
Salam for Democracy and Human Rights

**Bahrain's Compliance with the
International Covenant on Civil and Political Rights**



May 2018

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Introduction

Bahrain ratified the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture, and the Convention on the Rights of the Child. Despite its ratification of the international treaties and commitment to defend human rights, the brutal human rights abuses have been continuously reported.

A worrying new set of methods repressing the human rights of its own people have come into practice. The government continued to curtail freedoms of expression, association and assembly through various unlawful measures. By revoking nationality of more than 700 Bahrainis by May 2018, the government has been wielding citizenship as a weapon of control and oppression. It has also criminalised freedom of assembly and expression by implementing unnecessary restraints and inappropriate regulations on peaceful assembly. A number of detainees have been physically assaulted by staffs who had not given any proper training on the lawful use of force. The security apparatus also has continued to use torture to extract false confessions. Children have been no exception from becoming victims of human rights abuses. Security forces have routinely detained children without clear charges, which often results in ill-treatment on a serious level.

Assessment

Article 6. Death Penalty

Article 6 of ICCPR clearly states that no one shall be arbitrarily deprived of his life. It also emphasises that the death penalty would be imposed only for the most serious crimes. In Bahrain, the death penalty has been deployed as a tool of political revenge tool. Since 2011, Bahrain's court has issued a number of death sentences, some in military court and others in criminal courts.

Most recently, on 9 January 2017, the Bahraini authorities upheld the death sentence against three activists – Sami Mushaima, Abbas Al-Samea, and Ali Abdulshaheed Al-Singace, who were arrested in 2014, being accused of killing three policemen in a bombing incident. After exhausting all legal procedures, on 15 January 2017, the three individuals were immediately executed.¹ In December of the same year, the Supreme Military Court issued death sentence to six civilians, charging them for forming a terrorist cell. The victims, Mubarak Adel Mubarak Mahanna, Sayed Fadhel Abbas Hassan Rahdi, Sayed Alawi Sayed Husain, Muhammad Abdulhassan Al Mutaghwi, Murtada Majeed Ramadan Alawi, and Habeeb Abdullah Hassan Ali, were given the verdicts after a mass unfair trial. Murtada Majeed and Habeeb Abdullah were tried in absentia.

It was the first executions of Bahraini citizenship holders since 1996, although the victims were technically stateless after being stripped of their citizenship. This proves the serious retrogression of human rights in the country in the last two decades.

The Constitution of Bahrain does not refer to the death penalty and it is unclear whether the death penalty is mandatory for any offence in Bahrain.² Nevertheless, the death penalty in Bahrain has been carried arbitrarily and discriminately, especially against political dissidents. The Bahraini courts have continued to disregard of evidence and

¹ Bahrain Centre for Human Rights, "Bahrain Executes Three Stateless Torture Victims Following King Hamad's Authorisation," 15 January 2017, <http://www.bahrainrights.org/en/node/8434>.

² Cornell Centre on the Death Penalty Worldwide, <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Bahrain#f14-2>.

proofs that the security apparatus caused deaths, tortured prisoners, extracted false confessions and fired live rounds during the crackdown on peaceful protests.

All those sentenced to death have complained of the same or similar treatments and processes. These include rough arrests, harsh torture and obscure and questionable evidences. These all strongly indicate and illustrate a political scheme. The typical practices endured by death row inmates include blindfolding, long periods of forces standing, electrocution, insults, sleep and deprivation, etc.³

As death sentences to four men, handed down by the Military Court in December 2017, were commuted to life in prison in April 2018, the total number of Bahrainis on death row is twenty-one as of May 2018; four of them are facing execution, including Muhammad Ramadan and Maher Abbas al-Khabbaz. All coming from politically related backgrounds following the uprisings in 2011,⁴ and have suffered mistreatment, torture, and unfair trials.

Currently, the prominent Bahraini opposition leader, Sheikh Ali Salman, is under the risk of facing death penalty. On 24 April 2018, the High Criminal Court adjourned the new trial of Sheikh Ali Salman, who has been imprisoned for the past 4 years, until 21 June. There is serious concern that the Court would issue a verdict against him on politically motivated charges of establishing “intelligence links with Qatar” to “undermine its political and economic status as well as its national interest and to overthrow the political system”, as the Public Prosecution demanded the Court to hand down the “maximum penalty.”⁵

Article 7. Freedom from Torture and Other Inhuman Treatment

Widespread Torture in Bahrain

³ Salam for Democracy and Human Rights (2017), “Systematic Torture in Bahrain,” http://www.salam-dhr.org/wp-content/uploads/2017/03/Systematic-Torture-in-Bahrain_-22-Mar-2017.pdf.

⁴ Americans for Democracy & Human Rights in Bahrain, “Bahrain Court of Cassation Upholds Death Sentence against 3 Torture Victims,” 9 January 2017, <http://www.adhrb.org/2017/01/11579/>.

