation No. 1720.”⁹⁹ However, in 2013, the DOS found that while “[a]uthorities transferred a majority of high-profile cases from the NSC to the civilian courts, the transfers generally do not result in new trials. Judges continue to permit trial records and evidence used in the NSC to be used in the civilian courts, including confessions allegedly extracted under torture or duress.”¹⁰⁰

The government did not grant new trials for cases sent to civilian court for review, nor did it void evidence obtained under duress. The NSC tried and convicted all members of the “Bahrain 13,” a group of prominent human rights, civil society, and political opposition activists, for their peaceful activities during the pro-democracy protest movement in 2011. Authorities tortured all 13 in custody in order to obtain confessions for their alleged “crimes.”¹⁰¹ For example, authorities arrested Dr. Abduljalil al-Singace, a prominent mechanical engineering professor and well-known blogger, while he was peacefully demonstrating during the February 2011 protests. While detained, officials subjected Dr. Singace to various methods of torture, including verbal assault, sexual assault and physical beatings.¹⁰² Another member of the Bahrain 13, Abdulhadi al-Khawaja, is a leading human rights activist and co-founder of the Bahrain Center for Human Rights (BCHR) and the Gulf Center for Human Rights (GCHR). In April 2011, police forces broke into Mr. al-Khawaja’s residence, severely beat him and then arbitrarily detained him. Officials tortured and sexually assaulted him in detention.¹⁰³

When their cases were transferred to the civilian court system, the Bahrain 13 did not receive new trials. The Court of Cassation, Bahrain’s civilian appeals court, based its decision to uphold each conviction on evidence presented at the NSC trials, which included confessions obtained under torture. The outcome of the aforementioned cases exemplifies this trend: the NSC sentenced Dr. Singace to life in prison in June 2011, and an appeals court upheld the ruling in September 2011.¹⁰⁴ The NSC sentenced Abdulhadi al-Khawaja to life in prison for “organizing and managing a terrorist organization,” “[attempting] to overthrow the Government by force and in liaison with a terrorist organization working for a foreign country” and “[collecting] money for a terrorist group.”¹⁰⁵

ADHRB, BIRD, and BCHR find this recommendation to be *partially implemented*. While the government transferred cases tried under the NSC to civilian courts, the transfers did not result in new trials and civilian court judges did not throw out evidence obtained under duress or torture. Additionally, 19 verdicts reached by the NSC in 2011 only faced review by a government panel and were never transferred to civilian courts for reconsideration.

1722. The Commission makes the following recommendations with regard to *the use of force, arrest, treatment of persons in custody, detention and prosecution in connection with the freedom of expression, assembly and association.*

1722a. *To conduct effective investigations in accordance with the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions of all the deaths that have been attributed to the security forces. Likewise, all allegations of torture and similar treatment be investigated by an independent and impartial body, following the Istanbul Principles. The investigation of both types of alleged violation should be capable of leading to the prosecution of the implicated individuals, both direct and at all levels of responsibility, with a view to ensuring that punishment be consistent with the gravity of the offense.*

STATUS: Not Implemented

Pursuant to recommendation 1716, the government established the SIU in 2012 to investigate allegations of torture and deaths attributed to the security forces. As established in recommendation 1716, the SIU operates with extremely limited independence, largely at the discretion of the Attorney General. The SIU further fails to follow key principles of the Istanbul Protocol, which defines international standards for the effective investigation of torture. The Istanbul Protocol stresses that “it is particularly important to show sensitivity to the alleged torture victim and other witnesses,”¹⁰⁶ that “the person has the right to refuse to cooperate with all or part of the investigation,” and that “every effort should be made to accommodate his or her schedule and wishes.”¹⁰⁷ Investigators must also keep complainants and witnesses informed of the consequences of their involvement in investigations, which parts of the investigation will be made public, and arrests of suspects and other judicial developments.¹⁰⁸ The BICI Follow-Up Unit alluded to the difficulties of this process, reporting that the SIU’s work is “hampered” by the large number of complaints and reports filed, “inadequate cooperation” of some complainants, and the “refusal” of some complainants to be interviewed.¹⁰⁹

The SIU and PPO carry the main burden of responsibility for creating these “cooperation issues.” ADHRB spoke to a number of families and individuals who complained to the SIU regarding torture and abuse suffered by them or their close relatives. During interviews with the SIU, the SIU investigators focused more on where families had gotten their information and who had encouraged them to complain, rather than focusing on the incident itself. Family members often felt intimidated by these questions.¹¹⁰ The SIU’s offices refused entry to a female complainant who had come to provide her deposition, and told her she would not be allowed inside in the skirt she was wearing. She waited outside for two hours until her lawyer was able to intervene and secure her entrance into the building.¹¹¹ These insensitive interactions with vulnerable complainants do not accord with the BICI’s ideal of effective investigations or the Istanbul Protocol’s guidelines for sensitive interactions between investigators and victims.

Since 2011, human rights organizations have documented a number of unlawful killings both directly and indirectly attributable to the security forces.¹¹² Human Rights Watch reported that at least 80 individuals had died in protests between 2011 and the end of 2013;¹¹³ BCHR reported that the number had climbed to just below 100 as of February 2015.¹¹⁴ In February 2013, 16-year-old Hussain al-Jazeera died after several members of the security forces shot at him during a protest. The court released the officers under investigation for al-Jazeera’s death on bail of USD \$1350 in May 2013. By the end of 2014, the government had no update on al-Jazeera’s case and reported

that it had closed the investigation into the officers' actions. On 22 May 2014, security forces shot and killed 15-year-old Sayed Mahmood while dispersing a funeral procession. The Ombudsman's Office stated that it had forwarded all case materials to the SIU for investigation, but by the end of the year, the government had no additional information on the status of the investigation.¹¹⁵

The Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions set strict guidelines for investigations. The principles mandate "thorough, prompt and impartial" investigations of all those suspected of carrying out extra-judicial killings.¹¹⁶ Furthermore, in cases where the impartiality of investigations cannot be guaranteed, the government must pursue investigations through an independent commission of inquiry. Those potentially implicated in killings must additionally be removed from positions of power over complainants, as well as over those conducting investigations.¹¹⁷

SIU investigations into unlawful killings since its establishment in 2012 have failed to meet these standards. As demonstrated above, the SIU cannot guarantee impartial investigations, and the government has not pursued investigations through other vehicles. The DOS found that security personnel continue to serve while under investigation and often remain free on bail or while awaiting appeal, while civilians are held in detention throughout the judicial process.¹¹⁸ Some investigations, like that into Hussain al-Jazeera's death, have dragged on for months before authorities arbitrarily stopped investigating. By the end of 2014, the Court of Cassation still had not heard the appeal of the 2012 acquittal of two security officers implicated in the 2011 deaths of protesters Ali al-Mumin and Isa Abdulhasan.

No suitable method exists for ensuring that punishments for acts of torture and extrajudicial killing are consistent with the gravity of the offenses. For cases in which charges are brought against members of the security forces, the accused tend to be low-level officers and are never brought up on formal charges of "torture."¹¹⁹ The prosecution of police officers responsible for the deaths of Ali Saqer, Zakaria al-Asheri and Abdulkarim al-Fakhrawi, who all died in police custody in April 2011, provides an example of the inconsistent punishments for such offenses. The BICI concluded that both Mr. Saqer and Mr. al-Asheri died under conditions of torture.¹²⁰ The PPO charged the responsible police officers with assault without intent to kill, for which they were sentenced to ten years' imprisonment. An appeals court later reduced their sentences to two years, on the basis that the appellants committed the crime "during and because of their professional duty and while preserving the life of detainees, *among them the victim*, and the security of society as a whole."¹²¹ Human Rights Watch called this ruling "devoid of logic."¹²² Two police officers found responsible for Karim al-Fakhrawi's death in custody also received seven-year sentences for assault, which were later reduced to three years by an appeals court, with no explanation given.¹²³ In none of these cases was a police officer tried for torture or murder with intent to kill.

ADHRB, BIRD, and BCHR find this recommendation to be *not implemented*. While the PPO has assigned the SIU to investigate some cases of extrajudicial killings and torture, by and large the methods of these investigations do not follow the Istanbul Protocol or the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. Additionally, independent documentation calls into question the impartiality and independence of the SIU and the Attorney General himself.

1722b.

To establish a standing independent body to examine all complaints of torture or ill-treatment, excessive use of force or other abuses at the hands of the authorities. The burden of proving that treatment complies with the prohibition of torture and other ill treatment should be on the State.

STATUS: Partially implemented

The government created the SIU to satisfy this function¹²⁴ and considers the recommendation to be completely fulfilled.¹²⁵ The MOI Ombudsman, the Prisoners' and Detainees' Rights Commission (PDRC), the Bahrain National Institute for Human Rights (B-NIHR), and the NSA IG, all of which can accept and investigate complaints related to torture and ill treatment, also partially fulfil this recommendation. In practice, however, these bodies lack sufficient independence from the government institutions they hold accountable, and cannot effectively investigate or enforce accountability measures.

This report discussed issues related to the SIU's and MOI Ombudsman's impartiality, independence, and ethical practices in recommendations 1716 and 1722a, and 1717. The investigatory powers of the MOI Ombudsman remain subordinate to the SIU. ADHRB has previously documented that the SIU can force the Ombudsman to close investigations and hand over cases at its discretion, and there remains no legal mechanism for the Ombudsman to dispute jurisdiction.¹²⁶ Information about the NSA IG can be found in this report's analysis of recommendation 1718; as a result of the repeal of the arrest powers of the NSA, the NSA IG only receives complaints regarding abuse during interactions with NSA employees, but much of the NSA IG's activities remain subject to the approval of the President of the NSA and the Prime Minister. The B-NIHR also has a complaint program regarding any and all human rights violations, but its procedure is not tailored to the needs of victims of torture and ill treatment. ADHRB has submitted approximately 40 complaints to the B-NIHR since 2014; from those cases, ADHRB has only been able to confirm the Institution as having opened two investigations into allegations of abuse. Although the B-NIHR can make recommendations in its role as an advisory body, the body has no means of enforcing its decision and thus the responsibility to follow through on the B-NIHR recommendations falls to the agencies it evaluates.¹²⁷

Under the recommendation, the state has the burden to prove that treatment is fair and devoid of torture, meaning the government has the obligation to thoroughly investigate any allegations of torture unless it can provide evidence invalidating the allegations. The government signed a memorandum of understanding with the International Committee of the Red Cross (ICRC) in 2012 to monitor prison conditions and inmate treatment.¹²⁸ In September 2013, the government established the PDRC within the Office of the MOI Ombudsman through Royal Decree No. 61 of 2013 as a national preventative mechanism to monitor conditions of detention, with the aim of preventing torture and ill treatment in prisons and detention centers through regular inspections and public reporting.^{129,E} Similar to the MOI Ombudsman and the SIU, although the PDRC has the potential to impact prison conditions and ill-treatment, its lack of independence, ADHRB has found that these institutions have failed to effectively investigate *all* substantial and credible allegations of torture emerging from police detention and Bahrain's prison system, as mandated by the recommendation.

