



**Submission to the Committee Against Torture Ahead of its Consideration of Bahrain's State Party  
Report**

## **Victims Suffer, Perpetrators Promoted: No Accountability for Torture in Bahrain**

**60<sup>th</sup> Session of the Committee Against Torture  
18 April – 12 May 2017**

**Submitted by the Bahrain Institute for Rights and Democracy  
On 15 March 2017**

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## Introduction

1. This submission to the Committee Against Torture ahead of its examination of the Third Periodic Report of Bahrain has been prepared by the Bahrain Institute for Rights and Democracy (BIRD).
2. BIRD is a non-profit organisation established in 2013. Our mission is to promote human rights and effective accountability in Bahrain. We focus on advocacy, education and raising awareness for human rights in Bahrain. BIRD works by engaging with victims of human rights abuse in Bahrain to provide them recourse to aid and justice. We also engage with key international actors and governments to advocate for policies that support human rights in Bahrain. BIRD works alongside NGO coalitions, international bodies, members of the British-Bahraini community, Bahraini activists, and the UK public to raise awareness of the human rights situation in Bahrain.
3. This submission focuses on the four mechanisms for accountability in Bahrain, other accountability programmes, training programmes, the freedom of expression, human rights defenders, and the Special Rapporteur on Torture’s attempts to visit Bahrain. It particularly responds to paragraphs 1-6, 11, 13-15, 17 and 19 of the 2015 List of Issues Prior to Reporting (CAT/C/BHR/QPR/2) and Bahrain’s response to the respective issues in its State Party Report (CAT/C/BHR/3).
4. Our submission finds that torture and mistreatment continues to occur in Bahrain, with a case as recent as March 2017; that there has not been any effective accountability measures implemented;

that perpetrators have been acquitted and promoted, not held accountable; that police training programmes have not worked; that human rights defenders continue to operate under significant risk; and that the Special Rapporteur on torture has been unjustifiably barred from visiting Bahrain on repeated occasions.

## Summary

### **Section 1: Institutions and Mechanisms**

- Bahrain's Ombudsman Office of the Ministry of Interior, mandated to investigate misconduct by Ministry of Interior staff, is not sufficiently independent from the Government of Bahrain and fails to challenge the culture of impunity in Bahrain's security forces (paragraphs 5-13; table 1). Its investigations into the case of Mohammad Ramadan violated the Istanbul Protocol (paragraphs 10-11, 47). Three Special Rapporteurs raised serious doubts over the Ombudsman's independence, professionalism and thoroughness (paragraph 13).
- The Special Investigations Unit, mandated to investigate allegations of torture with a view towards criminal prosecution, is not sufficiently independent from the Government of Bahrain's Public Prosecution Office and Attorney General (paragraphs 14-17). The cases of Nazeeha Saeed and Ali Al-Tajer shows a pattern of Istanbul Protocol violations in SIU investigations (paragraphs 17-20, 47).
- Bahrain's Attorney General, Ali Fadl Albuainain, is alleged of being complicit in torture by wilfully ignoring allegations of torture in the prosecution of victims (paragraph 15).
- The National Institute for Human Rights is not sufficiently independent from the Government of Bahrain, with membership closely tied to the state (paragraphs 21-27). Its complaint procedure has violated the Istanbul Protocol (paragraphs 28-30, 47; table 2).
- The Prisoners and Detainees Rights Commission, Bahrain's prison inspector, is not sufficiently independent from the Ministry of Interior, which runs the prisons, nor from the Public Prosecution or judiciary (paragraphs 31-39; table 3). It is particularly alarming that the body includes among its members public prosecutors involved in unfair trials, including of the Bahrain 13 and medical professionals (paragraphs 35-38). The inspectorate's inspections and reporting standards are very low, and in some aspects negligent, including its inspection of Jau Prison, where systemic acts of torture in 2015 have never been investigated (paragraphs 40-46; table 4).
- The United Kingdom has provided support to all the above mechanisms, and to Bahrain's judiciary and police (paragraphs 48-50). The Special Rapporteur on torture has criticised the impact of the UK's involvement, and in 2016 the UK was accused of "whitewashing" Bahraini abuses at the UN Human Rights Council (paragraphs 50-51).

### **Section 2: Alleged Perpetrators Promoted**

- No senior officials have been held accountable for torture since 2011 (paragraph 52). One senior officer alleged to have tortured medical professionals was promoted following his acquittal on related charges (paragraph 53). Mansour Al-Mansour, the military judge who oversaw the National Security First Instance Court in 2011, which systemically denied defendants the right to a fair trial, has been promoted to investigate international humanitarian law violations in Yemen on behalf of the Saudi Coalition (paragraph 53-58).

### **Section 3: Excessive Use of Force**

- Security Forces training programmes have not resulted in safer policing, with excessive use of force continuing to be employed against protesters, and denial of basic human rights of detainees continue to be documented. Mustafa Hamdan, an 18-year-old protester, was left comatose in January 2017 as a result of security forces' excessive use of force (paragraphs 59-60). The cases of Nazar Sayed Namaa Alwadaei and Hajar Mansoor Hassan also evidence continued use of torture and mistreatment of detainees (paragraph 87).

#### **Section 4: Freedom of Expression Constrained**

- Freedom of expression is tightly constrained in Bahraini law, violating article 19 of the International Covenant on Civil and Political Rights (paragraphs 61-64).
- Human Rights Defenders are at sustained risk in Bahrain (paragraph 65, 88). Eleven of the Bahrain 13, including Abdulhadi Al-Khawaja, whom the Working Group on Arbitrary Detention released a decision on, remain in prison for their freedom of expression, with two having completed their sentences (paragraphs 66-71; table 5).
- Two of the Bahrain 13 allege that a son of Bahrain's King, Prince Nasser bin Hamad Al Khalifa, tortured them; his diplomatic immunity in the United Kingdom was quashed in 2014 (paragraph 70).
- Ebrahim Sharif, released in 2015, has been subjected to repeated reprisals for exercising his right to freedom of expression (paragraph 72).
- Naji Fateel, board member of the Bahrain Youth Society for Human Rights, was subjected to torture in 2013 and 2015. He was sentenced to a total of 30 years in prison in two trials which breached his right to a fair trial (paragraphs 73-77).
- Nabeel Rajab, president of the Bahrain Center for Human Rights, faces up to 18 years in prison on charges related solely to his freedom of expression. One of his charges relate to his exposure of torture in Bahrain's Jau Prison (paragraphs 78-81; table 6).
- Zainab Al-Khawaja, daughter of Abdulhadi Al-Khawaja, has been subject to repeated reprisals for her exercise of her freedom of expression, and was forced to flee Bahrain under threat of indefinite detention in June 2016 (paragraphs 82-84).
- The family of Sayed Ahmed Alwadaei, Director of Advocacy of the Bahrain Institute for Rights and Democracy, has faced repeated reprisals for his human rights work. In March 2017, Alwadaei's brother-in-law, Nazar Sayd Namaa Alwadaei, and mother-in-law, Hajar Mansoor Hassan, were arbitrarily arrested; they are currently both remanded in custody for investigation under the anti-terrorism law. Nazar Alwadaei told his mother that he had been subjected to torture and forced to name her. Hajar was injured in the CID during interrogation and required hospitalisation. She alleges she was forced to falsely confess to charges against her. Alwadaei's wife Duaa Alwadaei was also the subject of reprisals in 2016, and Sayed Alwadaei was deprived of his nationality in January 2016 (paragraphs 85-87).

#### **Section 5: Special Rapporteur on Torture Denied Access**

- The UN Special Rapporteur on torture has been repeatedly denied visits to Bahrain, in part because of alleged progress with regards to the above-named four institutions. The continued use of torture in Bahrain and deepening human rights crisis render great importance for a visit by the UN Special Rapporteur on torture at this time (paragraphs 89-92).

## Section 1: Institutions and Mechanisms

### **The Ombudsman**

5. The Ombudsman Office of the Ministry of Interior ("Ombudsman") was established in 2012. The Ombudsman is mandated to investigate misconduct by Ministry of Interior staff, which include police officers and prison staff. Complaints may be submitted by victims, or on their behalf by family, attorneys or NGOs.
6. Both in law and in practice, the Ombudsman lacks independence and cannot effectively execute its mandate. Decree 27/2012 establishes the Ombudsman, and some of its provisions were amended in Decree 35/2013.

7. Decree 27/2012 (see Table 1) grants the Minister of Interior significant powers over the appointment and dismissal of the Ombudsman. Under Article 16, the Ombudsman’s budget is derived from the Ministry of Interior’s budget, though the law states that the Ombudsman has full financial control of this budget. The Minister of Interior effectively has control over the appointment and dismissal of the Ombudsman, his deputy, staff, (articles 2(1), 2(2), 7) and allocates the office’s budget.

<b>Table 1: Problematic Articles of the Decree 27/2012<sup>1</sup></b>	
Article 2(1)	“the head of the Ombudsman office and his deputy ... shall be appointed by decree, upon the advice of the Minister of Interior and the approval of the Prime Minister.”
Article 2(2)	“the Ombudsman’s Office staff shall be appointed by the Head of the Ombudsman in accordance with procedures set out by him/her and agreed upon by the Minister of Interior.”
Article 7	“the Chief Ombudsman or his deputy may be relieved of their duties by decree if they breach the mission of the office, upon the advice of the Minister of Interior and the approval the Prime Minister.”
Article 16	“The Ombudsman office’s budget will be allocated as an item of the Ministry of Interior budget and be enough to cover the expenses of the said office, and the Chief Ombudsman has lone authority in administering this budget.”

8. This appointment and budgetary procedures form a direct dependency on the Government of Bahrain and in particular the Ministry of Interior. The Ombudsman’s enabling legislation grants the Minister of Interior, whose ministry the Ombudsman is meant to investigate, far more than an advisory role, vesting him with great influence over the appointment of the Ombudsman and his deputies.
9. The Ombudsman has a Memorandum of Understanding (MOU) with the Special Investigations Unit (SIU), the mandate of which overlaps with the Ombudsman (see paragraphs 14-20). Under the MOU, the Ombudsman must hand over any cases in which abuses are verified to the SIU. By handing over investigations to the SIU, which is not independent and whose own investigations violate the Istanbul Protocol (see paragraphs 17, 19-20) This effectively diminishes any powers of enforcement the Ombudsman may have.
10. The Ombudsman acted negligently in failing to investigate a torture complaint submitted on behalf of Mohammad Ramadan by NGO Americans for Democracy & Human Rights in Bahrain (ADHRB). The complaint, submitted in 2014 during Ramadan’s pre-trial detention, was never investigated until 2016, two years later, as a result of NGO efforts raising the case with the Ombudsman and the UK Foreign & Commonwealth Office, who train them. Other complaints regarding Ramadan’s detention but not related to his allegations of torture, were investigated. In the intervening years, Ramadan was sentenced to death based on testimony he was coerced to give under torture and exhausted all legal appeals. The Ombudsman’s investigations failed to investigate in a prompt manner, and their new investigation two years late renders it extremely difficult to gather physical evidence, violating the principles of prompt investigations and evidence gathering as set out in paragraphs 79 and 102 of the Istanbul Protocol (Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). A second investigation was subsequently opened in the summer of 2016; this ended in late 2016, and the case was transferred to the SIU in accordance with the two institutions’ MOU. Mohammad Ramadan’s lawyer has not been granted any information on the investigation, in violation of

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<sup>1</sup> These provisions were not amended by Decree 35/2013, which amended a number of articles within Decree 27/2012.

paragraphs 78(a) and 81 of the Istanbul Protocol, which provide that investigations should clarify facts and establish and acknowledge individual and state responsibility for victims, and that victims of torture and their legal representatives be informed of and have access to all information relevant to the investigation.