⁵ Americans for Democracy & Human Rights in Bahrain, “Bahrain Opposition Leader Sheikh Ali Salman Could Face Death Penalty as Qatar Trial is Set to Conclude on 21 June,” 24 April 2018, <http://www.adhrb.org/2018/04/bahraini-opposition-leader-sheikh-ali-salman-could-face-death-penalty-as-qatar-trial-is-set-to-conclude-on-21-june/>

Despite its ratification of the international treaties, including the ICCPR, and commitment to fight against torture during the BICI investigation in 2011, the brutal torture cases have been continuously reported.⁶

According to the Prisoners and Detainees Rights Commission (PDRC) report in 2015, a number of prisoners have been physically assaulted by staffs who had not given any proper training on the lawful use of force.⁷ The Criminal Investigations Directorate (CID), Dry Dock Prison and Jau Central Prison, in particular, have been infamous for coercive interrogations and human rights abuses. A number of former detainees gave testimony that they were subject to physical assault, including electric shocks, suspension in painful positions, compulsory standing for prolonged periods, exposure to extreme low temperatures, sexual assaults and abuses, and other forms of torture.

For instance, a detainee called Ahmed Ali Radhi from the village of Nuwaidrat was harshly tortured, which resulted in the injury with fractures and bruises in different parts of his body. The detainee Mohammed Ahmed Ali from the village of Abu Saiba and the detainee Qasim Buhumaid from Al-Malikiya were subjected to solitary confinement while the detainee Qais Abbas from Ali village was confined for 5 hours under the hot sun after he asked the prison administration to allow him to go to the open area for exposure to the sun. Jaafar Al-Madani was denied access to call his family. In addition to these cases, prominent human rights activist and detainee in the prisons of Bahrain, Nabeel Rajab was even prevented from drinking water.

The ongoing monitoring of abuses indicates that brutal acts against political detainees and human rights activists in Bahrain are systematic, and officials of the Ministry of the Interior are aware of if not even directed by them. The detainees, even children and those with serious illnesses such as cancer, epilepsy, sclerosis, have been victims of the

⁶ Bahrain Independent Commission of Inquiry Report substantially discussed cases of torture. For instance, look at p.225, 241-246, 432-478, <http://www.bici.org.bh/BICIreportEN.pdf>.

⁷ Prisoners & Detainees Rights Commission (2015) "Report on the Unannounced Visit to the Jau Rehabilitation & Reformation Centre (JRRC), http://pdrc.bh/mcms-store/pdf/75846ed3-8c59-4daf-a7b6-c4111f45a6b9_Jau-English-Final.pdf.

government's brutality. It has been also monitored that families of three of the detainees were also mistreated by security forces during raids on their homes.

Use of Torture to Extract False Confessions

The Bahraini security apparatus have continued to use torture on detainees to extract false confessions. All prisoners who are sentenced to death have complained of the same or similar conducts and processes of torture. The typical practices endured by inmates include blindfolding, long periods of forced standing, electrocution, insults and humiliation, sleep deprivation, etc.

All three victims of the recent execution in January 2017, Sami Mushaima, Abbas Al-Samea, and Ali Abdulshaheed Al-Singace were tortured by police and were forced to sign false confessions under duress. For instance, Sami Mushaima was forced to sign documents despite being illiterate. Although he had a family member who was a prominent opposition politician, it was known that he had never been involved in activism. Furthermore, Abbas al-Samea, a teacher who was at school at the time of the bombing incident, got admitted in hospital for surgery after interrogation due to torture. The third, Ali Abdulshaheed Al-Singace was arrested as a teenager and convicted in absentia, after being tortured using electric shocks.⁸

Lack of Impartial Instrument for Investigation

Although the ill-treatment of detainees has been continuously reported, there have been almost no proper prosecution of senior officers who have been accused of being in charge of torture. Since 2012, Bahrain has formed three instruments to investigate cases of torture and mistreatment—the Ombudsman, Special Investigations Unit (SIU), and

⁸ Reprieve, "Three Executions in Bahrain Imminent Without Urgent Action," 14 January 2017, <http://www.reprieve.org.uk/press/three-executions-bahrain-imminent-without-urgent-action/>.

Prisoners and Detainees Rights Commission (PDRC)—as recommended by the BICI report.

Despite the establishment of these channels, there have been no appropriate convictions in alleged cases of torture. Only between May 2015 and April 2016, up to 992 investigation case requests were made to the Ombudsman, which was formed to receive complaints in order to investigate torture and ill-treatment cases; yet no appropriate conviction was handed out against any senior officer with all cases generally dismissed.⁹ Also, the Special Investigation Unit SIU has never taken serious measures to investigate these complaints, preferring form over substance rather than any practical steps to protect detainees and prisoners.