For example, as of writing, the PDRC has released reports on conditions at nine different detention

E The United Kingdom aided the creation of the PDRC through a technical assistance program with the UK's own prison inspection body, Her Majesty's Inspectorate of Prisons (HMIP).

centers and prisons, but it has not announced a visit or publicly released a report on the conditions at Jau Prison¹³⁰ despite substantial and credible allegations of abuse. Jau Prison is Bahrain's central prison and is one of the country's largest, most overcrowded prisons, which reportedly holds mostly political prisoners and in which ADHRB, BIRD, and BCHR documented substantial allegations of torture and abuse in relation to a prison riot in March 2015.¹³¹ Another key example of this failure is the Ombudsman's response to security forces' alleged brutal response¹³² to a March 2015 riot¹³³ over ill treatment and poor conditions at Jau Prison. While the Ombudsman announced it would investigate allegations of abuse,¹³⁴ the investigation thus far has yielded no indictments. Rather than investigating prisoners' credible allegations of abuse during security forces' response to the riot, or into the poor prison conditions and reports of ill treatment that sparked the riot in the first place,¹³⁵ the PPO instead opened a criminal case against a group of 51 prisoners and reportedly six relatives of Jau prisoners for the riot.¹³⁶

Naji Fateel, co-founder of the Bahrain Youth Society for Human Rights (BYSHR) and a prominent blogger, was sentenced to 15 years in prison for "establishing a group that aimed to change the constitution" after he documented human rights violations during the pro-democracy uprising in 2011.¹³⁷ During his arrest and trial, Fateel has repeatedly alleged being tortured in detention at CID.¹³⁸ The SIU reported to Amnesty International that it had questioned Fateel about his allegations in May 2013 and again in July 2013. In October 2013, the SIU said the investigation remained opened and a forensic doctor had examined him after both allegations.¹³⁹ However, in its response to the DOS' 2013 country human rights report, the Ministry of Interior denied Fateel's allegations of torture, stating that a medical examination "confirmed there were no signs to show he was subjected to torture" and the MOI "has not received any complaint about him having been tortured."¹⁴⁰ On the same day, 8 May 2014, Amnesty International reported that Naji Fateel alleged additional instances of torture.¹⁴¹

UN human rights experts have also received documentation of hundreds of complaints of torture, enforced disappearance, extrajudicial killing, and ill treatment, which corroborate these reports of government inaction on investigations into torture since 2011. Since February 2011, the UN Special Rapporteur on Torture and the UN Working Group on Arbitrary Detention (WGAD) have commented on over 600 allegations of individual acts of torture, ill treatment, and abuse.¹⁴² In September 2015, several UN Special Procedures sent a communication to the government regarding the arbitrary arrests, charges, detention, torture, and sentencing of 39 minors. The UN communication reported that during investigations, minors were subjected to systematic torture to coerce confessions. While the government responded to the allegations by providing a list of charges, it did not provide a response to the allegations of torture, and has not conducted apparent investigations into the allegations.¹⁴³

Another complaint detailed the ill treatment of Maher al-Khabbaz, who was sentenced to death by a Bahrain criminal court in February 2014.¹⁴⁴ UN experts requested a response from the government to allegations that police subjected Mr. al-Khabbaz to physical beatings with fists, wires, and sticks; foot-whipping; standing for prolonged periods; blindfolding; denial of food, worship, and access to restrooms; and verbal insults against him and his religion. At one point, an officer showed Mr. al-Khabbaz a flare gun and offered to end the torture if al-Khabbaz confessed to killing a police officer with it. Mr. al-Khabbaz agreed and signed a confession while blindfolded.¹⁴⁵ Confronted with these allegations, the government responded, "Mr. al-Khabbaz made no claims about being tortured when he was at the Office of the Public Prosecutor nor did he file any such claim with the special unit that examines claims of torture or of cruel, inhuman or degrading treatment."¹⁴⁶

ADHRB, BIRD, and BCHR find this recommendation to be *partially implemented*. While the government has established five institutional mechanisms to receive complaints of torture and other abuses, these institutions are not independent from the government bodies they monitor. They remain subordinate to the Attorney General and SIU, which have repeatedly been found to ignore reports of torture and ill treatment. NGOs and independent international monitoring bodies of the UN have documented overwhelming ongoing evidence of torture since these institutions were established, which the Government of Bahrain continues to deny.

1722c. *To implement an extensive program of public order training for the public security forces, the NSA and the BDF, including their private security companies, in accordance with UN best practices. To ensure future compliance with the Code of Conduct for Law Enforcement Officials, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the security forces should be trained in the human rights dimensions of detention and interrogation, and in particular the obligation to refuse to participate in any actions involving torture and other prohibited ill-treatment.*

STATUS: Partially Implemented

The government reports that this recommendation is fully implemented as of 2012. In 2012, the Government of Bahrain drafted a new Police Code of Conduct,¹⁴⁷ with the intention of further bringing the security forces' conduct in line with international standards set by the UN Code of Conduct for Law Enforcement Officials¹⁴⁸ and the Basic Principles of the Use of Force and Firearms by Law Enforcement Officials.¹⁴⁹ In March 2014, the king issued Royal Decree No. 24 of 2014 to further regulate the use of force and firearms by security forces.¹⁵⁰ The decree stipulates that force may only be used in cases of "extreme necessity", where there is an imminent risk to life, in legitimate self-defense, or when officers of higher rank authorize the use of force.¹⁵¹ Though these laws set high standards for security forces' conduct, officials frequently violate the laws' provisions.¹⁵²

As of last reporting in 2014, the MOI claimed that 6,872 of its personnel had received human rights training since human rights programming began in 2012.¹⁵³ These police training programs were developed in cooperation¹⁵⁴ with various outside legal and policing experts in 2012,¹⁵⁵ 2013,¹⁵⁶ and 2014¹⁵⁷ to meet international policing standards. However, there is no evidence that the institution of these trainings has impacted the MOI's use of excessive force against protestors, as evidenced by the many instances of torture and excessive force detailed in this report's analysis of recommendation 1722b. As mentioned under recommendation 1718, the NSA IG has also instituted various human rights training sessions through international partnerships, although the number of employees involved and the results of the trainings are not public.¹⁵⁸

Although the MOI and NSA have instituted reforms and trainings for their police forces, the Ministry of Defense (MOD), which consists of the Bahrain Defense Force (BDF) and the National Guard, has not made public any information on training programs for its own forces. This is highly problematic, as the military was responsible for implementing martial law by force in 2011,¹⁵⁹ under which four protestors died. The MOD has not held any BDF or National Guard members accountable for these deaths. Furthermore, the government does not make public its private security contractors, so ADHRB, BIRD, and BCHR cannot verify whether such firms have received any public order training.

Despite these measures by certain ministries, civilians continued to perish as a result of excessive force by security forces. In May 2014, security forces shot and killed 14-year-old Sayed Mahmood Sayed Mohsen after dispersing a funeral procession.¹⁶⁰ A hospital death certificate, three witness accounts, images of the wound, and a forensic pathologist's opinion indicated that his death resulted from unlawful use of lethal force by security forces, to whom he posed no threat when he was shot.¹⁶¹ Under similar circumstances on 23 February 2014, security forces shot Abdul-Aziz al-Abbar at a funeral procession; surgeons removed shotgun pellets from his brain, but he succumbed to his wounds two months later.¹⁶² On Abbar's death certificate, the Ministry of Health cited only "bleeding in the brain," but did not document the reason for the injury.¹⁶³ As a result, the family initially refused to accept the death certificate. In July 2014, the family accepted the death certificate after the SIU submitted a scanned copy of an updated death certificate citing death as a "result of shotgun injury complications to in the face and head."¹⁶⁴ On 6 November 2014, 36 year-old Hasan Majeed al-Shaikh was found dead at Bahrain's Jau prison,¹⁶⁵ after allegedly being removed from solitary confinement and tortured.¹⁶⁶

ADHRB, BIRD, and BCHR find this recommendation to be *partially implemented*. Although the MOI and the NSA IG organize human rights training sessions for their employees, no publicly available documentation suggests that the Bahraini military has ever received such training. Despite the legislation and training programs introduced, Bahraini security forces continue to act with impunity in their use of excessive force, while reports of peaceful protestor deaths at the hands of security personnel persist.

1722d. *To avoid detention without prompt access to lawyers and without access to the outside world for more than two or three days. In any event, all detention should be subject to effective monitoring by an independent body. Moreover, every person arrested should be given a copy of the arrest warrant and no person should be held incommunicado. Arrested persons should have access to their legal counsel and family visits in the same way as any person detained under the Bahrain Code of Criminal Procedure.*

STATUS: Not Implemented

The MOI issued a December 2011 resolution stating that all arrested persons will be presented with an arrest warrant, that they will be guaranteed access to their lawyers, and that they will not be held incommunicado.¹⁶⁷ A December 2014 revision to the 2006 Anti-Terrorism Law, however, allows police to detain a suspect incommunicado for up to 28 days without bringing charges,¹⁶⁸ contrary to the BICI's recommendation to limit incommunicado detention to two or three days.¹⁶⁹ Further, independent NGOs, including ADHRB, BIRD, and BCHR, continue to document arrests without warrants and cases of detainees being unable to access legal representation at all stages of the judicial process.

In one August 2015 case, police arrested 32 individuals without presenting arrest warrants and subsequently denied them access to their legal counsel.¹⁷⁰ Another exemplary case is that of al-Wefaq opposition leader Sheikh Ali Salman, who, between his sentencing in June 2015 and his first appeals court appearance in October 2015, was granted only one two-hour session with his lawyers.¹⁷¹ The UN Working Group on Arbitrary Detention (WGAD) found the Bahraini PPO "failed to rebut allegations that Sheikh Ali Salman was not provided with the guarantees necessary for his defence." WGAD also found that the government violated Salman's right to a fair trial, failed to ensure due process during his arrest and trial, and did not give Salman's lawyer appropriate

access to the evidence or witness testimony against him. The WGAD concluded that Salman's arrest is arbitrary under international law and called for his release and compensation to remedy the situation in September 2015.¹⁷² As of writing, the Government of Bahrain has not only kept him in detention following this decision, but has also appealed his sentence of four years in prison to seek a more severe sentence for the charges against him.¹⁷³

The use of incommunicado detention also continues to be reported.^{174,175} In its report to the 27th Session of the Human Rights Council in August 2014, the Working Group on Enforced and Involuntary Disappearances (WGEID) expressed concern over a "recent pattern of short-term disappearances."¹⁷⁶ A year later in its 2015 annual report, WGEID requested information on steps Bahrain had taken to "prevent and terminate alleged cases of short-term enforced disappearance and on the measures taken to ensure that the relatives of persons deprived of their liberty are informed accurately and promptly of their detention"¹⁷⁷ due to the fact that the Working Group had continued to receive reports of enforced disappearance and incommunicado detention.