11. The Ombudsman has failed to ensure confidentiality for complainants. The Ministry of Interior, who may obtain the contents of complaints due to being an involved party in all cases, has been able to use this information as it wishes. In 2016 and 2017, the Bahrain Mission in Brussels used an Ombudsman case file, seen by BIRD, to hinder the progress of two European Parliament urgency resolutions regarding the death sentence of Mohammad Ramadan.<sup>2</sup> The Ombudsman case file was used to falsely claim that Ramadan has not been subjected to torture nor made complaints to that effect. BIRD understands that this information was circulated to the Ministry of Foreign Affairs by the Ministry of Interior, and that the Ombudsman did not challenge this misuse of a confidential complaint. The incident reflects the continued ability of the MOI to act with impunity, even with the improper use of confidential victim information, and the Ombudsman's inability to act independently from the government to sanction such actions. This violates paragraphs 87 and 91 of the Istanbul Protocol, which provides that investigators should safeguard victims.
12. The Ombudsman's third annual report cites an increasing volume of complaints.<sup>3</sup> Yet, the number of complaints alone does not indicate success. The Ombudsman states that *"every allegation of torture brought to the Ombudsman Office is investigated. This always has and always will be the case."*<sup>4</sup> However, the case of Mohammad Ramadan shows this not to be true. Notably absent is any success in challenging the culture of impunity as recognised by the Bahrain Independent Commission of Inquiry (BICI)<sup>5</sup> and directly addressing torture in a substantive fashion.
13. On 15 August 2016, the Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the independence of judges and lawyers, and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment called for an investigation into the torture and ill-treatment of Mohammad Ramadan in line with the Istanbul Protocol, and expressed *"concern at the entrusting of this important investigation to the same State institution, the Ombudsman's Office, whose earlier investigations raised serious doubts regarding their independence, professionalism and thoroughness."*<sup>6</sup>

### Special Investigations Unit

14. The SIU was established in 2012. It is mandated to investigate allegations of torture and ill-treatment and recommend cases for prosecution where violations are sufficiently evidenced. Its mandate thus overlaps with the Ombudsman. The SIU is not independent from the Public Prosecution, a branch of the judicial system involved in unfair trials and the use of confessions

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<sup>2</sup> The first, "Bahrain: the case of Mohammad Ramadan", was passed by the European Parliament in February 2016. The second, "Executions in Kuwait and Bahrain", was passed by the European Parliament in February 2017.

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0044&language=EN&ring=B8-2016-0194> and <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0044&language=EN&ring=B8-2017-0165>.

<sup>3</sup> Ombudsman, *Third Annual Report 2015-2016*, 2016, p. 5, <http://www.ombudsman.bh/mcms-store/pdf/862-Ombudsman%20Annual%20Report%20E%202015-2016%20L.R-120350.pdf>.

<sup>4</sup> Ibid, p. 7.

<sup>5</sup> Bahrain Independent Commission of Inquiry, *Report of the Bahrain Independent Commission of Inquiry*, 2011, para. 1698, <http://www.bici.org.bh/BICReportEN.pdf>.

<sup>6</sup> AL BHR 6/2016, 15 August 2016, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=3313>.

coerced under conditions of torture as evidence. Its investigations fail to be in line with the Istanbul Protocol.

15. The SIU was established by Attorney General Decision 8/2012. The SIU is insufficiently independent: in line with Article 1 of Decision 8/2012, the SIU is staffed by Public Prosecutors, administratively falls under the Attorney General's purview.<sup>7</sup> The Attorney General, Ali Fadl Albuainain, is himself an individual alleged of being complicit in torture by ignoring allegations in the detention and prosecution of a torture victim.<sup>8</sup> Public prosecutors are also directly involved in unfair trials of torture victims (see paragraphs 35-38).
16. Article 3 of Decision 8/2012 states: "*The SI Unit will, at all times, undertake its work in accordance with international standards, including most importantly the Istanbul Principles on investigating and reporting on torture.*" In practice, the SIU fails to uphold the Istanbul Protocol.
17. The SIU is located in the same building as the Public Prosecution Office. Torture victims and their lawyers told NGOs that Public Prosecutors have threatened them in the past when they attempted to recant confessions made under duress. Others testify to police threatening detainees summoned by the SIU and being treated in an insulting or humiliating manner. Amnesty International recorded the case of Nazeera Saeed, a journalist and victim of torture in 2011, who complained to the SIU. She told Amnesty International that in November 2014, the SIU took her into the same room she was tortured in and asked her to identify the policewoman who had tortured her. She told Amnesty International the police there laughed at her in a manner to intimidate her. Saeed identified one of the policewomen who had tortured her; but despite this no prosecution of police officers for her alleged torture occurred.<sup>9</sup> The SIU violated paragraph 87, 88 and 91 of the Istanbul Protocol which provide for safeguards for victims. In particular, paragraph 88 of the Istanbul Protocol provides that victims should be protected from intimidation.
18. Ali Al-Tajer is a Bahraini citizen and brother of human rights lawyer Mohammad Al-Tajer. Security forces arrested Ali Al-Tajer from his home without presenting an arrest warrant on 5 November 2015. Ali Al-Tajer was held incommunicado for 25 days.
19. During this period, Mohammad Al-Tajer received a call from his brother Ali, which he knew to be from the National Security Agency (NSA). As the NSA did not have law enforcement powers, Mohammad Al-Tajer submitted a complaint to the Special Investigations Unit requesting investigation into Ali's detention there. Within days, Mohammad Al-Tajer received a summons to the NSA, where an officer held the original hand-written complaint. The officer asked him why he had complained against them. In passing the complaint to the NSA, the SIU violated paragraphs 80, 87, 88, 91 of the Istanbul Protocol, which state that safeguards must be in place to protect victims and their families throughout investigations to protect them from violence, threats of violence and intimidation.

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<sup>7</sup> Attorney General Decision 8/2012, <http://www.biciunit.bh/en/decision-of-creating-SIU.html/>

<sup>8</sup> In 2015, criminal complaints were submitted by torture victim Jafar Al-Hasabi in Switzerland with the support of BIRD, REDRESS and the European Center for Constitutional and Human Rights (ECCHR) and in Ireland with the support of BIRD, ECCHR, REDRESS and Global Legal Action Network. The attorney general was accused of authorising Al-Hasabi's detention while ignoring concerns expressed by human rights groups and UN Special Rapporteurs that he was being tortured. See BIRD, *Prosecution of Bahrain Attorney General Sought in Irish Torture Complaint*, 13 September 2016, and BIRD, *Torture Allegations: Criminal Complaint Filed in Switzerland Against Bahraini Attorney General*, 15 September 2015, <http://birdbh.org/2016/09/prosecution-of-bahrain-attorney-general-sought-in-irish-torture-complaint/> and <http://birdbh.org/2015/09/torture-allegations-criminal-complaint-filed-in-switzerland-against-bahraini-attorney-general/>.

<sup>9</sup> Amnesty International, *Bahrain: Behind the Rhetoric: Human Rights Abuses in Bahrain Continue Unabated*, p. 65, <https://www.amnesty.org/en/documents/mde11/1396/2015/en/>.

20. In both above cases, the SIU also failed to operate in line with paragraph 93 of the Istanbul Protocol, which states: “*the possibility of further endangering the safety of the detainee is very real and must be taken into account during every evaluation.*”

### National Institute for Human Rights

21. The NIHR was established by royal decree in 2009. Although it was empowered after 2011, allowing it to take greater actions on rights issues, it fails to meet the essential criteria set by the Paris Principles, compliance to which is a key component of receiving international accreditation. Whereas the Paris Principles criteria require NIHRs to be competent and autonomous from the state, Bahrain’s NIHR is not autonomous from government and its competence as a body is questionable.<sup>10</sup> The NIHR’s membership is closely tied to the state. Its complaints committee has violated the Istanbul Protocol (see paragraph 30). It has also acted in the interest of defending the state over allegations of human rights violations, including extrajudicial killing, rather than in the interest of victims of rights violations.
22. The NIHR’s membership ties it to the state. Six of its ten commissioners, including its current chairman, hold governmental positions. Chairman Abdulaziz Abul and Head of Civil and Political Rights Committee Jameela Ali Salman are both members of the royally-appointed Shura Council, a legislative body which in March 2017 passed a constitutional amendment allowing military courts to try civilians. This amendment raises considerable risks of violating the right to a fair trial, as protected under Article 14 of the International Covenant on Civil and Political Rights.<sup>11</sup> Abdulaziz Abul said in the Shura Council that the law came “at the right time”, while Jameela Ali Salman defended the state as having adequate safeguards for defendants.<sup>12</sup> (see paragraphs 53-55 on military courts in 2011).
23. Another NIHR commissioner is an advisor to the extra-national GCC Supreme Council, and one commissioner is also a member of Bahrain’s Supreme Council for Youth and Sport,<sup>13</sup> a government body headed by Prince Nasser bin Hamad Al Khalifa. Sheikh Mohammad Habib Al Miqdad and Sheikh Mirza Al-Mahroos, two of the Bahrain 13 (see paragraph 66-72), whose cases are referred to in paragraph 3 of the List of Issues Prior to Reporting (CAT/C/BHR/QPR/2) both alleged in court that Prince Nasser bin Hamad was directly involved in their mistreatment amounting to torture in 2011 (see paragraph 70).<sup>14</sup> These allegations have never been subject to investigation in Bahrain.
24. Two NIHR commissioners are members of parliament. One of them, Khaled Al Shaer, has publicly stated that there are no prisoners of conscience in Bahrain.<sup>15</sup> Such a statement ignores cases including Abdulhadi Al-Khawaja (see paragraphs 67-69), Naji Fateel (see paragraphs 73-77) and Nabeel Rajab (see paragraphs 78-81), who have all faced imprisonment for their human rights activities. In April 2016, he went a step further and endorsed the death penalty as a deterrent to the exercise of free speech. He tweeted in Arabic: “*He who accuses the King, God save him, in*

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<sup>10</sup> BIRD and ADHRB, *Subservient and Unaccountable: A Shadow Report on the Bahraini Ministry of the Interior’s Ombudsman and Bahrain National Institute for Human Rights*, 2014, p. 17

<sup>11</sup> See more at BIRD, *Bahrain: Constitutional Amendment Frees Military Courts to Try Civilians*, 21 February 2017, <http://birdbh.org/2017/02/bahrain-constitutional-amendment-frees-military-courts-to-try-civilians/>.

<sup>12</sup> Alwasat Newspaper, Issue 5294, 6 March 2017, pp. 8-9.