Likewise, the authorities have impeded investigations of the international community on torture in Bahrain. In 2012 and 2013, the government of Bahrain postponed the scheduled visit of the United Nations Special Rapporteur on torture. It has been also reported that the government provides false information to third parties. For instance, with regards to a torture case of 32-year-old detainee, Muhammad Ramadan, the Bahraini authorities responded to a question raised by the UK government that there had been no such allegation, contradictory to several independent and documented human rights reports.¹⁰

On top of that, a number of state perpetrators of torture have been promoted with impunity. For instance, Bassam Al-Muraj, who have been accused of supervising the systematic torture for years, was promoted to be the General Director for Anti-Corruption, Economic and Electronic Security in the General Directorate in 2013, without any investigation of torture allegations.¹¹

⁹ Human Rights Watch, “Bahrain: Lagging Efforts to End Torture,” 13 June 2016, <https://www.hrw.org/news/2016/06/13/bahrain-lagging-efforts-end-torture>.

¹⁰ The Guardian, “Bahrain Torture ‘Ignored’ by UK-Funded Monitor,” 16 July 2016, <https://www.theguardian.com/world/2016/jul/16/bahrain-torture-foreign-office-criticised>.

¹¹ Bahrain Centre for Human Rights, “Bahrain: An Oasis of Torture,” 26 June 2013, <http://www.bahrainrights.org/en/node/6193>.

Article 9. Arbitrary Arrest and Enforced Disappearance

Article 9 of ICCPR states that no one shall be subjected to arbitrary arrest or detention, and anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

Nonetheless, the government of Bahrain has continued arrest without presenting a warrant or informing them of any charges. Furthermore, most of former detainees gave testimony that they were not permitted to contact their families nor request proper legal assistance upon arrest. This is a serious violation of the International Convention for the Protection of All Persons from Enforced Disappearance that aims to prevent the occurrence of enforced disappearance, adopted by the United Nations in 2006.

For instance, Khalil al-Marzooq, a former member of Parliament for the largest opposition group al-Wefaq, was arrested after his call for peaceful protests in 2013. His lawyer was not able to meet him before the trial.¹² Likewise, in June 2016, a prominent human rights activist Nabeel Rajab was also arrested allegedly without a warrant at his home, and no reason was given.¹³ The list goes on.

Article 10. Treatment in Detention

A proper treatment of prisoners is essential as written in Article 10 of the ICCPR. A number of human rights organizations, however, continue to receive many reports and testimonies about prohibiting detainees, especially those who suffered from torture, from medical care and psychological rehabilitation. Many are forced to wait for treatment or operation for more than months to no avail, which only deteriorate their conditions to a critical level. A number of detainees suffering from sclerosis, epilepsy and severe pain in

¹² Amnesty International, "Urgent Action: Prominent Bahraini Opposition Member Jailed," 19 September 2013.

¹³ Front Line Defenders, "Case History: Nabeel Rajab," <https://www.frontlinedefenders.org/en/case/case-history-nabeel-rajab>.

various areas of the body such as the eye, head and teeth are subject to medical negligence and lack of health care.

For example, the victim of torture, Akbar Ali, who was recently released, was prevented from his right to treatment by the administration of Jau Central Prison, despite his deteriorating psychological condition that resulted from torture, which caused several attempts to commit suicide. Muhammad Faraj is sentenced to seven years in prison. He suffers from MS and needs periodic and regular treatment as a result of the chronic disease. The Jau prison administration refuses to offer him a medical treatment, which has led to multiple health complications. Elyas Faisal Al Mulla is also a victim of torture and sentenced to 15 years in prison. He is suffering from cancer but has been prevented from treatment for many periods that caused health complications. The prison administration continues to delay his treatment, ignoring the fact that the proper medical treatment is guaranteed by both local and international laws, as it is stipulated in the Constitution of Bahrain. Jaafar Oun was tortured in the head area, which caused complications, the most recent of which was a swelling of the head. He asked for treatment and to be diagnosed by a specialist doctor, but the prison administration of Jau has procrastinated his transfer to a specialized hospital outside the prison clinic. This may cause serious health complications.¹⁴

The absence of treatment after relentless torture has occasionally taken away life of inmates. In November 2014, a 35-year-old prisoner, Hasan Majeed al-Shaikh was severely beaten to the extent of having his skull and jaw broken and kidney ruptured. He was placed in solitary confinement without proper medical treatment, which eventually resulted in his death. In March 2017, Muhammad Sahwan, a victim of excessive torture, died of heart failure in the infamous Jau Prison. He was shot by security forces in 2011, but never treated for the 80-birdshot pellets in his head. Until recently he had denied full treatment with his life at risk, which resulted in sudden cardiac arrest.¹⁵

¹⁴ Bahrain Centre for Human Rights, "Bahrain Must Provide Prisoners with Full Access to Adequate Medical Care," 5 August 2016, <http://bahrainrights.org/en/node/8051>.

¹⁵ Americans for Democracy & Human Rights in Bahrain, "Mohammad Sahwan Dies in Jau Prison, Police Attack His Funeral," 17 March 2017, <http://www.adhrb.org/2017/03/12002/>.

Likewise, during April 2018, more than fifteen detainees were denied access to treatment and health care, and the authorities deliberately subjected a number of detainees to medical negligence, such as the case of detainee Yousef Mohammed Fathi from Muharraq, who was not treated and was deliberately neglected after having had a head tumor removed.