The government reported that it acted to increase accountability by incorporating a unified criminal justice system that electronically tracks a detainee's "journey" through the criminal process. The system allegedly sounds an alarm 48 hours after the arrest of a detainee if his/her detention has not been lawfully extended.¹⁷⁸ Conversations with legal professionals have found no evidence of the existence or use of such alarms. Officials generally use the system for tracking wanted people and assisting in their prosecution, rather than compelling officials to release details to family members. Neither lawyers nor civilians have access to the records, and lawyers often receive incomplete evidence for use in court.¹⁷⁹ From November 2014 to June 2015, the Bahrain Center for Human Rights (BCHR) and the Bahrain Youth Society for Human Rights (BYSHR) documented 400 instances of enforced disappearances, the majority ranging from several hours to up to a month.¹⁸⁰ In September 2015, ADHRB received word that Government of Bahrain security forces had disappeared one of the organization's interlocutors on the ground. The interlocutor remains disappeared at the date of this publishing.

The government expanded the mandate of the MOI Ombudsman to include inspection of places of detention through Royal Decree 35 of 2013.¹⁸¹ As mentioned in this report's analysis of recommendation 1722b, the government established the Prisoners and Detainees Rights Commission (PDRC) in 2013 as a national preventative mechanism to monitor conditions of detention, with the aim of preventing torture and ill treatment in prisons through regular inspections.¹⁸² The PDRC is a subsidiary of the MOI Ombudsman, preventing the commission's full independence.¹⁸³ The Ombudsman allocates the PDRC's budget from its own funding, which is in turn allocated by the MOI, making it further dependent on the Ombudsman for resources.¹⁸⁴ Additionally, the decree establishing the commission mandated that its membership consist of individuals nominated by the Ombudsman, the B-NIHR, the Supreme Judicial Council, and the Attorney General.¹⁸⁵ These four nominating bodies lack independence from the rest of the Bahraini government, which further impedes the commission in carrying out its mandate.¹⁸⁶ As a result, the PDRC's report on the Criminal Investigations Directorate (CID), from which a substantial amount of torture allegations originate, is short, bereft of detail, and uncritical.¹⁸⁷

ADHRB, BIRD, and BCHR find this recommendation to be *not implemented*. While the government has taken legislative and institutional steps with the goal of increasing accountability through a digital detainee tracking system, the establishment of the PDRC, and procedurally requiring MOI personnel to obtain and present a warrant upon arrest, the use of enforced disappearance and incommunicado detention remains widespread. Perhaps even more concerning are enduring

reports that individuals are arrested without warrants and granted limited access, if any, to legal representation or the evidence against them. Until Bahrain's judiciary and institutions like the PDRC meaningfully act to hold the MOI accountable for violations of detainees' rights in custody, the use of incommunicado detention will continue.

1722e. *The Commission recommends that the government establish urgently, and implement vigorously, a program for the integration into the security forces of personnel from all the communities in Bahrain.*

STATUS: Not Implemented

Prior to the unrest in 2011, sectarian hiring practices resulted in a highly disproportionate ratio of Sunni to Shia serving in the military and public security forces,¹⁸⁸ though Shia make up the majority of the population of Bahrain. In response to the BICI, on 22 December 2011, the Minister of Interior ordered the ministry "to urgently employ 500 men and women in the police forces from all components of society, and from the five provinces," with plans to reportedly recruit an additional 500 every six months.¹⁸⁹ Although Public Security Chief Major General Tariq Hassan stated that new recruits came from "different segments of society,"¹⁹⁰ no official information on the specific demographics of recruits has been publicly released. In 2013, DOS reported through a police recruit that one 2012 class contained 75 percent Shia recruits¹⁹¹ out of a class of reportedly 500.¹⁹² The government has continued launching recruitment programs in 2013 and 2014, recruiting 347¹⁹³ and 860¹⁹⁴ new recruits each year, respectively; however, its reporting does not contain demographic data on these candidates, and reports as recent as 2014¹⁹⁵ suggest that primarily Sunni recruits continue to be solicited from other Sunni-majority countries.¹⁹⁶

The recommendation also requires the Bahrain Defense Force (BDF), which consists of the army, navy, air force and medical services, as well as the National Guard and the NSA, to urgently integrate its forces. Although no public figures are available, the BDF reportedly employs approximately 12,000 persons, including civilian and administrative personnel. The BICI estimated that a large portion of the BDF is composed of non-Bahraini nationals from Iraq, Jordan, Syria, Pakistan and Yemen.¹⁹⁷ Since March 2011, there have been active advertisements in Pakistani newspapers reading "Urgent requirement manpower for Bahrain National Guard." Another advertisement in Urdu read, "For service in Bahrain National Guard, the following categories of people with previous army and police experience are urgently needed."¹⁹⁸ Advertisements specifically targeted former army drill instructors, antiriot instructors, retired military police, and former army cooks. Similar advertisements have been seen in Pakistan as late as 2014.¹⁹⁹

Despite the MOI's reported²⁰⁰ increased recruitment from Bahrain's communities, security services continue to predominantly recruit from the Sunni sect, either from the local Bahraini community, or more recently, from Pakistan.²⁰¹ Although figures are largely kept secret, estimates suggest that 7,000 to 10,000 out of 25,000 members of the public police force are Pakistani.²⁰² On 3 April 2014, a series of leaked documents²⁰³ listed hundreds of Jordanian officers on the MOI's payroll. Dated 11 February 2014, the document contains the names, salaries (approximately USD \$3,100 per month), and bank account numbers of the 499 Jordanian policemen now working in Bahrain. Reports state that up to 2,500 retired Jordanian officers work in Bahrain security agencies.²⁰⁴

This evidence does not support the MOI's statement that its recruits reflect the "community it serves,"²⁰⁵ and continued discriminatory hiring runs the risk of further human rights abuses. The prevalence of escalating tensions is evident in the DOS Country Report on Terrorism in Bahrain

for 2014.²⁰⁶ It reported that Bahrain was ineligible for the U.S. anti-terrorism assistance-training program because of “vetting challenges” under the Leahy Law,²⁰⁷ indicating that the BDF was in the bottom one percent of security forces reviewed for their human rights records.²⁰⁸

ADHRB, BIRD, and BCHR find this recommendation to be *not implemented*. While the MOI appears to have begun recruiting new classes of police forces on a bi-annual basis, it has not released public figures on these classes’ demographics. The Bahraini military, on the other hand, has made no indication that it intends to diversify its recruitment pool to include Shia. Reports of ongoing policies to recruit foreigners to the military and public security forces undermine government claims of attempts to diversify their ranks. Moreover, reports of excessive use of force by security forces continue.

1722f.

To train the judiciary and prosecutorial personnel on the need to ensure that their activities contribute to the prevention and eradication of torture and ill-treatment.

STATUS: Partially Implemented

To implement this recommendation, the government signed a one-year contract with the International Institute of Higher Studies in Criminal Sciences (ISISC), an NGO chaired by BICI Commissioner Cherif Bassiouni. The ISISC in turn created the Bahrain Technical Assistance Program to develop a training program for 100 prosecutors and judges.²⁰⁹ The government additionally held the second Technical Assistance Program for the Bahrain Justice and Law Enforcement Sectors on the International Protection of Human Rights and the Enhancement of Investigatory and Prosecutorial Capabilities of the Office of the Attorney General in January 2013, through the ISISC.²¹⁰ This program involved three training sessions, attracting 58 participants.²¹¹ The BICI Follow-Up Unit also reported other training initiatives, such as sending participants to work with international prosecution personnel abroad.²¹²

The American Bar Association Rule of Law Initiative (ABA ROLI) has also carried out technical education and training programs in Bahrain in conjunction with the DOS Middle East Partnership Initiative (MEPI) since 2007. Since 2011, the ABA ROLI has announced that it is assisting Bahrain with judicial reforms mandated by the BICI by “providing technical assistance in strengthening the judiciary’s detention monitoring role, and helping to establish mechanisms by which Bahrain’s public prosecutor can both monitor and investigate detainee mistreatment claims.”²¹³ In 2012, the ABA ROLI held one training session on international fair trial standards²¹⁴ and three educational seminars aimed at empowering women²¹⁵ and young lawyers.²¹⁶ ABA ROLI additionally held a training series on fair trials for lawyers and judges in 2013.²¹⁷ In 2014, it sponsored a Bahrain delegation of six lawyers to visit the Dutch Judicial Training Institute in the Netherlands, for training on curriculum development and mentorship.²¹⁸

In 2013, DOS found that “[d]espite training, political influence and the lack of judicial independence appear to compromise implementation of fair and transparent judicial procedures.”²¹⁹ The Public Prosecutor’s Office and the criminal courts both have a documented history of ignoring testimonies of torture and ill treatment.²²⁰ In one study, Human Rights Watch found the PPO unwilling to prosecute officers implicated in torture. In cases where officers involved in extrajudicial killing and torture were pursued, the PPO called on exculpatory witnesses and brought charges in connection to victims where strong evidence was lacking, while failing to pursue charges in relation to victims where clear evidence of abuse and torture existed.²²¹ In April 2013, Nafeesa al-‘Asfoor and Rayhana

al-Mousawi signed forced “confessions” after being tortured for participating in a protest against the imprisonment of prominent Bahraini political activists. Rayhana al-Mousawi told the court that she had been tortured, stripped of her clothing, and forced to stand disrobed in a doorway before security officers forced her to sign a ‘confession’ during her interrogation.²²² The judge instructed her to leave the courtroom and did not order an investigation into her allegations. Both women later received five year prison sentences.²²³ In 2014, DOS documented that “confessions extracted through torture remained admissible.”²²⁴ In a 2015 case, Chairman of the European-Bahraini Organization for Human Rights (EBOHR) Husain Jawad made credible allegations of torture during the first session of his trial. However, the judge did not order an investigation into these allegations and remanded him back to police detention.²²⁵ Former detainees also indicate that interrogators increasingly seek to use methods that leave no long-lasting physical traces that could lend credence to detainees’ allegations of torture, and to provide detainees with medical treatment when they do sustain injuries under interrogation.²²⁶

The charges brought against security forces accused of torture and ill treatment also indicate the Bahraini judiciary’s lack of independence. As discussed in this report’s analysis of recommendation 1722a, the BICI concluded that Ali Saqer died from hypovolemic shock (an abrupt decrease in blood circulation) caused by torture while in police custody.²²⁷ Prosecutors subsequently charged two officers in connection with Saqer’s death and the court found that, in the absence of any justification for using force, the defendants had beaten Saqer to death. Without explanation, the court found that the defendants had no intent to do anything more than assault Saqer and only convicted them of assault. The court did not take into account the testimony of one defendant, who stated that the other defendant had beaten Saqer “until his [the other defendant’s] strength was spent” or medical reports establishing that Saqer had “blunt force contusions” on nearly every part of his body. Subsequently, an appeals court reduced the ten-year prison terms to two-year terms, finding that they had acted to preserve “the life of detainees, among them the victim.”²²⁸

ADHRB, BIRD, and BCHR find this recommendation to be *partially implemented*. The government has held annual or biannual training programs for the judiciary and PPO; however there has been no tangible impact on the PPO’s or judges’ prevention of torture and abuse in custody or the use of coerced evidence against victims in courts of law. While further training may be of use in order to fulfill the mandate of this recommendation, the judiciary must also be removed from the influence of the government and the royal family. The same is true of the PPO: without significant internal reform to hold all officials within the government accountable, including high level officials in the MOI, Attorney General, PPO, and other government institutions, the Bahraini judicial system will remain subservient to political influence and continue to base its convictions on evidence largely obtained under coercion and torture.