<sup>13</sup> National Institute for Human Rights, *Commissioners*, <http://www.nihr.org.bh/EN/Organisation/CommissionerMain>.

<sup>14</sup> Their testimonies are recorded in *Ifadat Qadet Thawrat 14 Febrayar wa-l ma’arada al-bahrayniya amam al-mahakim al-khalifa*, Al Wafa Islamic Party, 2013.

<sup>15</sup> Al Wasat, *النائب خالد الشاعر: لا يوجد في البحرين سجين رأي.. ونرحب بالتعاون الحقوقي*, 22 May 2015, <http://www.alwasatnews.com/news/993062.html>.



*participating in crimes against the state (veiled words), I think that he has committed high treason and deserves the death sentence, shortly he would deny [his statements].”<sup>16</sup>*

25. As well as the character and government roles of commissioners, NIHR statements also damages the institution’s credibility. In November 2015, the NIHR criticized HRW’s contemporary report,<sup>17</sup> which documented continuous torture in Bahrain.<sup>18</sup>
26. In January 2016, the NIHR published a statement in approval of the executions of Ali Al-Singace, Abbas Al-Samea and Sami Mushaima, stating that the cases were conducted in line with international standards.<sup>19</sup> The Special Rapporteur on extrajudicial, summary or arbitrary executions described the executions as “extrajudicial killings”<sup>20</sup> and the Office of the High Commissioner for Human Rights condemned the execution.<sup>21</sup> The NIHR’s statement, wholly out-of-step with the findings of UN human rights procedures, aimed to exonerate the state from wrongdoing, rather than support the victims of the execution.
27. The questionable membership of the NIHR, their support for human rights violations and lack of independence from the state, and the NIHR’s criticisms of international human rights organisations’ findings place it at odds with its intended purpose, placing it at odds with Paris Principles B(1), B(3) and C(c).<sup>22</sup> In 2016, the NIHR was awarded B-status by the Global Alliance of National Human Rights Institutions Sub-Committee on Accreditation (SCA) in May 2016.<sup>23</sup> The SCA found that government representatives in the decision-making body of the NIHR “has the potential to impact the real and perceived independence of the NHRI.”<sup>24</sup>

#### Complaints

28. In 2014, a new decree empowered the NIHR to consider complaints. A new Complaints, Monitoring and Follow-Up Committee was established, with NIHR commissioner Maria Khoury as its head.
29. This complaints procedure has been tested by NGO Americans for Democracy & Human Rights in Bahrain (ADHRB), whose correspondence with the NIHR we have attached (Annex 1).
30. In September 2014, NGO Americans for Democracy & Human Rights in Bahrain (ADHRB) submitted 30 individual complaints to the NIHR regarding the complaints of mistreatment in detention amounting to torture. ADHRB received no response from the NIHR, and sent a follow-up request a year later to Maria Khoury, the head of the committee, on 30 September 2015. Khoury responded

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<sup>16</sup> Twitter, @alshaer\_khalid, 28 April 2016, [https://twitter.com/alshaer\\_khalid/status/725681065143230464](https://twitter.com/alshaer_khalid/status/725681065143230464).

<sup>17</sup> HRW, “The Blood of People Who Don’t Cooperate”: Continuing Torture and Mistreatment of Detainees in Bahrain, 22 November 2015, <https://www.hrw.org/report/2015/11/22/blood-people-who-dont-cooperate/continuing-torture-and-mistreatment-detainees>.

<sup>18</sup> BNA, NIHR: HRW Overlooks Human Rights Progress in Bahrain, 26 November 2015, <http://www.bna.bh/portal/en/news/698132>.

<sup>19</sup> NIHR, NIHR Statement on the Execution of Three Individuals, 16 January 2017, <http://www.nihr.org.bh/EN/Administrator/MediaHandler/GenericHandler/documents/Statements/16Jan2017.pdf>.

<sup>20</sup> Angés Callamard, Twitter, 15 January 2017, <https://twitter.com/AgnesCallamard/status/820532830744772608>.

<sup>21</sup> OHCHR, Press briefing notes on Iran and Bahrain, 17 January 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21092&LangID=E>.

<sup>22</sup> UN, Principles Relating to the Status of National Institutions (The Paris Principles), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>.

<sup>23</sup> Subcommittee on Accreditation (SCA), GANHRI Sub-Committee on Accreditation Report, May 2016, p. 3. <http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/SCA%20FINAL%20REPORT%20-%20MAY%202016-English.pdf>.

<sup>24</sup> SCA, SCA’s Report, May 2016, p. 9, <http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/SCA%20FINAL%20REPORT%20-%20MAY%202016-English.pdf>.

on 1 October that she was out of office and would respond within days. The NGO did not receive an acknowledgement of the complaints until 12 December 2015, and only received a full response on 18 February 2016. As Table 2 and Annex 1 show, the NIHR avoided investigating the complaints on the basis that (a) the complaints were made by ADHRB on behalf of complainants, with the NIHR implying it would only investigate complaints made directly by individuals or their family and (b) some of the complaints had also been submitted by the Ombudsman, thus rendering an NIHR investigation unnecessary. The correspondence shows that the NIHR failed to investigate promptly, in violation of paragraphs 74, 79 and 82 of the Istanbul Protocol, which require prompt and timely investigations and reporting.

<b>From</b>	<b>To</b>	<b>Summary</b>	<b>Date</b>
ADHRB	NIHR	ADHRB wrote requesting follow-up information on “approximately 40 communications with your office” alleging rights violations including enforced disappearance, arbitrary detention and torture. ADHRB states they have received no correspondence from the NIHR since the communications were made.	30 September 2015
NIHR	ADHRB	Ms Maria Khoury responds, stating she is out of office and will “contact you immediately on Sunday or Monday upon my return”.	1 October 2015
ADHRB	NIHR	ADHRB requested a reply to their 30 September 2015 inquiry.	26 October 2015
ADHRB	NIHR	ADHRB sent a second request for an update, having received no response. This latest request lists 30 complaints submitted between 17 and 24 September 2014.	11 December 2015
NIHR	ADHRB	Ms Khoury acknowledged the request and stated she will follow up.	12 December 2015
ADHRB	NIHR	ADHRB requested an update on the progress of the 30 communications.	1 February 2016
NIHR	ADHRB	Ms Khoury stated her team is “working on the information” and expressed hope to be in touch “in the next two weeks.”	2 February 2016
ADHRB	NIHR	ADHRB writes to Ms Khoury asking for an update two weeks on from the last correspondence.	17 February 2016
NIHR	ADHRB	Ms Khoury responded to ADHRB’s request.  Ms Khoury states that “Of all the names you included in your list only two have come forth to NIHR to submit a complaint.” She states that one case regarded required medical care, and that “The issue was followed up at the time and case closed. Result achieved.”	18 February 2016

<sup>25</sup> Reproduced with the permission of Americans for Democracy & Human Rights in Bahrain.

		<p>Ms Khoury states that the other case, which regards Abbas Al-Samea,<sup>26</sup> was “followed up at the time in 2014 in coordination with the Ombudmen office in Bahrain and the Ministry of interior and the result was that mistreatment allegations were not evident.”</p> <p>Ms Khoury states that “As for the remaining names listed , they have not come forward or anyone on their behalf to NIHR to submit a complaint.”</p> <p>Ms Khoury states that “it is our understanding... that some have submitted complaints” to the Ombudsman.</p> <p>She states: “We suggest that you follow up directly with the Ombudmen office and if a member of the families of anyone listed below wishes to file a direct complaint with NIHR, they may do so and we'd process it accordingly.</p> <p>However, other than the two mentioned above we haven't received anything from anyone else on the list.”</p>	
ADHRB	NIHR	<p>ADHRB responded: “For the names that we provided, we are aware that many of those persons have not themselves come to the NIHR with their complaints. Instead, they came to us, asking us to act as their representatives before the NIHR in relating their complaints of human rights abuses. They do this for several reasons; many cite our professional ability to represent their cases, although we have occasionally heard from individuals that they fear retaliation in the event that they should complain personally, and would therefore prefer to submit complaints through an NGO.</p> <p>My records indicate that we submitted full complaints to your mandate concerning the majority of these persons, mostly in September 2014. I've attached the complaints in a zip file to this email; you may find them dated appropriately. Based on my understanding of your email, however, your office appears to only investigate communications made by an individual, and does not investigate allegations raised on behalf of those individuals made by NGOs. Is this a correct understanding of your mandate? If not, then may I ask why the complaints that we submitted on behalf of a further 38 victims have not been examined by your office?”</p>	3 March 2016

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<sup>26</sup> Who was subsequently unlawfully executed in January 2017.

NIHR	ADHRB	Regarding these complaints, Ms Maria Khoury replied: As for the receiving complaints from NGO's you know that we do and are always willing to help. Nothing has changed in this regards. I suggested in a previous correspondence that you communicate directly with the Ombudsman's office as they might have already investigated and concluded the cases.	15 March 2016
		<i>Correspondence with the NIHR continued past this point with regards to other complaints.</i>	

### The Prisoners and Detainees Rights Commission

31. The Prisoners and Detainees Rights Commission (PDRC) was established under Royal Decree 61 of 2013 and is mandated with inspecting and reporting on prison conditions in Bahrain. The PDRC has received significant support from the UK, notably through training by the UK's own prison inspectorate. The PDRC thus far has low standards of work, and fails to critically address torture. The Government of Bahrain placed the PDRC within the Ombudsman's purview, and thereby indirectly incorporated into the Ministry of Interior's structure.
32. The PDRC's appointment system undermines its mandate and leaves it non-independent. The PDRC is headed by the Ombudsman, and its membership is nominated by the Ombudsman, the National Institute for Human Rights, the PPO and the Supreme Judicial Council. The public prosecution and judiciary are directly involved in human rights abuses and have systematically failed to investigate defendant claims of torture; rather, pattern of abuse from detention to conviction continues to be witnessed in Bahrain's justice system.<sup>27</sup>
33. In a September 2015 report, BIRD found the PDRC to be lacking in independence and its inspection and reporting quality poor. BIRD recommended that the Government of Bahrain make the PDRC fully independent; that the PDRC improve its inspection and reporting methodologies; and that it inspect for and report on any signs of torture, due to ongoing and historic reports of the practice in prison.<sup>28</sup>
34. The PDRC's membership and poor reporting quality are highly problematic. In September 2015, BIRD discovered that a PDRC member, Ahmed Al Malki, nominated by the NIHR, had tweeted supportively of the Holocaust, and said that similar measures should be taken against "Wilayet Al Faqih" (the system of governance in Iran, and a derogatory shorthand for Shia in general).<sup>29</sup> The majority of prisoners of conscience in Bahrain are Shia.<sup>30</sup> While he was removed from the PDRC following this discovery,<sup>31</sup> the fact of his appointment reflects the problems of independence and effectiveness embedded in the body.

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<sup>27</sup> Patterns of continued use of torture are documented in HRW, "The Blood of People Who Don't Cooperate": Continued Torture and Mistreatment of Detainees in Bahrain, 22 November 2015, <https://www.hrw.org/report/2015/11/22/blood-people-who-dont-cooperate/continuing-torture-and-mistreatment-detainees>.