The list of prisoners who are banned from treatment and health care includes Ammar Sahwan, who is suffering from injuries caused by shotguns. Detainee Elias Al Mulla, who is suffering from cancer, and the detainee Mohamed Ahmed Ali, and Ahmed Al Qubaiti, who are wounded by shotgun fissions whom the authorities completely refuse to treat. On 21 February 2018, the prominent human rights defender Nabeel Rajab was convicted of “disseminating false or malicious news” for his criticism against the Bahrain’s poor treatment of prisoners and pervasive use of torture by the authorities (as well as his tweets on the Saudi-led war in Yemen), and charged with a 5-year sentence in prison, in addition to the two years he had already served. Nabeel Rajab himself has been the victim of ill-treatment in prison ever since. Since his arrest in 2016, Rajab’s health condition has seriously worsened, having heart problem and high blood pressure. In March 2018, Nabeel Rajab was supposed to undergo a pilonidal sinus excision, abscess incision and drainage surgery, but in the last minute, the authorities delayed it, insisting that he must receive treatment at a military hospital, which he refused due to the ill-treatment there. In April, only two days after the surgery at the military hospital, he was sent to solitary confinement, which made him rushed to the hospital again as a result of continuous vertigo and nausea.

Furthermore, even the most basic rights to feed themselves in dignity is deprived by the Bahraini authorities. Prominent Bahraini human rights campaigner Ebtisam al-Saegh accused authorities at the Jau Prison of violating the rights of detainees by failing to provide them with adequate food.

Article 12. Freedom of Movement

Travel Ban

The government of Bahrain does not comply with Article 12 of the ICCPR that everyone has the right to liberty of movement and shall be free to leave any country, including his own.

Since 22 August 2016, the government imposed travel ban on around 20 human rights defenders attending the 32th Session of the UN Human Rights Council. Although it was temporarily lifted after the session, since March 2017, the authorities have enhanced the surveillance and travel bans against human rights defenders, which resulted in the enforced absence of Bahraini activists from the UN HRC sessions. In April 2017, ahead of the UN UPR of Bahrain, 32 activists were summoned by the Public Prosecution, being charged with 'illegal gathering' and banned from travelling. This practice repeated in September, ahead of the UN HRC session. Most bans were lifted after each session, proving that the Bahraini authorities barred activists from travelling and attending the UN events, in fear of international attention to the human rights situation in Bahrain.

On both occasions, the authorities, including the Public Prosecutor, accused the activists of fabricated allegations, such as their attendance at illegal gatherings in besieged Duraz, the area which has been sanctioned for non-residents to enter for almost over a year. As a result of the counterfeit charges, more than 50 political and media activists, and human rights defenders remain under travel ban for an indefinite term.

Revocation of Citizenship

The more brutal measure to deprive Bahraini citizens of right to free movement is continued revocation of nationality. Over the last few years, Bahrain has intensified the use of stripping citizenship from those who dissent or speak out in protest as a form of punishment. The Bahraini authorities allegedly allow the Interior Minister to carry out revocation of citizenship through its Nationality Act 1963, Article 10(3), in particular, which allows for the deprivation of nationality of persons that are causing "damage to the

security of the state”. The authorities have thus unlawfully used this Act to punish dissidents, activists, clerics, and scholars, the vast majority of whom have never committed a crime or prosecuted. In addition to decisions by the Ministry of Interior to revoke nationality, court judges have also increasingly handed down sentences that included the revocation of nationality, mostly in cases where defendants were convicted of terrorism-related offences. The number of victims from the government’s arbitrary citizenship revocation has been rapidly increasing: 90 in 2016, 156 in 2017, and 214 only during the first 5 months in 2018. As a consequence, until May 2018, the Bahraini authorities have made 720 Bahraini citizens stateless, many of whom have been forced to live in exile.

The revocation of citizenship in Bahrain often follows and is followed by arrests, detentions, interrogations and criminal charges, causing serious human rights violations. Citizenship revocation has profoundly affected the lives and wellbeing of thousands of people throughout the world. Under the threat of citizenship revocation, Bahrainis have been restricted in the exercise of their legitimate rights to freedom of expression, freedom of association and assembly, and freedom of religion or belief.

Article 14. Rights to a Fair Trial

Subjective and Biased Verdicts

Article 14 of the ICCPR ensures rights to a fair trial without undue delay, and without any external pressure. The courts of Bahrain have exhibited a clear bias towards politically-motivated verdicts, relying on false testimonies, issuing massive sentences, and giving green-lights for death sentences despite international condemnation.

The Bahrain Constitution provides provisions to control and organise the judiciary, with the first coming in Article 20 (“Criminal Trials”), which states, “[t]here shall be no crime and no punishment except under a law”, with Article 4 affirming, “[j]ustice is the basis of government”. These provisions create a requirement on the country to incorporate these principles in the governing system and should all be guaranteed under the judiciary and

trials. Further, the country should attempt to warrant that international agreements are reflected.