1722g.

There should be audiovisual recording of all official interviews with detained persons.

STATUS: Partially implemented

In January 2012, the government approved plans for the installation of audiovisual monitoring equipment in interrogation rooms. The MOI claims that it has installed monitoring equipment in all investigation and temporary detention rooms across all 22 police stations as of 2014, and that all places where police interviews are conducted now have audiovisual equipment.²²⁹ The government additionally reports that it has equipped PPO interrogation rooms with audiovisual recording equipment.²³⁰ In 2013, the DOS reported that the government had installed 33 CCTV

cameras, outfitted 26 audiovisual recording systems, and set aside 18 rooms for private meetings with legal counsel.²³¹

It is impossible to determine to what extent the government actually records interviews with detainees. Sources on the ground report that only one room in Manama Police Station contains audiovisual equipment that actually records detainee interviews. Reportedly, the AV equipment consists of a live stream for MOI officials and is only utilized for interrogations of high profile detainees. Legal practitioners report that interrogation footage has not been used in court proceedings. When lawyers have requested interrogation footage as evidence, PPO and MOI officials have not shared access.²³²

Reports from local and international human rights organizations suggest that officials continue to detain Bahrainis in unofficial “black site” detention and interrogation facilities.²³³ At times, authorities take detainees to unmonitored sites to dole out punishment instead of bringing formal charges.²³⁴ Officials have held other detainees incommunicado at the CID as a way to circumvent requirements for interrogations to be monitored.²³⁵ In 2014, ADHRB and BIRD received allegations that Ministry of Interior officers had conducted violent interrogations at unmonitored construction sites.

ADHRB, BIRD, and BCHR find this recommendation to be *partially implemented*. The government has taken some steps to comply with the BICI’s recommendation to install recording equipment in interrogation rooms, but it has not sufficiently proven that recordings actually take place in all cases. Further, the government does not make the recordings, if any exist, available to the defense during the judicial process. The government also continues to carry out unofficial interrogations in unmonitored rooms and locations, or while holding detainees incommunicado, which often results in ill treatment and torture.

1722h.

To review convictions and commute sentences of all persons charged with offenses involving political expression, not consisting of advocacy of violence, or, as the case may be, to drop outstanding charges against them.

STATUS: Not implemented

On 24 December 2011, Bahrain’s Attorney General announced that all charges for offenses related to freedom of expression would be dropped, with the exception of cases involving violent crimes. According to the government, the decision benefited 334 people.²³⁶ ADHRB, BIRD, and BCHR found that the government arrested more than 4,500 people on charges related to their “political expression” during the pro-democracy uprising in 2011;²³⁷ dropping 334 charges for free speech is not sufficient to meet the requirements for reconciliation.

The government not only continues to detain human rights and political activists under illegitimate charges, but it has also carried out a mass campaign of arbitrary arrests for offenses such as insulting the government and/or the king, attempting to overthrow the ruling system, illegally protesting, and inciting hatred of the regime, among many others. On 30 October 2012, the MOI banned all public demonstrations, further entrenching restrictions on political expression and leading to charges against peaceful protesters for “illegal gathering.”²³⁸ Though government officials often state that there are no outstanding charges related to freedom of expression in Bahrain, they have rarely dropped charges against individuals who have been detained for protesting peacefully or expressing their opinions.²³⁹ Current estimates peg the number of political prisoners in Bahrain

at more than 3,000, including almost the entire leadership of the National Democratic political opposition.

In July 2013, the Bahraini National Assembly and the Shura Council promulgated 22 additional recommendations²⁴⁰ to the Law of Protecting Society from Terrorist Acts (colloquially known as the Anti-Terror Law), Bahrain's counterterrorism legislation passed in 2006.²⁴¹ These recommendations expand the definition of terrorism to include instances in which speech and expression is critical of the government, and the arrest powers of the government. Article 29 of the Anti-Terror Law allows Bahraini officials to issue initial detention orders of up to 90 days without formal charges being filed.²⁴² An amendment to Article 30 allows security forces to detain an individual for up to six months without trial.²⁴³ The law's expansion to include critical political expression as a terrorist act also allows the government to revoke the citizenship of political dissidents.

In February 2014, the king amended the penal code to increase the maximum jail term for offending the king, Bahrain's flag, or the national emblem to seven years.²⁴⁴ July 2014 amendments to the 1963 Citizenship Law permit the MOI to revoke the citizenship of Bahrainis who "cause harm to the interests of the kingdom," act in a way that contravenes their loyalty to the state, or aid in the service of a hostile state.²⁴⁵ Since the passage of these laws and recommendations, Bahrain has stripped more than 120 Bahrainis of their citizenship.²⁴⁶

Between 2014 and 2015, the government arrested and charged a number of individuals in cases involving free speech violations. Nabeel Rajab was released in May 2014 after serving a two-year sentence for inciting civil disobedience and participating in what the government termed "illegal assemblies."²⁴⁷ Just under five months after his May 2014 release, the government again arrested Rajab in October 2014 for "insulting official Bahraini institutions" via social media.²⁴⁸ The charges stemmed in relation to a series of Tweets that Rajab had authored while in Belgium in which he documented former members of Bahrain's Ministry of Interior joining the terrorist group ISIS. The UN Special Procedures expressed "grave concern" over his re-arrest, noting the likelihood that his arrest was linked to "his peaceful and legitimate activities advocating for human rights in Bahrain and to his exercise of his right to freedom of expression" and possibly "an act of reprisal due to his cooperation with the United Nations." The Special Procedures also declared that the arrest appeared "to be in contravention of the right not to be deprived arbitrarily of liberty."²⁴⁹ Though pardoned for that charge and freed from jail in June 2015, he still faces more than ten years in prison in relation to charges for other acts of free speech in which he criticized Bahrain's involvement in the war in Yemen and the violent MOI response to riots in Jau Prison.

Courts sentenced Zainab al-Khawaja to three years in prison in December 2014 for tearing up a picture of the king,²⁵⁰ for which the maximum sentence is seven years in prison. Following the court's decision, the UN Special Procedures expressed similar concern regarding her sentencing and imminent imprisonment, noting that her sentencing represented a "violation of the rights to freedom of opinion and expression and to freedom of association." The Special Procedures also stated that the case against her appeared to be linked to her "peaceful and legitimate activities advocating for human rights in Bahrain."²⁵¹ More than 75 other individuals, including journalists, photographers, children, teachers, athletes, and other Bahrainis remain on trial for their free speech, not including the hundreds more who are imprisoned for free assembly and political speech.²⁵² ADHRB, BIRD, and BCHR estimate that as many as 3,000 persons remain imprisoned in Bahrain under charges that violate universal human rights.

In 2015 alone, the government has arrested four opposition leaders. As a result of his peaceful political speeches in 2014,²⁵³ the government summoned and detained al-Wefaq opposition leader Sheikh Ali Salman on 28 December 2014 and formally charged on 4 January 2015.²⁵⁴ A court would eventually sentence Salman to four years in prison in June 2015 for “publicly inciting hatred, disturbing public peace, inciting civil disobedience of the law, insulting public institutions, and promoting a change in the regime.”²⁵⁵ In June 2015, a Bahraini court convicted Fadhel Abbas, Secretary General of the al-Wahdawi opposition society, sentencing him to a five-year prison term for tweeting that Bahrain’s participation in the Yemen war amounted to a violation of international law.²⁵⁶ Security forces arrested Majeed Milad, another senior member of the opposition and former elected president of the Manama Capital Municipal Council, in June 2015 and charged him with inciting civil disobedience. The charge stood in relation to a speech Milad authored in which he urged the opposition to continue its peaceful protest movement.²⁵⁷ In July 2015, the government re-arrested Ebrahim Sharif, the former General Secretary of Wa’ad, the National Democratic Action Society, for reportedly encouraging the overthrow of the government, inciting violence, and inciting hatred in a political speech after his early release from prison less than three weeks prior.²⁵⁸ Upon reviewing both the full original language text and a video of the speech, ADHRB found no language inciting violence.²⁵⁹ All members of the Bahrain 13, which includes Bahrain’s major opposition leaders arrested in 2011, remain in jail for their peaceful political expression.^F

ADHRB, BIRD, and BCHR find this recommendation to be *not implemented*. Despite the government’s claim that it “guarantees the rights and freedoms of all citizens and residents in Bahrain,”²⁶⁰ the abovementioned cases provide clear evidence that the Bahraini government does not protect basic political rights and free speech. By expanding the 2006 Bahraini Anti-Terror Law through the 22 additional parliamentary recommendations, Bahrain has essentially legalized the criminalization of free speech as an act of terror. Despite the government’s claims of its efforts to commute the sentences of individuals charged with offenses involving political expression and free speech, the government has taken almost no meaningful steps to release imprisoned activists or to stop filing criminal charges based on its citizens’ free expression.

1722i.

To commute the death sentence imposed for murder arising out of the events of February/March 2011, in the light of the preference of Article 6 of the ICCPR for the abolition of the death penalty and the concerns regarding the fairness of trials conducted by the National Safety Court.

STATUS: Fully Implemented

Although the Bahraini judiciary overturned the death sentences issued by the NSC, the judicial process has been long and arduous. The judiciary only overturned several sentences this year, and it continues to rely on evidence obtained during the NSC proceedings, including confessions coerced under torture. In its final March 2012 report, the National Commission tasked with reviewing the BICI recommendations inaccurately declared that, “no final death sentence has been passed”²⁶¹ in any of the cases related to the pro-democracy events of February and March 2011. The NSC sentenced five men to death during the unrest in 2011.²⁶²

In April 2011, the National Safety Lower Court sentenced Ali Abdullah Hasan al-Singace, Qasim

^F As of writing, Sheikh Ali Salman, Ebrahim Sharif, Fadhel Abbas, and Majeed Milad, all remain imprisoned, awaiting trial or appeal. The Bahrain 13, the majority of whom received life sentences, remain imprisoned with no opportunity for appeal.