<sup>28</sup> BIRD, ADHRB, *Fundamentally Flawed: A Review of the Prisoners and Detainees Rights Commission*, p. 13, [http://birdbh.org/wp-content/uploads/2015/09/PDRC\\_Fundamentally-Flawed1.pdf](http://birdbh.org/wp-content/uploads/2015/09/PDRC_Fundamentally-Flawed1.pdf).

<sup>29</sup> BIRD, ADHRB, *Fundamentally Flawed*, pp. 5-6.

<sup>30</sup> BIRD, ADHRB, BCHR, *Inside Jau: Government Brutality in Bahrain's Central Prison*, May 2015, pp. 10-11, <http://birdbh.org/wp-content/uploads/2015/06/Inside-Jau.pdf>. Many Shia inmates were subject to hate speech directed at their religion by police and prison staff, see *Inside Jau*, p. 18.

<sup>31</sup> HRW, "Appendix V" in "The Blood of People Who Don't Cooperate": Continued Torture and Mistreatment of Detainees in Bahrain, 22 November 2015, [https://www.hrw.org/sites/default/files/report\\_pdf/appendix\\_v\\_letter\\_to\\_insert.pdf](https://www.hrw.org/sites/default/files/report_pdf/appendix_v_letter_to_insert.pdf).

<b>Member</b>	<b>Background</b>
Nawaf Al-Moawada (Head of PDRC)	Chief Ombudsman
Osama Ahmed Khalaf Al-Asfoor	Deputy Ombudsman
Abdullah Ahmed Al-Durazi	Vice-Chair, National Institute for Human Rights
Maria Anton Khouri	Head of Complaints, Monitoring and Follow-Up Committee, National Institute for Human Rights
Attiyatulla Hassan Rohani	Bahrain Human Rights Watch Society Member
Dr Jowahar Shaheen Al-Madhaki	Chief Executive of the National Authority for Qualifications & Quality Assurance of Education and Training
Dr Waleed Khalifa Al-Mani'	Government Undersecretary for Hospitals
Sa'ad Abdullah Al-Shamlan	Lawyer
Mohammad Mirza Aman	Supreme Court of Appeals Judge
Mai Sami Matar	High Civil Court Judge
Wa'il Rashid BuAlay	Public Prosecution Office
Ali Abbas Al-Shuwaikh	Public Prosecution Office

35. Despite Al-Malki's removal, problems within the PDRC's membership remain systemic. Two PDRC members, nominated to the role by the PPO, are public prosecutors who in 2012 were both involved in unfair trials. PDRC member Wa'il Rashid Bualay served as Chief Prosecutor in the 2012 trial of 12 medical professionals who were arrested, tortured and prosecuted for treating injured protesters.<sup>32</sup> Bualay was also chief prosecutor in the trial of the Bahrain 13, a group of high profile human rights activists and political leaders, who were arrested and tortured in 2011, and many of whom continue to serve long prison sentences (see paragraphs 66-72).<sup>33</sup> UN Special Procedures have raised concerns in both trials,<sup>34</sup> and they are raised in paras. 13c and 13d of the List of Issues Prior to Reporting (CAT/C/BHR/QPR/2).
36. In addition, Wa'il Bualay was also a prosecutor in a prior 2010 trial of Abduljalil Al-Singace, Hassan Mushaima, Saeed Al-Nuri and Abdulhadi Al-Mukhudar, four of the Bahrain 13 (see paragraphs 66-72) whom Bualay would later prosecute again in 2012. They, alongside 21 other defendants, were tried in a case in which the defendants alleged torture. In one court proceeding, a defence lawyer accused Bualay of interjecting during defendant testimonies of torture to prevent information from reaching the court about the conditions in which they were detained and questioned. During the proceedings, Bualay dismissed the claims of torture raised by the defendants.<sup>35</sup>
37. PDRC member Ali Abbas Al-Shuwaikh served as Chief Prosecutor in the prosecution of Sara Mohamed Isa Al-Musa, a police officer charged with the mistreatment of journalist Nazeeha Saeed. Despite compelling evidence, including Sara Al-Musa's admittance that she had yelled at Saeed to

<sup>32</sup> Wa'il Bualay attended court as chief prosecutor at least once in an appeals court hearing of 9 appellant medical professions, in Appeal No. 124, 125, 126, 127, 128, 129, 130, 131, 132/2012, Case No. 191/2011, 1 October 2012.

<sup>33</sup> Wa'il Bualay attended court as chief prosecutor at least once in an appeals court hearing of the Bahrain 13, in Appeal 177, 181, 182, 184, 185, 186, 187, 188, 190, 191, 192, 193, 196, 197/18/2011, Case No. 124/2011, 20 April 2012.

<sup>34</sup> For the Doctors, see UA BHR 10/2011, 30 May 2011. For the Bahrain 13, see BHR 17/2011, 9 September 2011, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=22234>.

<sup>35</sup> Court Case No. 9078/2010/07, 28 October 2010. The defendants were pardoned and released in 2011 during the Arab Spring, but many of them were re-arrested in the months following, tortured again, and imprisoned.

coerce a confession, the courts acquitted Al-Musa. When Saeed tried to appeal the acquittal, the prosecution refused to enact the procedure, stating they agreed with the court’s ruling.<sup>36</sup>

38. It is deeply troubling that Wa’il Bualay, who was involved in the unfair trial of prisoners of conscience conducts inspections of places of detention, including Jau Prison, where the prisoners of conscience he prosecuted are held.
39. Finally, the PDRC is headed by the Ombudsman himself and among its members are the Deputy Ombudsman, the Vice-Chair of the NIHR, and Maria Houry, the NIHR’s head of complaints (see paragraphs 28-30). As above stated, both the Ombudsman and NIHR have received complaints regarding abuse amounting to torture in the places they have visited. This includes police stations, the CID, and Jau Prison. As shown in paragraph 30 and Table 2, the NIHR had received a large volume of complaints prior to December 2014, when they visited four police stations and the CID. The PDRC’s reporting exhibits no signs that they took into consideration the knowledge of such complaints of systemic abuse in their visits of these places of detention.

	<b>Place of Detention</b>	<b>Date Visited</b>	<b>Report Published</b>
1	Dry Dock Detention Centre (DDDC)	21-24 April 2014	August 2014
2	Capital Governorate Police Directorate (CGPD)	24-25 December 2014	May 2015
3	Muharraq Governorate Police Directorate Hidd Police Station (MGPD)	24-25 December 2014	May 2015
4	Northern Governorate Police Directorate (NGPD)	24-25 December 2014	May 2015
5	Southern Governorate Police Directorate (SGPD)	24-25 December 2014	May 2015
6	General Directorate of Criminal Investigation and Forensic Science (CID)	24-25 December 2014	May 2015
7	Juveniles Care Centre (JCC)	18-20 January 2015	June 2015
8	Women’s Reformation and Rehabilitation Centre (WRRC)	18-20 January 2015	July 2015
9	Women’s Detention Center (WDC)	18-20 January 2015	August 2015
10	Jau Prison (JRRC)	15-22 November 2015	May 2016

40. The PDRC’s report on its inspection of Jau Prison is particularly egregious: while this report is substantially longer than previous inspection reports, there is no substantive quality improvement, with virtually no engagement on the issue of torture. Despite the PDRC’s inspection of Jau Prison occurring eight months after a prison riot and police response on 10 March 2015 (see paragraphs 41-43), the report failed to bring that context into their report in a meaningful way.
41. On 10 March 2015, inmates in several buildings in Jau Prison expelled their prison guards from the premises and barred the entrances. The actions followed a rumour of a family being mistreated in the visitation centre that same day, but also stemmed from issues of overcrowding, unhygienic facilities and mistreatment. Prison forces summoned riot police and a Jordanian police unit to

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<sup>36</sup> The case, as well as that of the Bahrain 13, is explored in Human Rights Watch, *Criminalizing Dissent, Entrenching Impunity: Persistent Failures of the Bahraini Justice System Since the BICI Report, 2014*, <https://www.hrw.org/report/2014/05/28/criminalizing-dissent-entrenching-impunity/persistent-failures-bahraini-justice#dde627>.

quash the inmates. Police employed excessive force against the inmates, and regained full control of the prison in the evening of 10 March. Though only a minority of inmates participated in the riot, the majority of inmates were collectively punished over the next weeks.<sup>37</sup>

42. BIRD documented the collective punishment in Jau Prison alongside ADHRB and the Bahrain Center for Human Rights. We found that police collectively punished inmates, including physical beatings, the deprivation of food and sleep, enforced disappearance to other parts of the prison, collective punishment, excessive use of tear gas and birdshot fire in close quarters, violation of communication and visitation rights, and the deprivation of adequate medical attention to inmates.<sup>38</sup> Security officers forced inmates to sing, dance and crawl around the courtyard, lick officers' boots, put their own shoes in their mouths, defecate in the courtyards they were held in, and rub their own faeces on the walls. Police limited inmates from the use of toilets, forcibly shaved inmates and starved for two days. Inmates were made to live outside in the courtyard in the days after the riot, during which time a sandstorm hit Bahrain resulting in some inmates experiencing difficulty breathing and fainted. A scabies epidemic broke out within the prison population, and prison officials failed to provide adequate medical attention.<sup>39</sup> Police singled out high-profile prisoners of conscience for further abuse, including human rights defender Naji Fateel and death-row inmate Abbas Al-Samea.<sup>40</sup>
43. The Ombudsman visited Jau Prison two weeks after the riot. The Ombudsman interviewed 124 inmates, of whom 15 filed complaints soon after. On 23 March, the Ombudsman confirmed that phone services for inmates would resume. The NIHR also conducted an investigation, in which they interviewed prisoners and their families, before despatching a private report to the Ministry of Interior. The NIHR deputy secretary-general (and PDRC member) Abdulla Al-Durazi publicly commented on these actions.<sup>41</sup> To date, no prison officials or police staff have been prosecuted for the March 2015 abuses in Jau Prison.
44. Despite the Ombudsman and NIHR's involvement, the PDRC's report on its November 2015 inspection of Jau Prison made no reference to the allegations and evidence of torture collected in March 2015. In its report, the PDRC states that it "*conducts inspections of whole institutions and verifies that the proper authorities have investigated any incidents or allegations. PDRC does not investigate those incidents itself.*"<sup>42</sup> While this may be true, the PDRC then goes on uncritically repeat the narrative of the March 2015 incident as given to it by the prison management and Public Prosecution, which found no wrongdoing by the police forces and failed to account for the substantial allegations of torture.<sup>43</sup> The PDRC interviewed some detainees, but provides no information on numbers interviewed or the subject of the questionnaires. In the report's section on "*Safe and Legal Use of Force*", the PDRC makes no reference to prisoner interviews nor provides prisoner perspectives, despite acknowledging that "*staff had not been given theory and practical based training on the lawful use of force at the prison.*"<sup>44</sup> The result is a report which sweeps over allegations of systemic abuses, wholly ignores inmate testimonies, and fails to hold to account the

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<sup>37</sup> BIRD, ADHRB, BCHR, *Inside Jau: Government Brutality in Bahrain's Central Prison*, May 2015, <http://birdbh.org/wp-content/uploads/2015/06/Inside-Jau.pdf>.