However, in practice, the government of Bahrain has punished its citizens, arbitrarily interpret several articles and provisions as well as the criminal laws. For instance, Article 122 in the Criminal Code states: “He will be punished by death he who commits to antagonizing work with a foreign state against the state of Bahrain.” The use of this article has resulted in the sentencing of three Bahraini citizens from the Wefaq National Islamic Society, the Secretary-General, Sheikh Ali Salman, and two other members, after expressing peaceful political views regarding the Government of Bahrain. The Article itself is particularly vague in describing the parameters of the rule, endangering any active human rights defender or political dissident that airs his/her views.

Judiciary’s Independence to Ensure Justice

The judiciary in Bahrain suffers from the loss of the most important elements of the standards of independent judiciary. The Supreme Judicial Council is directly appointed by the King and he seats himself head of the judiciary. There are also no clear criteria for the process of appointment, with judges not being subject to any examination. In addition, the judges are mainly members of the ruling family themselves.

The absence of transparency in appointment to the judiciary and the lack of a mechanism to carry out checks and balance, has allowed the King to appoint judges from the ruling family and the families close to him. With members from the Sunni community having first dibs, as well as foreign Arabs (such as Egyptians) having the chance to be appointed in to the judiciary, with Shia Bahrainis facing slim chances of being appointed. The Public Prosecution mirrors this policy, where its members are appointed in identical fashion as that of the judiciary, and the considerations are the same (ruling family first, Sunni community members second, foreign Arabs third, and Shia Bahrainis last).

Furthermore, the military judiciary, after the amendment to Article 105 of the Constitution, has allowed the prosecution of civilians by military courts. The Military Justice Act has also given the authority for judges in such courts to be appointed by order of the King,

after the nomination of the candidates. This judiciary is therefore no different from the civil judiciary in that it lacks any independence.

The right to contact a lawyer

In Bahrain, the majority of defendants in human rights and political cases are deprived of from contacting lawyers, both in police stations and at the public prosecution. Lawyers regularly apply to the security authorities and the public prosecution with official requests to see their clients but are usually always denied. It always becomes apparent after a case is prepared by the Public Prosecution against the defendants that a lawyer was required to attend with the client. This demonstrates the illegality of such a policy which has occurred time and again in numerous cases.

The Code of Criminal Procedure gave absolute power to the police and the Public Prosecution to allow lawyers to enter the interrogation chambers and to monitor the safety of the investigation proceedings against the accused. However, in contravention of the Constitution, we have observed that numerous defendants in criminal cases were not legally represented or were not allowed to have their lawyer present. We have observed cases where lawyers have been barred from being with their clients while they are being questioned at police stations, as well as defendants being interrogated at the Public Prosecution Office.

Confessions under duress

There are dozens of detainees who report to the prosecution during their interrogation that their confessions in the Department of Criminal Investigation and Evidence were committed by coercion, torture, threats or inducement. In the event of their confession, they will be released, but the Public Prosecutor's Office does not show any seriousness in the investigation of these allegations, and is often the basis for their conviction at court.

The prosecutors who investigate these cases often report that they sometimes refer the defendants' allegations of torture to the Special Investigation Unit investigating allegations

of torture and ill-treatment. This has rarely resulted in any convictions against any officers and has remained without tangible results. The majority of victims end up losing hope and confidence in these mechanisms and organisations.

Judiciary and Trials

Many cases of violations to defendants' rights in the courts, which include denying them legal access to counsel at the preliminary stages of their criminal cases, as well as instances of denying them opportunities to discuss the substantive evidence before the court. The Public Prosecution has continuously relied on secret witnesses in criminal cases who do not attend trial sessions. This challenges the fairness of the criminal courts and defendants' counsels cannot cross-examine or challenge these secret witnesses.

Furthermore, expeditiousness in dealing with cases in the criminal courts is not a principle that is upheld, with severe delays in the processing of criminal cases forcing many defendants to remain in custody for long periods of time. A recent example of this is the case of Sheikh Mohammed Saleh Al Qasha'ami, who was kept in detention for 12 months and then found innocent by the court.

Legal modification of criminal cases

The legal adjustment or modification of the criminal cases are a particular issue, Bahrain's security authorities commence an investigation, and usually alter a case to reflect the political interests of the authorities. We have found that most criminal cases that concern a political interest are expeditiously investigated by the Public Prosecution Department and an adverse judgment against the defendant is reached at the Court of Cassation.

In Bahrain's criminal law, legal modification/adaptation remains a jurisdiction of the criminal judge. However, we have consistently observed that criminal judges surrender any counter arguments and always choose to adopt the opinion of the security authorities. This has been illustrated with the case concerning "communications with Qatar". The Secretary General of the Wefaq Party found himself in a position where his case's

accusations were repeatedly modified to correspond to social media materials to reach a position where a defamation charge can be sought despite the fact that all the materials and evidence based existed before the alleged communications took place.