Hasan Matar Ahmad, Saeed Abduljalil Saeed, and Abdulaziz Abdulridha Ibrahim Husain to death for their alleged role in the killing of two police officers.²⁶³ Observers widely condemned the trial for not meeting international fair trial and due process standards.²⁶⁴ On 22 May 2011, an appeals court overturned the death sentences for Qasim Hasan Matar Ahmad and Saeed Abduljalil Saeed, while confirming the death sentences for Ali Abdullah Hasan al-Singace and Abdulaziz Abdulridha Ibrahim Husain, despite the fact that lawyers for Ali al-Singace presented evidence that he had a broken leg during the time the crime was committed, making him incapable of carrying it out.²⁶⁵ On 9 January 2012, the Court of Cassation overturned al-Singace's and Husain's death sentences and referred the case to the High Court of Appeal.²⁶⁶ Both Husain and Singace are currently serving life sentences at Jau Prison, and the government has not investigated their allegations of torture.²⁶⁷

In another case, security forces detained Ali Yousif Abdulwahab al-Taweel in April 2011 for allegedly running over and killing a policeman on 15 March 2011.²⁶⁸ During his sentencing, Taweel did not have access to a lawyer for three of his hearings, and his family was not allowed to visit him until his third hearing.²⁶⁹ In September 2011, the NSC issued him the death sentence.²⁷⁰ On 23 January 2013, a Bahraini appeals court upheld the death sentence issued by the NSC.²⁷¹ The Court of Cassation, Bahrain's civilian appeals court, reduced Taweel's death sentence to life in prison on 8 October 2015.²⁷² Taweel maintains that government actors tortured him and forced him to sign a confession.²⁷³ As of writing, the government has not investigated his allegations of torture.

Bahrain continues to employ the death sentence despite substantial due process concerns. In February 2015, the High Criminal Court sentenced Abbas al-Samea, Ali Abdulshaheed al-Sankis and Sami Mirza Mushaima to death in a trial Amnesty International categorized as "unfair." Security forces arrested al-Samea, al-Sankis and Mushaima in March 2014 for allegedly participating in a bomb explosion that killed three policemen.²⁷⁴ The government provided defendants with limited access to legal counsel, did not allow lawyers to call witnesses during the trial, and allegedly extracted confessions via torture. All three defendants told their family that the torture had included "being given electric shocks, beaten, burnt with cigarettes, being deprived of sleep, and sexually assaulted."²⁷⁵ Despite the inconsistencies, allegations of abuse in detention, and credible evidence suggesting that Abbas al-Samea was teaching at a school at the time of the incident,²⁷⁶ the court sentenced all three to death in February 2015.²⁷⁷ They currently await appeal of their sentence in prison. No evidence suggests that the government has undertaken an investigation into their allegations of torture.

ADHRB, BIRD, and BCHR find this recommendation to be *fully implemented*, though Bahrain's continued use of the death sentence since 2011 remains cause for concern. The five death sentences issued by the NSC were all eventually commuted. However, the defendants did not receive new trials, nor did civilian courts throw out evidence allegedly acquired through torture or allow sufficient access to legal counsel. Further, since 2014, there has been a sharp elevation in the number of death sentences,²⁷⁸ despite similar due process and fair trial issues and allegations of torture. Finally, in violation of BICI recommendation 1719 and 1722a, the government has not investigated authorities' use of torture in these eight cases. Though the government implemented this recommendation, justice has not been served in these cases. Security forces have largely not been held accountable, and the judiciary continues to rely on flawed evidence, often coerced through torture.

1722j.

To compensate and provide remedies for the families of the deceased victims in a manner that is commensurate with the gravity of their loss. In this connection, the Commission welcomes the Royal Decree Law No. 30 of 2011 for the establishment of the National Fund for the Reparation of Victims on 22 September 2011.

STATUS: Partially implemented

In September 2011, the government established a National Fund for the Reparation of Victims (NFRV) for the families of deceased victims.²⁷⁹ The fund has the ability to offer compensation to families of victims, request formal apologies on their behalf, and ask concerned parties to work to ensure incidents are not repeated. In order to qualify for compensation, however, families must demonstrate that there has been a criminal conviction against the perpetrator.²⁸⁰ In June 2012, the government announced that it had disbursed USD \$2.6 million to relatives of the 17 victims identified by the commission, but it has been reluctant to make additional information publicly available.²⁸¹ To accompany the fund, the government created several mechanisms by which families could raise claims. The Higher Judiciary Council established specialized courts to hear compensation cases in 2012.²⁸² The Ministry of Justice additionally launched the Civil Settlements Initiative (CSI) as a means to resolve claims outside of the courts. The government reportedly allocated USD \$26.5 million for the CSI, and as of 2014, it claimed to have distributed USD \$6.2 million to the families of 39 deceased persons out of a total of 48 applications.²⁸³

However, reports vary on how effective the government's mechanisms have been in practice. No evidence exists to suggest that the specialized courts established by the Higher Judiciary Council have led to additional prosecutions or greater compensation for families seeking remedial action through the courts.²⁸⁴ Further, ADHRB, BIRD, and BCHR has found that, in order to receive compensation under the NFRV and the CSI, families must sign waivers of liability to not bring additional legal action against the state or publicly discuss their cases at any time in the future.²⁸⁵ Payments to families under the NFRV have been limited as a result of the small number of convictions of security forces, if any.^G The CSI lacks transparency and has been slow to process claims.²⁸⁶ Interlocutors on the ground have also found that many families refused to apply for compensation under CSI because it would not represent a clear acknowledgement of government responsibility for the deaths, which has not been forthcoming.²⁸⁷ This has further limited families' willingness to seek redress under these institutions.

More importantly, there is no evidence that the government has made an effort to include victims' families who have been killed by security forces since 2011. Security forces have killed more than 97 people since the pro-democracy uprising in 2011,²⁸⁸ but the government has not made anyone outside of the 17 families specifically mentioned in the BICI eligible for compensation.²⁸⁹ In its 2014 human rights report on Bahrain, the DOS cited several reports of security forces committing arbitrary or unlawful killings.²⁹⁰ Al-Wefaq attributed eight deaths in 2014 either directly or indirectly to security forces.²⁹¹ Except for in one case, ADHRB, BIRD, and BCHR have found no evidence that families of those who have been killed after 2011 have been compensated.

ADHRB, BIRD, and BCHR find this recommendation to be *partially implemented*. The government established two reparation funds, the CSI and the NFRV, to compensate the 17 victims' families documented by the BICI. In order to fully comply with the spirit of the recommendation, the government must establish a continually operational mechanism whereby families of all victims may make claims for compensation or remedial action. This has not been the case. The

^G See Recommendations 1716 and 1719 for details on the limited prosecutions pursued against security forces.

government's lack of transparency limits our ability to verify accurate compensation levels for the CSI and the NFRV. Further, government conditions on receiving compensation have also limited families' willingness to seek redress under these institutions.

1722k. *To compensate and provide remedies for all victims of torture, ill-treatment or prolonged incommunicado detention. In this connection, the Commission welcomes the Royal Decree Law No. 30 of 2011 for the establishment of the National Fund for the Reparation of Victims on 22 September 2011.*

STATUS: Not implemented

The government tasked the National Victims Compensation Fund, the Civil Settlement Initiative, and the specialized courts established by the Higher Judiciary Council with compensating victims of torture and abuse.²⁹² The government specifically singled out the Civil Settlements Initiative to address cases of both death and injury.²⁹³ As of 2014, the Civil Settlement Office had reportedly received 421 applications for compensation from those who suffered injuries. The government reported that 193 of the applications had been assessed by the medical examiner and that the government was working to determine the proper compensation in these cases.²⁹⁴ The government has not made public any documentation related to the number of victims compensated or the amount of compensation it has provided to them.²⁹⁵

The Ministry of Justice has similarly failed to provide funds to victims who suffered abuse or torture but were not specifically identified in the BICI report, despite the commission's recommendation to compensate all such victims.²⁹⁶ Victims seeking compensation for cases of torture face many of the same problems as those seeking compensation for family members' deaths, since they largely seek redress through the same mechanisms. These issues include various conditions attached to accepting settlement, such as agreeing not to seek additional lawsuits²⁹⁷ and signing documents barring them from bringing up their cases in the future.²⁹⁸

Again similarly to its treatment of deceased persons, government initiatives have thus far only aimed to address incidents of abuse that occurred during the protests in 2011, though cases of ill-treatment and torture continue to be widely reported by domestic and international human rights organizations. ADHRB alone has received more than several hundred complaints of instances of torture and abuse since it began its complaint program in 2013. Detainees have complained of abuse and torture at both unofficial and official facilities.²⁹⁹ Compounding the problem, Bahraini courts rarely convict members of the security forces for torture and abuse (see recommendations 1716, 1719 and 1722a for additional analysis of this issue). Instead, authorities often formulate charges against members of the security forces that do not accurately represent the gravity of their crimes, leading to acquittals and lenient sentences.³⁰⁰

ADHRB, BIRD, and BCHR find this recommendation to be *not implemented*. In order to fully comply with the BICI's recommendation, the government must establish standing procedures by which all victims of torture and ill treatment may seek compensation and remedial action. It additionally must make a greater effort to hold members of the security forces accountable for crimes against detainees. It has not meaningfully done either.

1723. The Commission makes the following recommendations with regard to *demolition of religious structures, termination of employees of public and private sectors, dismissal of students and termination of their scholarships.*

1723a. *To ensure that the remaining dismissed employees have not been dismissed because of the exercise of their right to freedom of expression, opinion, association or assembly.*

1723b. *To use all its power to ensure that public corporations and other employers who dismissed employees for failure to appear for work at the time of the demonstrations treat them in a way that is at least equal to that provided by the government to civil servants.*

STATUS: Partially implemented

As a result of workers' participation in the pro-democracy uprising in March 2011, in which entire unions went on strike,³⁰¹ employers in Bahrain dismissed over 4,500 employees, including an estimated 2,000 public sector employees and 2,500 private sector employees.³⁰² Public sector employees reported that disciplinary committees convened by the Civil Service Bureau (CSB) specifically asked them about their political statements, participation in demonstrations, and membership in political societies when evaluating them for dismissal. CSB officials denied that dismissals were based on political activities, but failed to provide an alternative explanation either for the terminations or for why such questions were asked by CSB disciplinary committees.³⁰³

In June 2011, a number of International Labor Organization (ILO) Workers delegates, including the US and UK, presented a complaint to the ILO against the Government of Bahrain for "grave violations of the Discrimination (Employment and Occupation) Convention."³⁰⁴ In response to the complaint, the Government of Bahrain proposed the establishment of a tripartite committee to resolve the cases the dismissal and ensure the reinstatement of workers dismissed. The committee consisted of delegates from the government, the General Federation of Bahrain Trade Unions (GFBTU), and the Bahrain Chamber of Commerce and Industry (BCCI).³⁰⁵ The committee identified 165 unresolved cases as of 2014 and signed an agreement in March 2014 to resolve outstanding worker reinstatements. The GFBTU announced that by the end of 2014, the government had resolved roughly half of the 165 cases.³⁰⁶ As of November 2015, 19 cases of reinstatement remain outstanding and no official mechanism to address discrimination, as mandated by the tripartite agreement, has been established.³⁰⁷

In 2012, the US Department of Labor (DOL) responded to an April 2011 complaint filed by the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) related to the targeting of Bahraini workers and unions during the protests.³⁰⁸ The DOL found, as of 15 August 2012, that Bahrain had made "significant progress" on the reinstatement of workers, although hundreds still had not been reinstated. It also found that Bahrain acted inconsistently with its commitments under the US-Bahrain Free Trade Agreement³⁰⁹ by failing to ensure that freedom of association and the right to organize collectively is legally protected, with workers continuing to face "restrictions on trade union freedoms, and political and sectarian-based discrimination against Shia workers."³¹⁰