<sup>38</sup> BIRD, ADHRB, BCHR, *Inside Jau: Government Brutality in Bahrain's Central Prison*, May 2015, p.3

<sup>39</sup> Ibid, pp. 19-20.

<sup>40</sup> Ibid, p. 22.

<sup>41</sup> Ibid, p. 25.

<sup>42</sup> Prisoners and Detainees Rights Commission, *Report on the Unannounced Visit to the Jau Rehabilitation and Reform Center (JRRC)*, 2016, p. 10, [http://www.pdrc.bh/mcms-store/pdf/75846ed3-8c59-4daf-a7b6-c4111f45a6b9\\_Jau-English-Final.pdf](http://www.pdrc.bh/mcms-store/pdf/75846ed3-8c59-4daf-a7b6-c4111f45a6b9_Jau-English-Final.pdf).

<sup>43</sup> Ibid, pp. 10-11.

<sup>44</sup> Ibid, p. 21.

Ministry of Interior and public security forces, which are ultimately responsible for the prison services.

45. Both the Ombudsman and the NIHR have received a large body of complaints regarding torture in police stations, the Criminal Investigations Department and Jau Prison. In light of the fact that the Ombudsman is head of the PDRC and that the NIHR's deputy chairperson and head of complaints all sit on the PDRC, the PDRC's failure to effectively consider the volume of complaints of mistreatment, abuse and torture in places of detention visited is wholly negligent.
46. The PDRC has received significant support from the UK, notably through training by the UK's own prison inspectorate. The PDRC thus far has low standards of work, and fails to critically address torture. The Government of Bahrain placed the PDRC within the Ombudsman's purview, and thereby indirectly incorporated into the Ministry of Interior's structure.

### Bahrain's Complaints Procedures and Paragraph 78 of Istanbul Protocol

47. The Ombudsman, SIU and NIHR's complaints and investigation procedures fail to uphold the Istanbul Protocol in a number of ways, outlined above (paragraphs 10-11, 13, 17, 19-20, 30). These failures represent a violation of the three principles outlined in paragraphs 78a-c of the Istanbul Protocol, which list "*clarification of facts and establishment and acknowledgement of individual and state responsibility for victims and their families*" (paragraph 78a), "*Identification of measures needed to prevent recurrence*" (paragraph 78b) and "*facilitation of prosecution .... And demonstration of the need for full reparation and redress from the State*" (paragraph 78c). Despite the large number of complaints alleging torture made to the Ombudsman, SIU and NIHR, very few have led to the clarification of facts for victims and their families or the facilitation of prosecution. That ill-treatment and torture continue to occur in Bahrain with little change five years on from their establishment suggests strongly that their investigations are failing to identify preventative measures in a meaningful way.

### United Kingdom Support

48. All four mechanisms have received training and support from the United Kingdom since. Despite persistent failings as detailed above, the United Kingdom has provided its full backing to Bahrain and these mechanisms. In its latest country update, the UK Foreign and Commonwealth Office has stated: "*The UK continued to support independent human rights and oversight institutions such as the National Institution for Human Rights (NIHR), the Ministry of Interior (MOI) Ombudsman, the Prisoners' and Detainees' Rights Commission (PDRC), and the Special Investigations Unit (SIU), which work to safeguard human rights and provide independent oversight of police behaviour and detention standards.*"<sup>45</sup>
49. The praise and claims of independence fall short of the evidence set out in the above sections. This political support is used by Bahrain to present a positive image not in line with the reality of continues abuses. British support, programmes and engagement is notably referenced in both State Party Reports Bahrain submitted in 2015 and 2016.<sup>46</sup>

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<sup>45</sup> FCO, *Human Rights Priority Country Status Report: July to December 2016*, 8 February 2017, <https://www.gov.uk/government/publications/bahrain-human-rights-priority-country/human-rights-priority-country-update-report-july-to-december-2016>.

<sup>46</sup> State Party Report, 29 September 2015, CAT/C/BHR/2, paras. 6, 10, 27(d), 49, 67, 92, 96, 102; State Party Report, 6 March 2016, CAT/C/BHR/3, paras. 7, 47, 98, 102.



50. The UK's support, which extends not just to the mechanisms but also police and judicial training, has had little substantive impact on the human rights situation in Bahrain, including on the issue of torture.<sup>47</sup> However, it is used by the Government of Bahrain as a means to postpone engagement with the UN special procedures. The Special Rapporteur on Torture has stated on record that the Government of Bahrain has used the PDRC's existence as a reason not to invite his mandate to an official country visit and criticised the UK's involvement. *"They tell everyone, 'We have an inspectorate of prisons,' but they won't invite me. ... The UK should not be party to it."* (see also paragraphs 89-92).<sup>48</sup>
51. In 2016, the United Kingdom was accused of "whitewashing" Bahraini police abuses. The Observer reported that documents revealed the UK had watered down a joint statement at 30<sup>th</sup> Session of the UN Human Rights Council. This included changing language to soften criticism of torture. The Observer reported: *"Another key section of the second draft read: 'We are concerned about reports of torture and ill-treatment in detention including reprisals against victims reporting human rights abuses.' This was altered to: 'We are concerned about reports of reprisals against victims reporting human rights abuses.'"*<sup>49</sup>

## Section 2: Alleged Perpetrators Promoted

52. No senior officials have been held accountable for torture since 2011. While some prosecutions did occur in 2012 and 2013, low ranking officers received light sentences, while senior officers were broadly acquitted, and in some cases have even been promoted. The following section focuses on these promotions.
53. Mubarak bin Huwail is a public security officer. Medical professionals who were arrested and subjected to torture in 2011 named him as being involved in their torture and interrogation.<sup>50</sup> Bin Huwail was prosecuted, and on 7 July 2013 the criminal courts acquitted him of all charges. On the same day, the Prime Minister of Bahrain, Sheikh Khalifa bin Salman, the uncle of King Hamad of Bahrain, visited bin Huwail and was filmed saying to him: *"These laws, no one implements them on you."*<sup>51</sup> In 2016, bin Huwail was promoted to Director General of the Southern Governorate Police Directorate.<sup>52</sup>
54. Another case exhibiting a lack of real accountability is that of Mansour Al-Mansour, the senior military judge who sat on the National Security First Instance Court in 2011. The Bahrain Independent Commission of Inquiry found this court to violate basic fair trial guarantees,<sup>53</sup> and the

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<sup>47</sup> BIRD, *Tinkering Around the Edges: British Foreign Policy in Bahrain, 2011-2016*, June 2016, [http://birdbh.org/wp-content/uploads/2016/06/BIRD\\_Tinkering\\_Web1.pdf](http://birdbh.org/wp-content/uploads/2016/06/BIRD_Tinkering_Web1.pdf).

<sup>48</sup> BuzzFeed, *UN Torture Expert Says Britain Should Pressure Bahrain to Allow Him to Visit*, 1 June 2016, [https://www.buzzfeed.com/alanwhite/un-torture-expert-says-britain-should-pressure-bahrain-to-al?utm\\_term=.qyV8wQ2ywR#.er1jma9BmD](https://www.buzzfeed.com/alanwhite/un-torture-expert-says-britain-should-pressure-bahrain-to-al?utm_term=.qyV8wQ2ywR#.er1jma9BmD).

<sup>49</sup> Observer, *Britain Lobbied UN To Whitewash Bahrain Police Abuses*, 21 February 2016, <https://www.theguardian.com/politics/2016/feb/21/britain-lobbied-un-bahrain-human-rights-abuses>.

<sup>50</sup> See Human Rights Watch, *Criminalizing Dissent, Entrenching Impunity: Persistent Failures of the Bahraini Justice System Since the BICI Report*, <https://www.hrw.org/report/2014/05/28/criminalizing-dissent-entrenching-impunity/persistent-failures-bahraini-justice>.

<sup>51</sup> Bahrain Center for Human Rights, *Bahrain: Prime Minister to Officer Acquitted on Torture Charges: "Thank You For Your Work"*, 10 July 2013, <http://bahrainrights.org/en/node/6219>.

<sup>52</sup> He was appointed in June 2016, and the Southern Governorate Police Directorate celebrated his appointment in August 2016. Instagram, southerngov\_bh, 14 August 2016, <https://www.instagram.com/p/BJGBLEg-54/>.

<sup>53</sup> Bahrain Independent Commission of Inquiry, *Report of the Bahrain Independent Commission of Inquiry*, para. 1702: "It is clear that the National Safety Decree, as implemented by the Military Attorney General, overtook the national system of justice. A pattern of due process violations occurred at the pretrial and trial levels that denied most defendants elementary fair trial guarantees."

court is the subject of para. 15 of the List of Issues Prior to Reporting (CAT/C/BHR/QPR/2). The court, which was formed of one military judge (Al-Mansour) and two civilian judges, oversaw the convictions of 502 individuals and over 1600 cases, many of which were later transferred to the civilian PPO.<sup>54</sup>

55. The court's use of testimonies obtained under condition of torture is well established within the Bahrain Independent Commission of Inquiry. Paragraph 1702 of the BICI states: *"It is clear that the National Safety Decree, as implemented by the Military Attorney General, overtook the national system of justice. A pattern of due process violations occurred at the pretrial and trial levels that denied most defendants elementary fair trial guarantees."*
56. Mansour Al-Mansour is named as the judge by Ebrahim Sharif in his testimony to the civilian court of appeals, who stated: *"Following the same approach, judge of the First Instance Court of the National Safety, Mansoor Al-Mansoor, and the judge of Appeals, Samir Al-Zayani, both convicted us with verdicts that added to more than 362 years imprisonment after court sessions that did not last for more than a few hours, where the lawyers could not deliver their arguments verbally nor present all witnesses, and where none of the defendants was allowed to speak a single minute about the torture they had suffered. In the Military Justice building, all defendants were beaten after the court verdicts were issued against them on the 22 June 2011 because they had chanted during the session."*<sup>55</sup>
57. Al-Mansour's role in convicting individuals with the use of confessions extracted under torture was thus systemic and well-known, yet Al-Mansour was kept on as a military judge, facing no known investigation for his role. In 2016, Al-Mansour was appointed to the Saudi coalition's Joint Incident Assessment Team (JIAT), which investigates allegations of humanitarian law violations in the Saudi coalition's war in Yemen, which Bahrain is a participant in. Al-Mansour appeared as JIAT's spokesperson on at least on occasion in August 2016.<sup>56</sup> In the press conference, JIAT absolved the Saudi Coalition of violating international humanitarian law in bombings which included the bombing of a Doctors Without Borders hospital in Taiz in December 2015. Doctors Without Borders has released its own incident report disputing the findings of JIAT.<sup>57</sup>
58. Rather than facing investigation or prosecution, Al-Mansour has retained an important role in the Saudi Coalition, one which his prior role in violating the right to fair trial (as established under Article 14 of the International Covenant on Civil and Political Rights) should preclude him from.

### Section 3: Excessive Use of Force

59. The Government of Bahrain has outlined in its state party report training programmes conducted by the Bahraini public security forces, largely through its Royal Academy of Policing.<sup>58</sup> Notably missing from its outline is training conducted in the United Kingdom: This includes two visits and trainings in Northern Ireland funded by the UK Foreign Office and arranged by Northern Ireland

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<sup>54</sup> CAT/C/BHR/3, State Party Report, para. 142.