Right of the defendant to a defense

The defense is an inherent right of every defendant. This right is provided for in the Constitution and the law. The judge, the prosecutor or any person who initiates the criminal case must allow the defendant an opportunity to defend himself or with the assistance of a lawyer.

We have found that in most criminal cases of a political or juridical nature, the court rejects the request to discuss secret witnesses. Many of the defendants have provided conclusive evidence of their innocence and have not been accepted by the court. Defendants often file a complaint with the criminal judge about the torture that accompanies the investigation, however, they are never properly followed up.

Enactment of Laws Prohibiting Military Courts from Trying Civilians

With regards to a fair trial, on the contrary to its commitment to enact laws that would prohibit civilians being tried in military courts, in March 2017, the government of Bahrain has empowered the military institution. By approving a constitutional amendment to Article 105(b), military trial for civilians has been legalised, which is a serious violation of international fair trial standards. By empowering security agencies, the Bahraini authorities are facilitating political persecution of the opposition and civilians, under the pretext of “fighting terrorism.”¹⁶

¹⁶ Human Rights Watch, “Bahrain: Proposed Military Trials of Civilians,” 23 February 2017, <https://www.hrw.org/news/2017/02/23/bahrain-proposed-military-trials-civilians>.

Article 18. Freedom of Thought, Conscience and Religion

The Bahraini authorities have increased restrictions on freedom of religion and conscience of Bahraini citizens, especially depriving the majority of Shia population of their rights to worship and practice their religious belief. This is a serious violation of Article 18 of the ICCPR, which stipulates that everyone has right to freedom of thought, conscience and religion, including freedom to manifest his religion or belief in worship, observance, practice and teaching.

Violation against Religious Freedom and Restrictions on Religious Activities

A number of religious scholars have been arrested and detained simply for their expression of opinion. Many of them have been banned from organising religious activities. This has been demonstrated by the political decision, disguised under a judicial judgement against the religious authority, the Ulama Islamic Council. In 2016, the authority accused the prominent religious leader, Shaikh Isa Qassim, of money laundering, revolving around "Khums", an annual payment made by Shia Muslims to assist the poor. By charging the highest cleric of religious practice with collecting 'illegal' donation, the regime is criminalising religious practice of Shia Muslims.¹⁷

Furthermore, Bahrain has failed to implement the commitment to rebuild the destroyed Shia places of worship. Despite its pledge to complete reconstruction of some of Shia mosques by 2014, which were demolished by the authorities, the government have continuously delayed the plan, and by 2015, only 12 out of 38 mosques were reconstructed. Moreover, there were several other places of worship have been destroyed since its acceptance of the UPR recommendations. The government have further permanently confiscated lands where demolished mosques used to stand.¹⁸

¹⁷ Americans for Democracy & Human Rights in Bahrain, "Government of Bahrain Must Drop Charges, Reinstate Citizenship of Sheikh Isa Qassim," 19 May 2017, <http://www.adhrb.org/2017/05/government-bahrain-must-drop-charges-reinstate-citizenship-sheikh-isa-qassim/>.

¹⁸ The Centre for Academic Shi'a Studies, "The Destruction of Places of Worship in Bahrain," September 2014, <http://www.shiaresearch.com/Doc/The-Destruction-of-Places-of-Worship-in-Bahrain.pdf>.

Discrimination in Education

Education is a basic human right guaranteed and safeguarded by all international covenants, conventions and agreements. It is the fundamental right of all human beings, without discrimination based on affiliation, race, colour, language, religion or other reasons. Nonetheless, in Bahrain, since 2011, the Ministry of Education has increased the level of discrimination in curriculum, employment and promotions, and distribution of scholarships, targeting Shia citizens, especially, by way of reprisal for their participation in public protests calling for reforms.

The government of Bahrain has deliberately imposed a biased curriculum of religion and belief on public and private schools, ignoring various religious denominations in the country. Shia specialist teachers have been marginalised from the Ministry of Education's Curriculum Directorate, while no other sects or beliefs than Sunni doctrine are permitted to be taught on the official curriculum.

Discrimination in employment has caused serious public grievances in the past years. It was reported in 2016 that 1,573 Bahraini teachers, all of whom are Shia, were unemployed, while foreign teachers have readily been employed, representing 20 percent of the total number of employees in the educational sector. Furthermore, a number of Shia employees in education have been arbitrarily transferred to lower positions or positions that do not come within their area of expertise, or assigned tasks that do not match their job title.¹⁹ Likewise, scholarships represent one of the manifestations of blatant discrimination and sectarian oppression in Bahrain. Shia students have been deprived of their rights amid a sharp increase in discrimination in the distribution of scholarships. In 2015 alone, 34 percent of the top-grade students were deprived of

¹⁹ Bahrain Teachers Society, "Submission to the UN Universal Periodic Review 27th Session of the UPR Working Group: Discrimination in Education," 22 September 2016, https://www.upr-info.org/sites/default/files/document/bahrain/session_27_-_may_2017/bta_upr27_bhr_e_main.pdf.

scholarships, which has caused observers to rightly accuse the authorities of distributing educational support based on students' political or sectarian affiliation.²⁰

Article 19. Freedom of Expression

The government of Bahrain has criminalised and sabotaged freedom of expression through various unlawful measures and manipulation of relevant domestic laws. They have implemented unnecessary restraints and inappropriate regulations, and arbitrarily interpreted the law, which result in an infringement of Article 19 of the ICCPR. As a consequence, a worrying new set of methods repressing the human rights of its own people have come into practice. A number of political and religious leaders, journalists, human rights activists, and bloggers have been sentenced merely for exercising their rights to freedom of expression.