In its 2015 report, the United States Commission on International Religious Freedom (USCIRF) stated that, among the resolved cases, "hundreds were not reinstated in their original jobs, but in lower level jobs or at different companies."³¹¹ Since 2011, businesses have reportedly dismissed

employees who miss work on anniversaries of major protests.³¹² Some workers reported being forced to sign loyalty pledges upon their return to work and suffering reduced salaries.³¹³ Others reported difficulties in obtaining certificates of good conduct from their employers, rendering them totally dependent upon their current employer.³¹⁴

Further, the government prosecuted many union leaders for their role in organizing protests and strikes in 2011 remain imprisoned and/or have not been reinstated. For example, BTA founder Mahdi Abu Dheeb and vice-president Jalila al-Salman called for teachers to hold sit-ins, for parents not to send children to school, and for the Minister of Education to resign during the protests.³¹⁵ The government formally dissolved the professional association in April 2011.³¹⁶ Authorities arrested, disappeared, and tortured Mahdi Abu Dheeb and Jaleela al-Salman³¹⁷ and charged them with “inciting hatred of the regime” and “attempting to overthrow the ruling system by force.”³¹⁸ While Salman was released from prison in November 2012, she remains banned from employment as of February 2015; meanwhile, Abu Dheeb is currently serving a five-year prison term.³¹⁹

ADHRB, BIRD, and BCHR find recommendations 1723a and 1723b to be *partially implemented*. The government has made efforts to resolve most cases of dismissal related to the 2011 protests, but a number of cases remain outstanding. Workers additionally report being reinstated in lower grade positions, positions outside their specialty, or positions without actual jobs, and being forced to sign loyalty pledges upon their return to work. Moreover, since 2011, public and private employers have continued to target employees for exercising their free expression. Union members and leaders continue to face government harassment and unions face ongoing restrictions on rights to organizing and assembly.

1723c.

To reinstate all students who have not been criminally charged with an act of violence and to put in place a procedure whereby students who were expelled on legitimate grounds may apply for reinstatement after a reasonable period of time, and to adopt clear and fair standards for disciplinary measures against students and to ensure that they are applied in a fair and impartial manner.

STATUS: Partially Implemented

Following the dismissal of more than 500 students from Bahraini universities in the aftermath of the 2011 protests,³²⁰ the government reported that the University of Bahrain and Bahrain Polytechnic had decided to promptly reinstate all expelled or suspended students who had not been involved in criminal acts of violence. The reinstatements reportedly affected 419 students, and the Ministry of Education additionally claimed to have reinstated “all 97” scholarships that had been revoked because of protest activity. The government states that its actions actually surpassed the requirements of the BICI by allowing the re-admittance of students who were charged with acts of violence but not convicted. The government also states that the University of Bahrain and Bahrain Polytechnic have updated their disciplinary procedures and provided the right of readmission to all expelled students.³²¹

However, reinstated students report being forced to sign loyalty pledges, having to surrender their Facebook account information to school officials, and having to answer questions about their participation in the 2011 protests.³²² The DOS’s 2014 report on human rights found that universities still force students to sign loyalty pledges.³²³ University students have faced fines and

prison sentences for violent crimes despite findings that their confessions were obtained under torture, calling into question the validity of convictions and ineligibility for reinstatement of such students.³²⁴ Little public information exists related to readmission procedures for students who were expelled because of convictions for violent crimes.

At least 200 minors remain imprisoned in Bahrain, missing critical years of their education.³²⁵ Authorities also continue to apply arbitrary disciplinary measures against students, especially those who criticize the government. In April 2013, riot police stormed the Jabreya Secondary School for Boys and fired tear gas at students who staged a protest demanding the release of fellow student Hassan Humaidan, who had been arrested at the school the previous day.³²⁶ Following the incident, the MOI said that “thugs” at the school had been dealt with in line with the law.³²⁷ The Ministry of Education similarly announced that it would “take action” against any student that attempted to “create chaos” or disturb study “in any way.”³²⁸ In March 2014, security forces arrested 17-year-old Abdulla Jaffar, a US-Bahraini student, while he was grocery shopping near his grandfather’s house. In January 2015, authorities convicted Abdulla of participating in an illegal gathering, possessing Molotov cocktails, and attacking policemen. As a result of his detention, he missed an entire year of school. Although he is currently out on bail awaiting a final appeal hearing in December 2015, it remains unclear if he will be able to finish his studies.³²⁹

Another example is Tagi al-Maidan, a U.S. citizen, who the government arrested and sentenced to ten years in jail in 2012 for allegedly taking part in protests and attempting to murder a police officer by throwing a rock at a police Humvee.³³⁰ The U.N. Working Group on Arbitrary Detention (WGAD) found that al-Maidan’s conviction was based on a false confession obtained under torture, and that al-Maidan and his mother were able to credibly testify that he was at home during the time that the crime allegedly occurred. A judge has refused to disallow his coerced confession.³³¹ However, he remains in prison, awaiting appeal on his ten-year sentence.

ADHRB, BIRD, and BCHR find recommendation 1723c to be *partially implemented*. Arbitrary government harassment of students who participate in nonviolent protests does not comply with the recommendation for “fair and impartial” application of disciplinary measures. While many dismissed students were reinstated at Bahraini schools, an atmosphere of intimidation remains and students who express dissenting opinions face harassment from officials. The government continues to prosecute students who participate in protests or express criticism, resulting in their dismissal from school, missing years of education, and lacking a legal mechanism for rehabilitation or remediation to finish their education.

1723d.

To follow up on the statement by the king to the effect that the government will consider rebuilding, at its expense, some of the demolished religious structures in accordance with administrative regulations. The Commission welcomes the government addressing this question at the earliest possible time.

STATUS: Partially Implemented

The BICI specifically identified 30 Shia places of worship demolished by the government in 2011. By 2014, the Bahraini government claimed that it had allocated USD \$7,948,790 for the reconstruction of the 30 sites. It stated that ten had been fully rebuilt and seventeen more remained under construction as of February 2014.³³² The government also announced that it would oversee the reconstruction of all demolished structures by the end of 2014. However, it did not meet this deadline.³³³

Bahraini and international organizations provide differing evaluations of the reconstruction of religious sites. In March 2015, independent Bahraini human rights organizations found that a total of 24 mosques had been rebuilt, of which the government rebuilt 16.³³⁴ Local communities provided the funds to rebuild the eight other mosques.³³⁵ In 2015, USCIRF found Bahrain made “demonstrable progress in rebuilding mosques and religious structures it destroyed during unrest in the spring of 2011.”³³⁶ As of December 2014, USCIRF found 14 mosques to have been fully rebuilt, eight by the government and six by the Shia community. Thirteen others remain under construction. While the government helped secure permits for the six structures rebuilt by the Shia community, it did not reimburse the community.³³⁷ In December 2014, the government tore down a community-led reconstruction of one of the remaining mosques, citing safety concerns.³³⁸

The government also rebuilt several mosques away from their historical locations.³³⁹ It justified the relocations by stating that the previous sites violated laws governing public land ownership and construction on public lands.³⁴⁰ One of the relocated mosques, the al-Barbaghi mosque, had stood as a symbol of Shia Islam’s important role in Bahrain’s history.³⁴¹ The government claims it rebuilt the mosque some 200 meters away from its original location because of security concerns, but opponents of the government’s seemingly arbitrary relocation of the Shia mosque contend that the original mosque’s “prominent location on a road much frequented by members of the ruling family and Saudis visiting Bahrain is an annoyance.”³⁴² The government has also restricted access to many of the sites where mosques originally stood.³⁴³ In January 2014, authorities arrested five individuals for attempting to pray at the site of the al-Barbaghi mosque, and in February, security forces interrogated 20 worshippers who had prayed at the same site.³⁴⁴

ADHRB, BIRD, and BCHR find recommendation 1723d to be *partially implemented*. While the Bahraini government has made progress in rebuilding many of the demolished Shia structures, significant work remains. The unwillingness to rebuild certain mosques in their original locations and to reimburse Shia communities that rebuilt their own mosques indicates continued disrespect for the cultural and historical importance of these sites to the Shia community.

1724. The Commission makes the following recommendations with regard to *media incitement issues*.

1724a.

To consider relaxing censorship and allowing the opposition greater access to television broadcasts, radio broadcasts and print media. The continuing failure to provide opposition groups with an adequate voice in the national media risks further polarizing the political and ethnic divide.

STATUS: Not Implemented

The government has not taken substantial steps towards relaxing censorship or allowing the opposition access to the media.³⁴⁵ On the contrary, the Bahraini government has undertaken legislative steps to strengthen existing laws censoring free speech and create new restrictions on various forms of media. On 9 February 2014, the government amended Article 214 of the penal code to allow a maximum jail term of seven years and a fine of up to 10,000 Bahraini Dinars for anyone the government believes to have offended the king, Bahrain’s flag or the national emblem.³⁴⁶ Additionally, Article 216 of the amended penal code states that “a person shall be liable for imprisonment or payment of a fine if he offends by any method of expression the National Assembly, or other constitutional institutions, the army, law courts, authorities or government

agencies.”³⁴⁷ In 2012, authorities arrested prominent blogger and human rights activist Zainab al-Khawaja for tearing up a picture of the king during a protest.³⁴⁸ On 21 October 2015, al-Khawaja’s 32nd birthday, a Court of Appeals upheld her conviction for insulting the king but reduced her sentence to one year with a fine of approximately \$8,000 USD. If unable to pay the fine, an additional year and a half will be added to her sentence; she faces additional appeals in November and December 2015 for other charges related to her free speech online and her right to peaceful assembly.³⁴⁹

Despite the state’s claim that these laws “curtail incitement, hatred and sectarianism,”³⁵⁰ the government has actively utilized these laws and one-sided state media to punish dissent and further its own narrative of the situation in Bahrain. Meanwhile, government and quasi-governmental media sources publish inflammatory content. *Gulf Daily News*, a pro-Gulf Cooperation Council daily newspaper and online publication, published a multi-page smear campaign on US Assistant Secretary of State for Democracy, Human Rights, and Labor Tom Malinowski after he met with the opposition group al-Wefaq’s secretary general, Sheikh Ali Salman, and his assistant Khalil al-Marzooq.³⁵¹ The paper claimed that he had a long history of fomenting unrest in Bahrain, most likely referencing his prior work at Human Rights Watch³⁵²; authorities expelled Malinowski from the country after the meeting and declared him a *persona non-grata* in July 2014.³⁵³

Despite government claims that the Bahraini State Television (BTV) service promotes diversity and tolerance, state television has not provided the opposition access to the media or BTV.³⁵⁴ State media almost never broadcasts any Shia prayer service, though it regularly broadcasts Sunni services. Rarely is the Arabic dialect common to Bahraini Shia broadcast on official channels. All Islamic television programs are explicitly and intentionally rooted in Sunni theology. In 2013, the government blocked ‘matam.tv,’ a Shia religious website that live streams sermons and festivals from Bahrain’s traditional Shia congregation halls.³⁵⁵ After the Saudi-funded³⁵⁶ *Al-Arab* news channel broadcast an interview with al-Wefaq senior member Khalil al-Marzooq,³⁵⁷ the government suspended³⁵⁸ and later closed the station permanently, alleging that it lacked “anti-terror standards.”³⁵⁹ Marzooq’s interview was the station’s only broadcast and the only instance of an opposition interview with an official broadcast media outlet in Bahrain. These examples make clear that state media remains sectarian in nature, and the Bahraini government continues to prosecute critical free speech largely along sectarian lines.