<sup>55</sup> *Ifadat Qadet Thawrat 14 Febrayar wa-l ma'arada al-bahrayniya amam al-mahakim al-khalifa*, Al Wafa Islamic Party, 2013.

<sup>56</sup> Saudi Press Agency, *Joint Incident Assessment Team (JIAT) on Yemen Responds to Claims on Coalition Forces' Violations in Decisive Storm Operations*, 5 April 2016, <http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1524799>.

<sup>57</sup> Doctors Without Borders, *Taiz Incident Report*, 2 December 2015, [http://www.msf.org/sites/msf.org/files/taiz\\_airstrike\\_clinic.pdf](http://www.msf.org/sites/msf.org/files/taiz_airstrike_clinic.pdf).

<sup>58</sup> CAT/C/BHR/3, State Party Report, pp. 11-15.

Cooperation Overseas and the Police Force Northern Ireland in 2014 and 2015,<sup>59</sup> and a training programme begun in 2015 with the British College of Policing.<sup>60</sup>

60. These training programmes have had no tangible effect. Excessive use of force continues to regularly occur on the streets of Bahrain. Activists on the ground, with whom BIRD is in regular contact with, document blanket use of tear gas and excessive use of bird shot on a regular basis; this use continues to cause life threatening injuries. In January 2015, 18-year-old Mustafa Hamdan, who was protesting in Duraz village, was shot in the back of the head by live ammunition fired by plain-clothed masked security forces, rendering him comatose.<sup>61</sup> Hamdan was first taken to the Bahrain International Hospital, where he was refused admission. Hamdan was then taken to the Salmaniya Medical Complex, where security forces were awaiting him, and where he was admitted and treated. No branch of government has admitted responsibility for Hamdan's injuries. Arbitrary detention, torture and coercion also continue to be employed (see case of Nazar Alwadaei and Hajar Mansoor Hassan, paragraph 87).

## Section 4: Freedom of Expression Constrained

### Legal Framework

61. Bahrain's legal framework is not conducive to freedom of expression. While Article 23 of Bahrain's 2002 Constitution guarantees the freedom of expression,<sup>62</sup> Bahraini law criminalises speech critical of the government. Human rights defenders including Abdulhadi Al-Khawaja, Naji Fateel and Nabeel Rajab continue to serve prison sentences and face prosecutions for such expression.
62. Article 133 of Bahrain's penal code (Decree 15/1976) criminalises "spreading false or malicious news, statements or rumours" in wartime. Article 168 of the same code criminalises incitement "to hatred or hostility towards the system of government." Article 214 criminalises insults to the King, flags and symbols of Bahrain. Article 215 criminalises insulting the leaders, representatives, flags and symbols of foreign countries. Article 216 criminalises offending the National Assembly, army, courts and government agencies.
63. Articles 68-71 of Bahrain's press law (Decree 47/2002) criminalise a similar range of expression (criminalising criticism of the King, the government, Islam and other Arab and Muslim countries), and the press law allows journalists to be tried criminally in line with the equivalent penal code articles.
64. In its state party report, Bahrain admits to restricting to freedom of expression, but claims that such restrictions are "to be interpreted as part of the necessary framework of a democratic society."<sup>63</sup> Yet these restrictions excessively limit Article 19(1) of the International Covenant on Civil and Political Rights, which Bahrain acceded to in 2006 and which states, "Everyone shall have the right to hold opinions without interference." In practice, Bahrain's limitations on expression are

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<sup>59</sup> Reprieve, *UK covered up intelligence training with Bahrain's police, amid death sentence*, 5 February 2017, <http://www.reprieve.org.uk/press/uk-covered-intelligence-training-bahrain-police-amid-death-sentence/>.

<sup>60</sup> Guardian, *Role of UK police in training Bahrain's forces "ignores abuses"*, 13 August 2016, <https://www.theguardian.com/uk-news/2016/aug/13/british-police-trainers-ignore-human-rights-abuses-bahrain>.

<sup>61</sup> Bahrain Watch, *Critical Injury as Armed Men Fire 9mm Rounds and Shotguns at Civilians in Duraz*, 26 January 2017, <https://bahrainwatch.org/blog/2017/01/26/critical-injury-as-armed-men-fire-bullets-and-shotguns-at-civilians-in-duraz/>.

<sup>62</sup> Article 23, Constitution of Bahrain, 2002: "Freedom of opinion and scientific research is guaranteed. Everyone has the right to express his opinion and publish it by word of mouth, in writing or otherwise under the rules and conditions laid down by law, provided that the fundamental beliefs of Islamic doctrine are not infringed, the unity of the people is not prejudiced, and discord or sectarianism is not aroused."  
[https://en.wikisource.org/wiki/Constitution\\_of\\_the\\_Kingdom\\_of\\_Bahrain\\_\(2002\)#Article\\_23\\_.5BExpression.5D](https://en.wikisource.org/wiki/Constitution_of_the_Kingdom_of_Bahrain_(2002)#Article_23_.5BExpression.5D)

<sup>63</sup> CAT/C/BHR/3, State Party Report, p. 28.

used to prosecute critics of the government, political opposition activists, and human rights defenders.

### Human Rights Defenders

65. The Government of Bahrain states that persons imprisoned for exercising their right to freedom of opinion and expression had their charges dropped by the Public Prosecution.<sup>64</sup> The case remains that human rights defenders imprisoned during 2011, including Bahrain Center for Human Rights co-founder Abdulhadi Al-Khawaja and Bahrain Youth Society for Human Rights founder Naji Fateel, remain in prison. These individuals are convicted under the anti-terrorism law (Decree 58/2006), which has been used to target critics.

### Bahrain 13

66. The Bahrain 13 are the subject of paragraph 13(c) of the List of Issues Prior to Reporting (CAT/C/BHR/QPR/2). The thirteen are the subject of a 5 August 2011 communication,<sup>65</sup> which records their torture allegations. Some of their cases are also anonymously raised in the Bahrain Independent Commission of Inquiry report. They are thirteen high-profile human rights defenders and political leaders who were arrested in March-April 2011. All thirteen were subjected to torture, and sentenced to between five years and life imprisonment on charges related to their protests on 22 June 2011 by the National Security Court (see paragraphs 54-57). In 2012-13, their cases were reviewed by the appeals courts; the Court of Cassation, the supreme court of appeals, upheld the sentences passed by the National Security Court on 7 January 2013.

<b>Name</b>	<b>Role</b>	<b>Date of Arrest</b>	<b>Sentence</b>
Dr Abduljalil Al-Singace	Professor of Engineering, University of Bahrain. Director of Human Rights Bureau, Haq Movement for Liberty and Democracy	16 March 2011	Life Imprisonment
Abdulhadi Al-Khawaja	Co-Founder of Bahrain Center for Human Rights, Former Regional Coordinator, Front Line Defenders	9 April 2011	Life Imprisonment
Abdulwahhab Hussain	Founding member of Al-Wefaq Islamic Society; Founding member, Al-Wafa' Islamic Movement	17 March 2011	Life Imprisonment
Hassan Mushaima	Secretary-General, Haq Movement for Liberty and Democracy	17 March 2011	Life Imprisonment

<sup>64</sup> Ibid, pp. 28-29.

<sup>65</sup> BHR 17/2011, 5 August 2011,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?glid=22234>.

Sheikh Saeed Al-Noori	Religious Cleric. Member of Al-Wafa' Islamic Movement.	17 March 2011	Life Imprisonment
Sheikh Abduljalil Al-Miqdad	Founder of Al-Wafa' Islamic Movement.	27 March 2011	Life Imprisonment
Sheikh Mohammad Habib Al-Miqdad	Shia Cleric. Social Activist. President of Al-Zahra Charity Institution for Orphans.	1 April 2011	68 Years
Sheikh Abdulhadi Al-Mukhoder	Shia Cleric. Opposition activist	17 March 2011	15 Years
Mohammad Hassan Jawad	Human rights activist	22 March 2011	15 Years
Sheikh Mirza Al-Mahroos	Shia Cleric. Vice- President of Al-Zahra Charity Institution for Orphans	1 April 2011	15 Years
Mohammad Ali Ismael	Political activist.	23 March 2011	15 Years
Salah Al-Khawaja	Political activist. Brother of Abdulhadi Al-Khawaja.	17 March 2011	5 Years (released in 2016)
Ebrahim Sharif	Former Secretary- General of National Democratic Action Society (Wa'ad)	17 March 2011	5 Years (released in 2015)

67. Abdulhadi Al-Khawaja is a co-founder of the Bahrain Center for Human Rights. As well as the special procedure communication on the Bahrain 13,<sup>66</sup> Al-Khawaja has been the subject of communications dated 12 March 2012,<sup>67</sup> 9 September 2011,<sup>68</sup> 20 May 2011, 12 April 2011, 22 March 2011, 19 February 2009, 2 February 2007 and 14 December 2005. He is the subject of a Working Group on Arbitrary Detention (WGAD) decision in 2012.<sup>69</sup>

68. The WGAD ruled: *"The detention of Mr. Alkhawaja is arbitrary in contravention of articles 19, 20 and 21 of the Universal Declaration of Human Rights and articles 9, paragraph 3, and 14, 21 and 22 of the International Covenant on Civil and Political Rights falling into categories II and III of the methods of work of the Working Group."*<sup>70</sup>

<sup>66</sup> BHR 17/2011, 5 August 2011,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22234>

<sup>67</sup> BHR 3/2012, 12 March 2012,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22236>.

<sup>68</sup> BHR 18/2011, 9 September 2011,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=14359>.

<sup>69</sup> Working Group on Arbitrary Detention, Opinion No. 6/2012 (Bahrain), 13 July 2012, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/152/53/PDF/G1215253.pdf?OpenElement>.

<sup>70</sup> Ibid.

69. While the WGAD's decision focuses solely on Abdulhadi Al-Khawaja's case, his arrest, torture, unfair trial and arbitrary detention is mirrored in the cases of the other twelve individuals of the Bahrain 13.
70. Sheikh Mohammad Habib Al-Miqdad and Sheikh Mirza Al-Mahroos both alleged that Prince Nasser bin Hamad Al Khalifa, a son of King Hamad of Bahrain, was directly involved in their torture. Both men mentioned this in their testimony during their civilian appeals.<sup>71</sup> Prince Nasser is also commander of Bahrain's Royal Guard and President of the Bahrain Olympic Committee. The allegations have never been investigated in Bahrain. In October 2014, the British High Court quashed Prince Nasser's diplomatic immunity in the United Kingdom.<sup>72</sup>
71. Eleven of the Bahrain 13 continue to serve prison sentences in Jau Prison. Salah Al-Khawaja and Ebrahim Sharif were freed upon completing their five-year sentences.
72. Ebrahim Sharif was released in June 2015 having served his prison sentence. Sharif was rearrested weeks later on 13 July 2015 after he gave a speech in which he called for continued peaceful opposition. The prosecution charged him with "inciting violence" and "promoting political change."<sup>73</sup> In February 2016 he received a one year sentence on the first charge, and was acquitted on the latter. His pre-trial detention counted towards this sentence, and he was released in July 2016. In November 2016, Sharif was charged with "inciting hatred against the regime" after he spoke to the Associated Press.<sup>74</sup> The charges were dropped following international pressure.