The persecution on former members of parliament has been particularly serious since 2011. Although the vast majority of former MPs have moderate and peaceful views in regard to political reform, their justifiable demands for transparency, rule of law, and the empowerment of parliament have been branded by authorities as 'extremist and radical' propaganda.

As a result, a number of former MPs have been targeted and punished for their political views, many of whom come from different backgrounds and sections of society. Khalil Marzooq, Matar Matar, Osama Al-Tamimi, Hasan Sultan, Hasan Isa, Jawad Fairouz, Jalal Fairouz, Khalid Abdilaal, Sayed Jamil Kadhem, Majeed Al-Sabi', and Sheikh Ali Salman have been targeted by the government due to their critical stance against the government. Their cases clearly illustrate the extent the Bahraini authorities are going to ensure a constricted policy on freedom of opinion and expression against all citizens, and is further proof of the absence of democracy in Bahrain.

²⁰ Ibid.

Instead of protecting rights of citizens, the government of Bahrain enhanced regulations that criminalise the legitimate exercise of rights to freedom of expression. The government approved amendments to Article 364 of the Penal Code which would increase the penalty for ‘insulting’ parliament, security forces, judges or public interests to two years’ imprisonment, and increased the punishment for publicly encouraging others to ‘defame’ to three years’ imprisonment, or longer for slander in the media.²¹

Article 21. Freedom of Assembly

Bahraini authorities have restricted practices relating to freedom of assembly by manipulating relevant domestic laws. To illustrate, the government of Bahrain have criminalised and sabotaged peaceful assembly, including the Duraz sit-in. Since June 2016, the security apparatus has sieged the Duraz area, whose population reaches 18,000. The authorities have used excessive force against citizens in the area, who are calling for reform and justice in response to the citizenship revocation of prominent religious leader, Isa Qassim. Since the early 2017, the Bahraini security forces have launched a new phase of a harsh crackdown on Duraz using the excessive force against citizens who were calling for reform and justice. The 18-year-old Mustafa Ahmed Hamdan was shot in the head with a bullet and died of his injuries on 24 March.²² In 23 May, hundreds of security forces launched another repressive measure to disperse peaceful protesters, resulting in the deaths of five – Ahmed Jamil Ahmed Mohammed al-Asfoor, Mohamed Ali Ebrahim Ahmed Kadhem Ahmed, Mohammed Ahmed Hassan Mohammed Hamdanm Mohammed Kadhem Mohsen Ali Nasser, and one unknown – and injuring dozens of others.

²¹ Human Rights Watch, “Interfere, Restrict, Control: Restraints on Freedom of Association in Bahrain,” 20 June 2013, <https://www.hrw.org/report/2013/06/20/interfere-restrict-control/restraints-freedom-association-bahrain>.

²² Reuters, “Young Bahraini Dies After Being Shot Outside Shi’ite Leader’s House: Activists,” 24 March 2017, <http://www.reuters.com/article/us-bahrain-security-death-idUSKBN16V2E8>.

The military attack and crackdown on peaceful demonstrations have been ongoing. In April 2018, Bahraini forces fired tear gas at the protesters in a number of villages against the 2018 Bahrain Grand Prix, a Formula One motor race.

Article 22. Freedom of Association

Since 2006, the following human rights NGOs, cultural, and political societies been dissolved: Bahrain Centre for Human Rights, Islamic Scholars Council, Al Resselah Cultural Society, Al Tawea Cultural Society, Islamic Action (Political Society), Al Wefaq (Political Society).

Most of all, the forceful dissolution of largest political society, Al-Wefaq, astonished the Bahraini public. There was a brief and opaque court procedure, which concluded with a severe and highly inflammatory result to close the party, seize and sell off its assets, with no proper and fair appeal process to contest the decision – with the party’s secretary-general, Sheikh Ali Salman, undergoing an intensified sentence after appealing to reconsider the judgment against him.²³ While other long-standing societies, Tow’iya and Al-Risala, were also closed and their assets seized. The most influential liberal party, Wa’ad, has also been targeted, with numerous suspension orders handed to it over the last few years. In March 2017, a case has been lodged to dissolve the party.²⁴

Furthermore, in Bahrain, the formation of trade unions was legally allowed in the early 2000s, but the government has not accepted the repeated demands of trade unions to participate in the country’s political, economic and social decision-making, which is essentially a fundamental right and an inherent democratic right. The authorities in Bahrain have continued to take the top-down decision-making approach and abuse this productive and labour sector.