In addition to ranking its press as “not free,” Freedom House also labeled Bahrain’s Internet freedom as “not free” in 2015. The government extensively censors online content, and a variety of state organizations have the power to block online content without a court order. The IAA has blocked or shut down more than 1,000 websites, including personal pages and human rights websites.³⁶⁰ In 2014, the government stated that it censored non-governmental voices because they tend to broadcast extremist and incendiary content.³⁶¹ However, the pro-government paper, *Al-Watan*, publishes a column by Sawsan al-Shaer that regularly catalogues the supposed terrorist and subversive tendencies of Bahraini Shia. Her column associates Shia with Iran and she writes that there is a “lesson” to be learned about “Arab Shia who rushed to be carpets under the feet of Iranian clerics to enter their countries.”³⁶² The government has taken no action to curb sectarian incitement within her column or *al-Watan* in general.

Conversely, the country’s only meaningfully independent official newspaper, *Al-Wasat*, has faced years of government sanction. The government closed *Al-Wasat* several times, most recently in August 2015 for the content of an opinion-editorial of one of its journalists, accusing it of spreading hatred and insulting the king. In August 2015, *al-Wasat* was only able to resume publishing after

its board met with the government to establish “standards” under which the newspaper must publish.³⁶³

Further, in 2014 the government amended citizenship laws to grant the MOI authority to revoke the citizenship of people who fail in their “duty of loyalty” to the kingdom.³⁶⁴ The government has not only used this amendment to revoke the citizenship of those ostensibly involved in terrorism, but also to punish dissent speech in official media, online mediums, including social media, or in public and private meetings. In January 2015, the government revoked the citizenship of 72 people for “harming the interests of the kingdom” and “illegal acts,” including for some activities online. Although the government reported the revocation was a result of violent terrorist activities,³⁶⁵ and the list of names published did include five known ISIS members, the names also consisted of well-known journalists, doctors, political activists and a human rights activist. Among the named are blogger Ali Abdulemam, who was sentenced to 15 years in prison *in absentia* for running an online news forum; Dr. Ali Al-Dairi, founder of the online news site Bahrain Mirror; journalist Abbas Busafwan; university professor Masoud Jahromi; former opposition MP Shaikh Hasan Sultan; and Sayed Ahmed Alwadaei, the current Director of Advocacy at the Bahrain Institute of Rights and Democracy (BIRD).³⁶⁶ While this report makes no representations regarding the guilt or innocence of all 72 denaturalized persons, the denaturalization of these individuals with no open, fair trial proceedings is a severe due process violation under international law.³⁶⁷ As of writing, the Bahraini government has arbitrarily revoked the citizenship of more than 120 individuals since the amendments were passed in 2014.³⁶⁸

ADHRB, BIRD, and BCHR find this recommendation to be *not implemented*. Opposition and critical voices are still barred from expressing themselves freely in television broadcasts, radio broadcasts, print and online media. If anything, the government has passed laws to further criminalize dissent and violate Bahrainis’ universal rights to free speech. As mentioned in this report’s analysis of recommendation 1722h, more than 75 other individuals, including journalists, photographers, children, teachers, athletes, and other Bahrainis currently remain on trial for their free speech, not including the hundreds more who are imprisoned for their free assembly and political speech.³⁶⁹ In order to fully comply with this recommendation, Bahrain must repeal laws that violate Bahrainis’ right to free speech, allow the opposition to operate independent media outlets, and drop charges and release the journalists, activists, bloggers, and members of the opposition it has jailed for failing to adhere to the government narrative.

1724b.

To establish professional standards for the media and other forms of publications that contain an ethical code and an enforcement mechanism, designed to uphold ethical and professional standards in order to avoid incitement to hatred, violence and intolerance, without prejudice to internationally protected rights of freedom of expression.

STATUS: Partially Implemented

To address the media regulations required by this recommendation, the Bahraini Information Affairs Authority (IAA) cooperated with French media regulatory firm IMCA³⁷⁰ to define media standards and implement a media ethics code, among other initiatives undertaken in 2012. In 2012, the king issued Royal Decree No. 40 of 2012, formally establishing the Ministry of State for Information Affairs (MSIA) to house the IAA and further centralize the regulatory function of the state. In reality, the MSIA and the IAA work together to ensure that the Bahraini media operates under the strict censorship and direction of the Bahraini government.³⁷¹ The MSIA also published

a strategic media development plan (MRP) to encourage objectivity and professionalism in the media.³⁷² In October 2015, Information and Parliament Affairs Minister Isa bin Abdulrahman Al-Hammadi announced a “comprehensive training program” reportedly in consultation with the France-based Journalists’ Professional Training Centre (CFP);³⁷³ no details of the program have been publicly released as of writing.³⁷⁴

In 2012, the IAA and the Bahraini Journalists Association (BJA) introduced codes of ethics for audiovisual and print media. Similar to the MRP, the code was ostensibly established to “protect free expression” and to ensure that there is “no indulgence or remissness in the punishment of any person who may prejudice the dignity of a journalist or commit aggression against him or her on account of engaging in his or her work in accordance with the applicable laws and regulations.”³⁷⁵ Despite the publishing of this code, in 2014 the Committee to Protect Journalists (CPJ) found that Bahrain imprisoned six journalists and stripped the citizenship of at least four, with several others facing trial for their work.^{376,377} On 26 March 2014, the courts sentenced award-winning photographer Ahmed Humaidan to 10 years in prison on charges of participating in an attack on a police station. Witnesses claim that he was at the police station to photograph and document the attack, not to participate in it.³⁷⁸ In its 2015 report, Reporters without Borders (RSF) ranked Bahrain as the 163rd worst country, out of 180 countries, for press freedom.³⁷⁹

Further, the government largely overlooks the fact that government-aligned media outlets routinely stoke sectarian tensions, degrade Shia religious practices, and associate the group with Iran. Though the BJA code of ethics says that journalists must not report inaccurate information or information that will encourage hatred of a sect, Hisham al-Zayani wrote that an explosion in Sitra that killed two police officers is evidence of “systematic Shia terrorism” and urged the government to take action against “Shia terrorists” by possessing their homes, depriving them of all government services, and employing force against them.³⁸⁰

ADHRB, BIRD, and BCHR find this recommendation to be *partially implemented*. The government has engaged international regulatory firms to implement technical assistance programs and has released codes of conduct for the media. However, these codes of conduct and trainings have had no tangible effect of curbing hatred, intolerance, the spread of false information, or sectarianism in pro-government media outlets. Instead, the government has utilized these media laws and regulations to target and jail members of the independent media or members of the opposition.

1724c.

1724c. To undertake appropriate measures including legislative measures to prevent incitement to violence, hatred, sectarianism and other forms of incitement which lead to the violation of internationally protected human rights, irrespective of whether the source is public or private.

STATUS: Not Implemented

Though the government makes public statements distancing itself from incitement against any sect, pro-government media continues to produce highly partisan content that promotes sectarian language and incites hatred of the Shia sect on state media. In January 2014, the Cabinet formed the Committee to Combat Hatred and Sectarianism in order to address the problem of hate speech in Bahrain. Parliament also approved five recommendations to promote inclusiveness and the MIA proposed a review of the media to pinpoint areas of improvement.³⁸¹ These legislative steps have, however, had limited tangible results in curbing sectarianism. In 2015, USCIRF found

that “government and pro-government media continued to use inflammatory, sectarian rhetoric. New media laws that would curb anti-Shi’a incitement, as recommended in the BICI report, have not been passed.”³⁸²

In 2015, the Cabinet announced that it approved a new draft media law, lauded as expanding the scope of press freedom. However, the state news agency *BNA* reported the new draft media law established “standards of supervision” requiring media to “respect the kingdom’s sovereignty, system of governance, icons, institutions and statutory bodies. They are also prevented from disseminating or publishing any information, news or any other materials that may undermine the kingdom’s relations with other countries. They should also be committed to respecting religions, not compromising national and religious identity and not demeaning national unity and social cohesion.”³⁸³ This law, if passed, would further limit journalists’ ability to report on issues that run contrary to the government’s narrative of events.

Though the government claims to support curbing sectarian hatred in the public domain, it persecutes prominent Shia figures working to advance that very cause. In August 2015, Bahraini security forces arrested Sheikh Maytham al-Salman at the airport when he returned from a conference on countering hatred. Salman is an internationally known spokesperson for anti-extremism and anti-violence.³⁸⁴ He stands accused of spreading hatred against the king and spreading false news.³⁸⁵ The United States International Commission on Religious Freedom reported in 2014 that the government expelled Shia cleric Hussain Mirza Abdelbaqi Najati from Bahrain and revoked his citizenship.³⁸⁶ The UN Special Rapporteur on Freedom of Religion or Belief found that Bahrain’s decision to remove him was based on “religiously motivated discrimination.”³⁸⁷

ADHRB, BIRD, and BCHR find this recommendation to be *not implemented*. The government uses the legislative measures introduced to ostensibly curb hatred, sectarianism, and incitement to violence in the public domain. In practice, however, the government employs these laws to censor and imprison primarily Shia civil society, human rights activists, and opposition leaders who discuss the effects of sectarianism while ignoring sectarian speech in state and state-aligned media. The new media draft law recently approved by Bahrain’s Cabinet is also worrisome, as it would further legislate the criminalization of speech and expression that does not toe the government’s narrative.