#### Naji Fateel

73. Naji Fateel is the subject of paragraph 15 of the List of Issues Prior to Reporting (CAT/C/BHR/QPR/2). is a board member of the Bahrain Youth Society for Human Rights (BYSHR). He has been in detention since 2013, and has been the subject of three prior special procedure communications.<sup>75</sup> He currently faces a total of 30 years in prison, in two cases in which he suffered torture and unfair trial.
74. Police arrested Naji Fateel from his home at dawn on 2 May 2013 without an arrest warrant. He was held incommunicado in the Criminal Investigations Department for three days, during which time he was allegedly tortured. Police subjected him to electrical shocks to his genitals, left foot and back; simulated drowning; severe beatings; suspension from the ceiling by his hands; sexual harassment; threats of rape; prolonged standing; sleep deprivation; and verbal abuse.<sup>76</sup> He was taken to a hospital twice after losing consciousness as a result of his torture.<sup>77</sup> In the course of this torture, Fateel signed documents which he was not able to read.

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<sup>71</sup> Their testimonies are recorded in *Ifadat Qadet Thawrat 14 Febrayar wa-l ma'arada al-bahrayniya amam al-mahakim al-khalifa*, Al Wafa Islamic Party, 2013.

<sup>72</sup> BBC, *Prince Nasser of Bahrain torture ruling quashed*, 7 October 2014, <http://www.bbc.co.uk/news/uk-29521420>.

<sup>73</sup> BIRD, *NGOs Condemn Arrest of Opposition Leader Ebrahim Sharif*, 13 July 2015, <http://birdbh.org/2015/07/ngos-condemn-re-arrest-of-bahrain-13-opposition-leader-ebrahim-sharif/>.

<sup>74</sup> BIRD, *Bahrain Charges Ebrahim Sharif for AP Interview After Prince Charles Visit*, 14 November 2016, <http://birdbh.org/2016/11/bahrain-charges-ebrahim-sharif-for-ap-interview-after-prince-charles-visit/>.

<sup>75</sup> See BHR 2/2013, 10 May 2013; BHR 7/2013, 4 October 2013; and BHR 10/2014, 11 August 2014.

<sup>76</sup> FIDH, *Bahrain: Enforced Disappearance of Mr. Naji Fateel*, 20 March 2015, <https://www.fidh.org/en/region/north-africa-middle-east/bahrain/bahrain-enforced-disappearance-of-mr-naji-fateel/>; Front Line Defenders, *Case History: Naji Fateel*, (<https://www.frontlinedefenders.org/en/case/case-history-naji-fateel#case-update-id-312>); Bahrain Centre for Human Rights, *Locked Inside a Nightmare: Voices from Bahraini Prisons*, 9 June 2014, <http://bahrainrights.org/sites/default/files/Prison%20Report%20-%20FINAL%20II.pdf>.

<sup>77</sup> BHR 2/2013, 10 May 2013, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=13123>.

75. The Public Prosecution charged Naji Fateel under Article 6 of Decree 58/2006, the anti-terrorism law, with establishing a terror cell. Fateel was sentenced to 15 years in prison on 29 September 2013. His confession coerced under conditions of torture was used in his conviction. 49 co-defendants were also sentenced, some of them *in absentia*. Their sentences were upheld by an appeals court on 29 May 2014.
76. Bahrain's State Party Report (CAT/C/BHR/3), Bahrain states that the SIU investigated all complaints of torture and judged them false.<sup>78</sup> Bahrain further states that "*study of the rulings delivered shows that the accused made detailed confessions of his own volition during questioning by the Public Prosecution Service. The Court of Appeal investigated the allegations that these confessions were made under physical and mental duress but concluded to its satisfaction that the confessions made by Naji Fateel during questioning by the Public Prosecution Service were sound and had been given voluntarily of his own free will without coercion of any sort. Moreover, the medical examiner's reports show that there was no criminal violence.*" However, the SIU has a pattern of failing to conduct investigations in line with the Istanbul Protocol (see paragraphs 16-20, 47). Thus its findings in this case are highly suspect. The State Party Report also fails to explain how the Court of Cassation concluded that Fateel's confession was admissible.
77. To date, Naji Fateel remains in Jau Prison. During the March 2015 events in Jau Prison (see paragraphs 41-43), police singled him out and accused him of encouraging violence among the inmates.<sup>79</sup> Fateel was denied visitation on 9 April, and on 12 April, over a month after the start of the events, Fateel called his mother and stated he had been subjected to continuous torture.<sup>80</sup> Fateel was one of 57 inmates whom the criminal courts sentenced to 15 years in January 2016 for rioting in the prison.<sup>81</sup> Based on the pattern of his case, it is likely that confessions extracted under torture were used in this conviction.

#### Nabeel Rajab

78. Nabeel Rajab, president of the Bahrain Center for Human Rights, is a human rights defender currently being prosecuted on multiple charges related to his freedom of expression. Nabeel Rajab has been the subject of 13 Special Procedures joint urgent appeals and joint allegation letters,<sup>82</sup> and the subject of Opinion No. 12/2013 of the Working Group on Arbitrary Detention. In the most recent communication on 4 July 2016, five special procedures raised concern over his arbitrary arrest, and the continued restrictions of the freedom of expression in ways incompatible with international law.<sup>83</sup>
79. Nabeel Rajab currently faces up to 18 years in prison on charges related solely to his freedom of expression (see Cases 5 and 6, Table 6). Rajab has a third case which has not yet gone to court, in relation to a he wrote, published in the New York Times, for which he may face additional prison time (see Case 7, Table 6). One of his current charges ("insulting a statutory body", Case 5 in Table 6) relates directly to his work exposing torture in Jau Prison (see paragraphs 41-43). Rajab had used

<sup>78</sup> CAT/C/BHR/3, para. 143.

<sup>79</sup> BIRD, ADHRB and BCHR, *Inside Jau*, May 2015, pp. 21-22.

<sup>80</sup> *Ibid*, p. 23.

<sup>81</sup> Reuters, *Bahrain Court Sentences 57 Men to 15-Year Terms for Prison Violence*, 25 January 2016, <http://in.reuters.com/article/bahrain-security-court-idINKCNOV31FE>.

<sup>82</sup> BHR 6/2004, 6 October 2004; BHR 3/2005, 25 July 2005; BHR 1/2010, 5 March 2010; BHR 4/2011, 22 March 2011; BHR 12/2011, 16 June 2011; BHR 18/2011, 9 September 2011; BHR 5/2012, 29 June 2012; BHR 6/2012, 24 July 2012; BHR 3/2013, 23 May 2013; BHR 13/2014, 14 October 2014; BHR 2/2015, 15 April 2015; BHR 10/2015, 14 December 2015; and BHR 3/2016, 4 July 2016.

<sup>83</sup> BHR 3/2016, 4 July 2016,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=3235>.

social media platform Twitter to expose the effects of torture on inmates and called for accountability.

80. Rajab has been held in pre-trial detention since 13 June 2016, largely in solitary confinement. During his detention, he has been denied adequate medical attention, and his family report that his health has suffered during his detention. Outstanding charges against him were also used as leverage to stymie his human rights work between July 2015, when his previous imprisonment ended, and his June 2016 arrest.

81. Table 6 sets out the details of reprisals against Nabeel Rajab from 2012 until the present.

	<b>Case details</b>	<b>Period of Detention</b>
1	Rajab was arrested on 5 May 2012 on his return from abroad, detained, and charged with “inciting illegal demonstrations” on social media. He was held in pre-trial detention for three weeks, then released on bail. In June 2012, a court found him guilty of “insulting a statutory body” and fined him 300 Bahraini Dinars. <sup>84</sup>	5 – 28 May 2012
2	Rajab tweeted criticism of Bahrain’s prime minister in early June 2012. On 6 June, he was arrested and detained for 21 days for investigation by the Public Prosecution. Released on 27 June, Rajab was rearrested on 9 July, and on the same day received a three month sentence for his tweets. <sup>85</sup>	6 – 27 June 2012, 9 July 2012 (detention continued into 2014 under Case 3)
3	Subsequent to his sentencing in Case 2 above, Rajab was prosecuted and sentenced to three years in prison for calling for and participating in “illegal gatherings” and for “disturbing public order”.  His sentence was subsequently reduced to two years on appeal. <sup>86</sup>  Rajab, who served his prison sentence in Jau prison, was released in May 2014.	9 July 2012 – May 2014
4	Rajab was arrested on 1 October 2014 at Bahrain International Airport, on his return from an advocacy tour of Europe, in which he visited European capitals and participated in the 26 <sup>th</sup> session of the UN Human Rights Council.  Rajab was charged with “insulting statutory bodies” (Article 216, Penal Code).  These charges relate to the following tweet: “ <i>many #Bahrain men who joined #terrorism &amp; #ISIS came from security institutions and those institutions were the first ideological incubator</i> ” <sup>87</sup>	October-November 2014; April-July 2015

<sup>84</sup> Working Group on Arbitrary Detention, Decision No. 12/2013 (Bahrain), 25 July 2013, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/159/40/PDF/G1315940.pdf?OpenElement>.

<sup>85</sup> Working Group on Arbitrary Detention, Decision No. 12/2013 (Bahrain), 25 July 2013, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/159/40/PDF/G1315940.pdf?OpenElement>.

<sup>86</sup> Amnesty International, *Bahrain: End Prison Ordeal for Nabeel Rajab Immediately*, 27 November 2013, <https://www.amnesty.org/en/latest/news/2013/11/bahrain-end-prison-ordeal-nabeel-rajab-immediately/>.

<sup>87</sup> Twitter, Nabeel Rajab, @NABEELRAJAB, 28 September 2014, <https://twitter.com/NABEELRAJAB/status/516179409720852480>.



	<p>In November 2014, he was released on bail but placed on travel ban.</p> <p>In January 2015, the court sentenced Rajab to 6 months in prison. He remained free on bail until a separate arrest in April 2015.</p> <p>He was granted a pardon for this conviction on health grounds in July 2015.</p>	
5	<p>Police arrested Rajab on 2 April 2015 and charged him with “insulting a statutory body” (Article 216, Penal Code) and “spreading rumours in war time” (article Article 133, Penal Code). A third charge of “insulting a neighbouring country” (Article 215, Penal Code), referring to Saudi Arabia, was added to the case in June 2016.</p> <p>The first charge relates to his exposure of torture in Jau Prison in March 2015. The latter two charges relate to his criticism of the humanitarian crisis in Yemen caused by the Saudi-led war there, which Bahrain is a belligerent in.</p> <p>Following his pardon in July 2015 for Case 3, the charges were held against him. Rajab states that this was used to threaten him to reduce his human rights work.<sup>88</sup></p> <p>In June 2016, Rajab was arrested again and new charges brought against him (case 6), however he was instead investigated for this case (case 5).</p> <p>To date, Rajab has had 9 court hearings, with the 10<sup>th</sup> scheduled for 22 March 2017.</p> <p>On a 28 December hearing, the court granted Rajab bail, but he was immediately detained for investigation into the charges under Case 5, below.</p> <p>Rajab’s 10<sup>th</sup> hearing in this case was held in February 2017, and at time of his writing, his 11<sup>th</sup> hearing is scheduled for 22 March 2017.</p> <p>Rajab faces up to 15 years in prison for these three charges.</p>	April-July 2015; 13 June - present
6	<p>Authorities arrested Rajab from his home on 13 June 2016, the first day of the 32<sup>nd</sup> Session of the UN Human Rights Council. Prosecutors charged him with “spreading false news”, in relation to media interviews he gave in 2014 and 2015.</p> <p>In these interviews, he told journalists that Bahrain is unlawfully imprisoning critics of the state for political reasons, and stated that international journalists and NGOs are unable to enter the country.</p>	13 June 2016 - present

<sup>88</sup> New York Times, *Letter from a Bahraini Jail*, 4 September 2016, [https://www.nytimes.com/2016/09/05/opinion/letter-from-a-bahraini-jail.html?\\_r=0](https://www.nytimes.com/2016/09/05/opinion/letter-from-a-bahraini-jail.html?_r=0).