²³ Aljazeera, “Bahrain Dissolves Main Shia Opposition Al-Wefaq Party,” 17 July 2016, <http://www.aljazeera.com/news/2016/07/bahrain-dissolves-main-opposition-party-160717132556468.html>.

²⁴ BBC News, “Bahrain Court Dissolves Main Secular Opposition Group,” 31 May 2017, <http://www.bbc.co.uk/news/world-middle-east-40104731>.

Undoing the articles of the Trade Unions Law

The Trade Unions Act of 2002 lacks an explanatory memorandum and lacks provisions and articles that protect the rights of national workers. It contains restrictive articles for dialogue between trade unions and the authorities, and also prohibited workers of the public sector from forming unions defending their interests. Article 21 of the law also restricted the inherent right and effective means of defending the workers' rights, namely the right of strike, with restricting article that limits their ability to activate this right and carry out labour strikes.

In the authority's efforts to eliminate labour movements, the law was amended. The Minister of Labour was granted the right to choose the labour union which represents the workers of Bahrain in international forums and negotiations with the employers. The authorities also pushed towards controlling and dividing trade unions to ensure hegemony over workers' voices by pushing loyalists to break-in unions and the establishment of unions loyal to the Authority. That is to tighten the screws on the General Union of Bahrain Trade Unions, which the authority sees as opponent due to its support for popular demands in the transition to democracy in 2011.

Since October 2012, the Bahraini authorities have violated Article 21 of the Royal Decree of the Bahraini Trade Union Law of 2002, which stipulates that the strike is a legitimate mean of defending the economic and social interests of the labour. Where the Interior Minister Sheikh Rashid bin Abdullah Al Khalifa commented through the Bahrain News Agency and broadcasted by international news agencies such as Reuters, that: "marches and protest rallies will be treated as unlicensed and legal proceedings will be taken against those who call for or participants in them".

Even before October 2012, the security authorities in Bahrain used to face these protests with repression. There are usually clashes between a number of demonstrators and police. The demonstrations end with the arrest of citizens. In May 2013, during the suppression of labour marches, Photographer of the French news agency Mohamed Al Sheikh, The Associated Press photographer Hassan Jamali, Radio Monte Carlo

correspondent Naziha Saeed were all arrested and released in later times. Authorities in Bahrain have not responded to human rights organizations' claims or the claims of the General Federation of Bahrain Trade Unions to abide by the constitution, which allows for protests and to comply with the Bahraini Union Law. It is worth noting that at the first of May trade unions all over the world organize marches and protests calling for the improvement of wages and modify the conditions and also demands concerning legal amendments and other types of workers' claims.

Article 24. Rights of Children

The government has revoked nationality of more than 700 Bahrainis, wielding citizenship as a weapon of control and oppression. This unlawful measure causes a serious violation of Article 24 of the ICCPR that every child has the right to acquire a nationality, as the citizenship revocation may render numerous children in statelessness. The impacts of citizenship revocation are especially harmful to children. They may be born stateless or fall into such predicament later in life, as a result of the revocation of a parent's legal status. They become deprived of fundamental rights to safety and security and denied access to basic medical care and education.

Stateless Children of Activists and Dissidents

In 2014, when Sarah Ali Salman was 40 days old, her father, Sheikh Ali Salman, was arrested by the Bahraini authorities for leading the demands for political reforms in the country and has detained in Jau Central Prison since then. On more than one occasion and through lawyers, Sarah's family has submitted applications for a passport and identity card for the child, but the authorities rejected the application in the pretext that the procedures require the physical presence of the father at the administration office.

In order for Sarah's application, Sheikh Ali Salman has demanded the prison administration and relevant judiciary authorities to issue permission to allow him to attend his daughter's registration. However, these requests did not receive a response without

any justification despite the passage of three years, and the family were not even allowed to hire a lawyer to file the application on behalf of the sheikh.

As a result, Sarah Ali Salman, who will turn four years old in November, has not been able to obtain basic civil rights such as education, medical treatment, and travel. This is a flagrant violation of the international treaties ratified by Bahrain, notably the Convention on the Rights of the Child of the Bahraini Constitution, Article 17 that states: “Bahraini nationality shall be determined by law and may not be revoked from those who enjoy it except in the case of treason and other conditions specified by law”.

Conclusion

As investigated, despite its ratification of the International Covenant on Civil and Political Rights (ICCPR), there has been no meaningful compliance with the most of its Articles. The government of Bahrain have increased restrictions on freedom of expression, assembly, association and religion of its citizens, targeting whoever raise their voices against the government to any degree. The arbitrary measures of the authorities have resulted in numerous victims of torture, travel ban, revocation of citizenship, and death penalty. Therefore, continued support, encouragement and pressure are in urgent need to ensure Bahrain implements the legal and policy changes for the real promotion and protection of all human rights for all people in Bahrain, complying with the international norms and standards, including the ICCPR.