1725. The Commission makes the following recommendations with respect to *better understanding and appreciation of human rights including respect for religious and ethnic diversities.*

1725a. *To develop educational programs at the primary, secondary, high school and university levels to promote religious, political and other forms of tolerance, as well as to promote human rights and the rule of law.*

STATUS: Partially Implemented

The government claims to be implementing recommendation 1725a by creating a dedicated Human Rights Committee within the Ministry of Education and revising state curriculum.³⁸⁸ The Ministry of Education signed a memorandum of understanding with UNESCO’s International

Bureau of Education (IBE) in 2012 whereby the IBE would provide the government with assistance in developing new curriculum and training that promotes human rights and intercultural understanding.³⁸⁹ At both the secondary and university level, the government reports that it has introduced compulsory subjects on the promotion of human rights, rule of law, and tolerance. The University of Bahrain introduced two required courses on human rights principles and the modern history of Bahrain.³⁹⁰

The government's claims cannot be fully substantiated. The government has not provided public details on the required human rights courses for first year students and 3rd year law students.³⁹¹ UNESCO's International Bureau of Education only advertises two past events it has undertaken with the government on its website: workshops focusing on curriculum renewal held in 2012 and 2013.³⁹² BCHR cannot independently verify whether the government has made substantial revisions to its curriculum, though the government states that developing new literature on citizenship, coexistence, and human rights will be an ongoing process through 2017.³⁹³

More importantly, reforms undertaken by the government have only focused on one aspect of the recommendation. The government has not made reference to any efforts to promote religious or political tolerance in its education system. State-sponsored Islamic studies curricula center on the Maliki school of Sunni jurisprudence, and do not include the Shia Jafaari tradition.³⁹⁴ BCHR has found that the textbook for the newly implemented course on the "Modern History of Bahrain" (HIST122) focuses mainly on the history of the Al Khalifa conquest of Bahrain, with a short introduction about the ancient history of Bahrain and the era before the royal family's arrival. However, neither the main text nor the textbook's introduction includes information on the history of the Shia or ethnic Baharna who lived on the island prior to the 1783 conquest.³⁹⁵

ADHRB, BIRD, and BCHR find this recommendation to be *partially implemented*. The government has not addressed all aspects of this recommendation. While its programming with the IBE is a positive step forward, it is difficult to evaluate the efficacy of such partnerships due to limited publicly available information. Further, the implementation of mandatory courses on human rights and the history of Bahrain address the recommendation in theory, the exclusion of Shia history to singularly focus on the royal family's role in Bahraini history in educational texts contributes to continued religious polarization and further politicizes Bahrain's educational system. It remains to be seen whether the government will remedy these issues as it reportedly continues to implement this recommendation through 2017.

1725b

In general, the Commission recommends to the government the development of a national reconciliation program that addresses the grievances of groups which are, or perceive themselves, to be deprived of equal political, social and economic rights and benefits across all segments of Bahrain's population.

STATUS: Partially implemented

The government points to the creation of the National Social and Economic Reconciliation Plan as its crowning achievement in the pursuit of national reconciliation. The main social element of the plan comes in the form of the Wihda Wahda (One Unity) campaign, which aims to communicate the idea that "the people of Bahrain come together to call for unity."³⁹⁶ To accompany the campaign, the government earmarked USD \$500,000 for NGOs to "provide real and tangible value to the development of society."³⁹⁷ The government additionally engaged in several economic campaigns,

resulting in salary increases for 35,000 people.³⁹⁸ As evidence of religious reconciliation, the government cites the Supreme Council for Islamic Affairs' statement denouncing violence.³⁹⁹ More recently, it has touted a range of cultural and educational activities designed to foster social unity, highlighting a vast number of state-sponsored youth programs that aim to bring together young Bahrainis of different backgrounds.⁴⁰⁰ Further, the government announced plans to invest USD \$53 million in constructing additional youth centers,⁴⁰¹ while the Ministry of Social Development has launched several other initiatives aimed at promoting coexistence.⁴⁰²

In the political realm, however, the government has made little real progress toward reconciliation. The government claims to have instituted three national dialogues, but condemns the opposition for making unrealistic demands and trying to "keep the crisis alive" throughout the process.⁴⁰³ These national dialogues have lacked inclusivity and depth. For example, when the first national dialogue was instituted in 2011, the government allocated only 20 of 320 seats for the three opposition parties who had won 64 percent of votes in 2010's parliamentary election.⁴⁰⁴⁴⁰⁵ In February 2013, the government began a second national dialogue. Over the course of this dialogue, the government claimed that amendments passed by the king in 2012⁴⁰⁶ had satisfactorily met the opposition's calls for reform. However, many of these amendments ran counter to the opposition's positions.⁴⁰⁷ In September 2013, the government arrested al-Wefaq assistant secretary general and former deputy speaker of parliament, Khalil al-Marzooq for allegedly "inciting and advocating terrorism."⁴⁰⁸ In response, the National Democratic Opposition boycotted the dialogue. Neither of these dialogues achieved meaningful progress on substantive issues.⁴⁰⁹

After a series of back-and-forth meetings and opposition communiqués to the government in which the opposition sought to discuss seven critical points to resolve the country's political crisis in 2014,⁴¹⁰ the Crown Prince Salman published the government's five-step plan to move forward with national reconciliation.⁴¹¹ The steps included:

- Redefining electoral districts to ensure greater representation and taking measures to enhance electoral oversight;
- Revising the appointment process for Shura Council members and enhancing the ability of parliament to question the actions of ministers;
- Granting new rights of approval to the parliament related to cabinet appointments, including the right to seek amendments of, or reject, the government's annual plan;
- Committing to further judicial reforms, including strengthening the constitutional independence of the judiciary and entrenching standards in line with international best practices; and
- Recognizing the importance of national security, rejecting violence, and binding security forces to new codes of conduct.

The opposition reacted constructively to these proposals, requesting further private negotiations on these five issues. However, the government responded that the opposition would need to participate in the election in order to do so.⁴¹²

In November of that year, the opposition boycotted the election.⁴¹³ Since then, the government has not taken meaningful steps to address Crown Prince Salman's plan. Data on the 2014 elections demonstrates that Bahrain has not significantly altered electoral districts in a way that ensures greater and more equitable representation.⁴¹⁴ When the National Democratic Opposition chose to boycott the November 2014 elections, it specifically cited its dissatisfaction with the government's

most recent electoral reforms.⁴¹⁵ In 2014, the king abolished the central governorate, increasing average district size and eliminating the largest districts in Bahrain.⁴¹⁶ However, nine of twelve Shia-dominated districts still exceeded the national average district size, while only one of ten Sunni-dominated districts exceeded the average size.⁴¹⁷ As a result, the votes of Shia citizens continue to count for far less than those of Sunnis. The opposition's analysis of the 2014 election additionally showed that pro-government constituencies maintain 22 members of parliament, while non-government constituencies (largely Shia) have only 14, further contributing to Shia underrepresentation in parliament.⁴¹⁸ A study by Electoral Integrity Project at Harvard University found that Bahrain's parliamentary elections in November 2014 were ranked as second to last of the worst elections in 2014 for these reasons.⁴¹⁹

In terms of legislative reforms, the king continues to choose all members of the Shura Council. In 2013, Shia members occupied only 17/40 seats, despite representing the majority of the country's population.⁴²⁰ The king additionally continues to unilaterally issue a royal decrees, at times reshuffling the cabinet and merging certain ministries and departments without parliamentary input.⁴²¹

Perhaps more importantly, the government continues to harass and arrest opposition figures. With major opposition figures in prison, the government cannot engage in a truly representative national dialogue. Since 2013, the government has actively persecuted members of al-Wefaq and other opposition societies. Amendments to the Law on Political Associations enabled the Ministry of Justice to file a lawsuit against al-Wefaq in 2014, and the court ordered its suspension for three months in late October 2014.⁴²² The same month, authorities charged senior al-Wefaq member Sayed Jamil Kadhemi for violating the freedom of elections after he tweeted about suspected bribery in the 2014 elections. Kadhemi received a six-month sentence in January 2015.⁴²³ In December 2014, the government arrested al-Wefaq Secretary General Sheikh Ali Salman on charges of inciting to overthrow the ruling system by force, insulting the MOI, and inciting hatred.⁴²⁴ In the Spring of 2015, the government arrested the secretary general and deputy secretary general⁴²⁵ of the Democratic Unity Gathering Society (al-Wahdawi) political society⁴²⁶ for "spreading rumors during a time of war" for tweets critical of Bahrain's participation in the Saudi-led coalition in the war in Yemen.⁴²⁷ Following the arrest, authorities opened an investigation into the society and filed a lawsuit to dissolve it.⁴²⁸ In July, authorities detained senior opposition member Majeed Milad after he urged the opposition to continue peaceful protests at a private gathering. He faces charges that could result in over two years in prison.⁴²⁹ On 12 July, just weeks after the government released Ebrahim Sharif from prison after he served nearly five years for his role in the 2011 protests, authorities again arrested him for calling for reform in a speech. He faces up to ten years in prison if convicted.⁴³⁰

ADHRB, BIRD, and BCHR find this recommendation to be *not implemented*. The ongoing arrests and rearrests of opposition activists demonstrate that Bahrain has not made serious moves toward establishing an environment of national reconciliation. National reconciliation cannot be realized through surface-level economic and social initiatives; it must rather involve a transformation to a more representative political system and the implementation of meaningful reforms that protect all citizens' rights to free expression. Continuing to silence opposition voices prevents any truly representative, substantive national dialogue from taking place; and without dialogue, there cannot be reconciliation.

Conclusion

The Bahraini government's commission and acceptance of the Bahrain Independent Commission of Inquiry (BICI) and its findings represented a positive step toward reconciliation and moving forward from the crisis of 2011. The international community has continually pointed to the BICI recommendations as providing a roadmap to reform and reconciliation in Bahrain. This report has shown, however, that much work remains to be done four years later. Despite government claims to the contrary, our analysis shows that the Government of Bahrain has only fully implemented two recommendations, partially implementing 16 and fully ignoring the remaining eight. Perhaps more concerning, the eight recommendations that have not been implemented are those that form the basis of the population's ongoing grievances with the government.

On many of these issues, such as the criminalization of free speech, the ongoing use of torture, and the lack of reform in the judiciary and security forces, the government has not only refrained from fully implementing the commission's recommendations, but it has also taken action to directly impede the implementation of these recommendations. More than 3000 political prisoners remain in jail, including the majority of the political opposition's leadership, security forces continue to act with impunity, and the majority of the country remains politically disenfranchised. The country now also faces an economic crisis, largely due to government largesse and inaction on reform.

Over the last four years, Bahrain has continued to declare that its work on the BICI has been completed and it has achieved a sufficient level of reform to be welcomed back into the international community. The international community, for its part, has voiced concern over the lack of progress in Bahrain, but continually insists that Bahrain should be recognized for some steps toward reform and reconciliation.

The findings of this report shows, however, that Bahrain's steps toward reform and reconciliation have been piecemeal and cosmetic at best. As BICI Chairman Cherif Bassiouni commented in 2014, "these recommendations have been implemented on a piecemeal basis...its cumulative impact is not felt." The international community cannot continue to be silent or rely on rhetoric; the United States and the United Kingdom, in particular, must use its considerable leverage to push for tangible change on the ground, rather than continuing to settle for limited prisoner releases and the establishment of hollow institutions.

The value of the BICI will be lost if these recommendations are not implemented with urgency and full commitment towards change in the Bahraini governance, judicial, and human rights practices. Bahrain's international allies must not only push the government to fully implement each recommendation, but also push the government to do so with complete transparency and the full participation of independent civil society and the peaceful opposition. The situation has continued to deteriorate over the last four years, and will only continue to do so until there is meaningful change in the government's attitude towards reform and dialogue with its people. Without the release of political prisoners, the end of torture, and a real dialogue focused on substantive issues with the peaceful opposition, the opportunity represented by the BICI will vanish, as will Bahrain's prospects for long-term stability and reform.

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