	<p>Rajab faces up to 3 years in prison for these charges.</p> <p>Despite being arrested in June 2016 on these charges, prosecutors did not investigate them until 28 December 2016, when he was granted bail in Case 5. This late start to investigations allowed prosecutors to renew his detention for investigation. He remains jailed.</p> <p>His third hearing on this case was on 7 March 2017. The trial was postponed to 16 April 2017.</p> <p>Since June 2016, Rajab has largely been held in solitary confinement in prisons. Adult male detainees are typically transferred to the Dry Dock Detention Centre, but this has not been the case for Rajab, who has been held in isolating in police stations instead.</p>	
7	<p>On 4 September 2016, the New York Times published a letter written by Nabeel Rajab from jail.<sup>89</sup></p> <p>The following day, Rajab was taken to the Public Prosecution and charged with “spreading false news”.</p> <p>He has not been investigated further in this case, and likely will not be until such a time as suits the prosecution to extend his pre-trial detention.</p>	Already detained (cases 5 and 6)
8	<p>On 21 December 2016, <i>Le Monde</i> published a letter written by Nabeel Rajab from jail.<sup>90</sup></p> <p>On the same day, Rajab was interrogated by prosecutors, but was not charged at that time.</p>	

### Zainab Al-Khawaja

82. Zainab Al-Khawaja, the daughter of imprisoned human rights defender Abdulhadi Al-Khawaja, faced repeated reprisals over the years for her human rights work. Her case has been the subject of 8 special procedure communications.<sup>91</sup>
83. By 2016, she had received a 3-years-one-month sentence on a litany of charges related to her freedom of expression. Al-Khawaja was arrested in March 2016 to begin serving her sentence. She was sentenced to a total of three years and one months in prison and BHD 3,000 fine over several charges related to her exercise of freedom of expression and her peaceful dissent against the Bahraini government. On 2 February 2016, the court of appeal upheld a 9 months prison sentence against Al-Khawaja for trying to visit her father, Abdulhadi al-Khawaja in Jau Prison when he was on hunger strike in August 2014. In December 2015, the court amended a prison sentence against Zainab Al-Khawaja to one year and four months, down from three years and three months, on

<sup>89</sup> New York Times, *Letter from a Bahraini Jail*, 4 September 2016, <https://www.nytimes.com/2016/09/05/opinion/letter-from-a-bahraini-jail.html? r=0>.

<sup>90</sup> The English translation of is available at Human Rights Watch, *France and Germany: It’s Time to Assert Your Values*, 22 December 2016, <https://www.hrw.org/news/2016/12/22/france-and-germany-its-time-assert-your-values>.

<sup>91</sup> BHR 1/2016, 17 March 2016; BHR 15/2014, 19 December 2014; BHR 4/2013, 30 July 2013; BHR 8/2012, 5 October 2012; BHR 1/2012, 20 January 2012; BHR 18/2011, 9 September 2011; BHR 5/2011, 12 April 2011; BHR 3/2008, 21 January 2008.

charges related to tearing up a picture of the King and allegedly insulting a public officer during a peaceful protest in Bahrain. In October 2015, the court reduced her sentence to one year in prison instead of three years over the same charge of insulting the Kings. Zainab AlKhawaja has been previously detained several times since 2011 for various periods, and has had over 13 cases brought against her at Bahrain courts. At one time she spent over 12 months in prison between February 2013 to February 2014 serving multiple sentences on different charges related to her human rights work and exercise of freedom of expression and freedom of assembly.<sup>92</sup> She has previously suffered from ill-treatment and poor prison conditions in her previous detention.<sup>93</sup>

84. Bahrain's Foreign Minister promised her release during a joint press conference with US Secretary of State John Kerry. Al-Khawaja was not released until 31 May 2016, a day after the 30 May sentencing of Al Wefaq's Secretary General Ali Salman, which saw his 4-year prison sentence on charges related to his exercise of his freedom of expression increased to 9 years. In June 2016, less than two weeks after her release, Al-Khawaja received threats of re-arrest and indefinite detention, in response to which she fled Bahrain to Denmark, where she holds dual nationality.<sup>94</sup>

#### Sayed Ahmed Alwadaei

85. Sayed Ahmed Alwadaei is the Director of Advocacy of the Bahrain Institute for Rights and Democracy. In 2011, Alwadaei was arrested and subjected to enforced disappearance and torture after he spoke to international media outlets about protests in Bahrain. He was sentenced before the National Security Court and served six months in prison. Following his release, Alwadaei claimed refuge in the United Kingdom, where he co-founded the Bahrain Institute for Rights and Democracy in 2013, and from where he continues his human rights work. In January 2015, Alwadaei was stripped of his citizenship by the Ministry of Interior, rendering him stateless.
86. Sayed Ahmed Alwadaei's family have been the subject of repeated reprisals for his work. These reprisals include mistreatment amounting to torture and arbitrary detention. On 26 October 2016, Alwadaei participated in an afternoon protest against the visit of King Hamad of Bahrain to London. Later that evening, Alwadaei's wife and infant son, who had been in Bahrain visiting family, were stopped at Bahrain International Airport on their return to London. His wife, Duaa Alwadaei, was mistreated by police officers and interrogated for seven hours. Most of the interrogation focused on the activities of her husband. She was threatened with prosecution, and the senior officer during the interrogation asked her, "Where shall I go first: shall I go to his family or to your family?" Mrs. Alwadaei and her son, a US citizen, were able to leave following the support of the US embassy in Manama.<sup>95</sup>
87. On 2 March 2017, Bahraini police arrested the brother-in-law of Sayed Ahmed Alwadaei, Nazar Sayed Namaa Alwadaei, 18, from the home of his cousin in the early morning. In the early afternoon that same day, Hajar Mansoor Hassan, Sayed Ahmed Alwadaei's mother-in-law and Nazar Alwadaei's mother, received a summons to the Criminal Investigations Department (CID). At the CID, while awaiting interrogation, Ms. Hassan received a call from her son saying he was held at the CID, that officers there had tortured him and forced him to implicate other relatives in

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<sup>92</sup> BIRD, *NGOs Call for the Release of Zainab Al-Khawaja*, 14 March 2016, <http://birdbh.org/2016/03/ngos-call-for-the-release-of-zainab-al-khawaja/>.

<sup>93</sup> Bahrain Center for Human Rights, *Urgent Appeal: Health of Activist Zainab Al-Khawaja In Danger*, 14 August 2013, <http://www.bahrainrights.org/en/node/6308>.

<sup>94</sup> IFEX, "Prison is easier than exile for me," *Zainab Al-Khawaja on being forced to flee Bahrain*, 13 June 2016, [https://www.ifex.org/bahrain/2016/06/13/forced\\_into\\_exile/](https://www.ifex.org/bahrain/2016/06/13/forced_into_exile/).

<sup>95</sup> HRW, *Bahrain: Activist's Family Targeted*, 6 March 2017, <https://www.hrw.org/news/2017/03/06/bahrain-activists-family-targeted>.

wrongdoing.<sup>96</sup> Ms Hassan was then detained for interrogation at the CID. She collapsed during interrogations and was taken to hospital, where she was admitted, having sustained injuries to her hand and shoulder. Most of the interrogation was focused on Sayed Ahmed Alwadaei. Ms Hassan gave a coerced confession to criminal charges. Nazar Alwadaei and Hajar Mansoor Hassan appeared before the Public Prosecution on 8 March 2017 and were accused of two terrorism charges. Both were subsequently detained for 30 days for investigation under the anti-terrorism laws.<sup>97</sup> Their cases are clear attempts to coerce a human rights defender by punishing his family, including subjecting them to arbitrary detention, torture and ill-treatment and unfair trials.

#### Other Human Rights Defenders

88. Other human rights defenders have also faced restrictions. In 2016, over 26 human rights defenders, trade unionists, lawyers and activists were prevented from travel abroad between June and December. The activists were generally placed on impromptu travel bans, which the majority of them were not informed of until they attempted to depart the country. These travel bans coincided with the 32<sup>nd</sup> and 33<sup>rd</sup> sessions of the UN Human Rights Council, and included human rights defenders who had received OHCHR-accredited training on engaging with the UN in Bahrain earlier that same year.<sup>98</sup>

#### Section 5: Special Rapporteur on Torture Denied Access

89. The Government of Bahrain has repeatedly denied and postponed visits by the Special Rapporteur on torture to the country since 2011, and no special procedure has visited Bahrain since 2006. In 2015, Bahrain's Chief of Public Security Tariq Al-Hassan accused the Special Rapporteur on Torture of having "*biased thoughts*" towards Bahrain.<sup>99</sup>
90. The Government of Bahrain has previously cited scheduling issues, and most recently in their State Party Report said that due to its "*far-reaching reform and development*" process "*including those relating to combatting torture*", the UN Special Rapporteur's requests to visit "*has, while appreciated, come at an inopportune time.*"<sup>100</sup>
91. If the Government's statements of reform are to be taken at face value, it cannot be understood why a visit at this time would be inopportune. In fact, the continued practices of arbitrary detention, torture, and unfair trials render great importance to a visit by the Special Rapporteur on torture at this time.
92. In 2016, the Special Rapporteur strongly implied that the Government of Bahrain uses the existence of its mechanisms as an excuse to not invite his mandate to the country (see paragraph 50).

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<sup>96</sup> Ibid.

<sup>97</sup> Information based on direct contact with the family.

<sup>98</sup> BIRD, *Bahrain Authorities Prevent Civil Society Members and Human Rights Defenders from Participating in UN HRC 32*, 13 June 2016, <http://birdbh.org/2016/06/bahrain-authorities-prevent-civil-society-members-and-human-rights-defenders-from-participating-in-un-hrc-32/>. These travel bans continued to occur into October 2016.

<sup>99</sup> Bahrain Mirror, *Bahrain's Public Security Chief: We denied UN Rapporteur on Torture Visit due to his "Biased thoughts on Bahrain"*, 2 November 2015, <http://bhmirror.myftp.biz/en/news/27298.html>.

<sup>100</sup> Bahrain State Party Report, CAT/C/BHR/3, para. 161.