

Assessing the Human Rights Situation in Bahrain: A Shadow Report on Bahrain's Implementation of its ICCPR Obligations



© 2014, the Bahrain Institute for Rights and Democracy (BIRD), Americans for Democracy and Human Rights in Bahrain (ADHRB) and the Bahrain Centre for Human Rights. All rights reserved.

Bahrain Institute for Rights and Democracy

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

www.birdbh.org

Americans for Democracy and Human Rights in Bahrain

Americans for Democracy and Human Rights in Bahrain is a non-profit, 501(c)(3) organization based in Washington, D.C. Through engagement with U.S. government officials, intergovernmental actors, activists, and the public, we seek to foster awareness of and support for democracy and human rights in Bahrain.

1001 Connecticut Ave. Northwest, Suite 205
Washington, DC 20036
202.621.6141
United States

www.adhrb.org

Bahrain Center for Human Rights

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

www.bahrainrights.org

Introduction

The International Covenant on Civil and Political Rights (ICCPR), adopted by the United Nations General Assembly in 1966 and in force since 1976, is one of three instruments comprising the ‘International Bill of Rights,’ the other two being the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Political Rights (ICESPR). Once a State ratifies the ICCPR, it falls upon its government to implement the necessary laws and mechanisms to protect the rights expressed within the ICCPR, such as the right to participate in government, to vote, and the freedoms of expression and assembly. It falls upon the UN Human Rights Committee (HRC) to review each individual State’s adherence to the ICCPR. This is done through the process by which each State submits a periodic report to the Committee, which then commences its review. As of 2014, 168 countries are party to the ICCPR.

Bahrain acceded to the ICCPR in 2006, the only Arab Gulf monarchy to do so (however, Kuwait ratified in 1996). In acceding to the Convention, Bahrain agreed to be bound by the provisions of the ICCPR without the need for an act of signature. In accordance to Article 40 of the ICCPR, Bahrain was required to submit a periodic treaty report to the HRC on the measures adopted within one year of ratifying the convention and maintains an affirmative obligation to submit follow-up reports every four years thereafter. Bahrain has yet to submit either the initial report or any follow-up reports to the HRC.

Before discussing the present state of Bahrain’s adherence to the ICCPR, it is necessary to briefly examine human rights developments before and after 2006. In the first seven years of King Hamad’s reign (r. 1999-present), the government made attempts towards meaningful political reforms to bring an end to the political uprising of the 1990’s. Included among these reforms was the scrapping of the 1974 State Security Law, which allowed the detention of persons for up to three years renewable without charges being brought against them, a general amnesty for all political exiles,¹ and a commitment to democratic government.²

By 2006, however, during Bahrain’s accession to the ICCPR, many of these reforms had proven to be hollow, and political discontent began to foment once again. In 2007, security personnel once again began employing practices of torture after its absence in King Hamad’s first years as ruler. In February 2011, the ‘Arab Spring’ spread to Bahrain, and protesters took to the streets demanding political and economic reforms. The Government responded with increasingly repressive measures against its political opponents in a clear breach of its legal obligations under the ICCPR. Since then, the government has continued to infringe upon most civil and political rights.

This report looks at Bahrain’s commitments to the following prohibitions, rights and freedoms guaranteed under the ICCPR: the prohibition of torture (article 7); right to liberty (article 9); rights of prisoners (article 10); right to fair trial (article 14); freedom of religion (article 18);

¹ ‘Bahrain: Promising Human rights reform must continue,’ Amnesty International, 13 March 2001, <http://www.amnesty.org/en/library/asset/MDE11/005/2001/en/d76b504c-f84c-11dd-a0a9-2bd73ca4d38a/mde110052001en.pdf>. Archive of original created 9 February 2011, <http://www.webcitation.org/5wNV0YKJs>, (accessed 5 August 2014).

² Constitution of the Kingdom of Bahrain, 2002, art. 1.b, 1.d. The 2002 Constitution states that Bahrain is a constitutional monarchy and affirms the country’s commitment to democracy.

freedom of expression (article 19); freedom of assembly (article 21) and the freedom of association (article 22). It finds that in every respect, the situation in Bahrain has deteriorated.

Freedom of Expression, Assembly, Association and Religion

Freedom of Expression

As many as 4,000 people are estimated to currently be in detention or prison in Bahrain for crimes related to thought, expression and assembly.³ The most prominent of them are the Bahrain 13. The Bahrain 13 are political leaders, human rights activists and members of Bahrain's intelligentsia who have been imprisoned for expressing their views for reform in Bahrain. Six are sentenced to life in prison; two are serving five years sentences; another four are serving fifteen years in prison; and one, Mohammad Habib al-Miqdad, is serving a sixty-eight year sentence.⁴ The government imprisoned all of them in 2011 for offences related to their freedoms of expression and assembly.

Abdulhadi al-Khawaja, one of the Bahrain 13, is a co-founder of the Bahrain Center for Human Rights (BCHR) and has been active in campaigns for reform since 1979. Security forces arrested al-Khawaja in 2011 for his role in leading pro-democracy protests. During his detention he was tortured and in June 2011 a military court sentenced him to life. On 25 August 2014 he began a hunger strike in protest of his false charges and poor prison conditions.⁵ It is his second since his imprisonment, his first in 2012 ending after 110 when authorities forced him to break his strike.⁶ As of 25 September 2014, his second strike continues despite his rapidly deteriorating health and his refusal to be transferred to a hospital.⁷ Al-Khawaja, punished for exercising his freedoms of expression and association three years ago, is left with no other way of expressing himself.

In 2014, King Hamad decreed a new law criminalising 'insulting the King.' Persons found guilty face up to seven years in prison and a fine of up to USD\$26,500.⁸ The police and judiciary use this as a pretext to target critics of the reigning monarch King Hamad and the monarchic system in general. However, the courts have convicted individuals for insulting King Hamad prior to the promulgation of this law. In October 2012, police arrested four unidentified individuals for insulting the King on Twitter,⁹ and as of 29 April 2014 the

³ 'Advocacy Associate Engages Interactive Dialogue on Arbitrary Detention at HRC27,' Americans for Democracy and Human Rights in Bahrain, 14 September 2014, <http://adhrb.org/2014/09/adhrb-advocacy-associate-engages-agenda-item-3-interactive-dialogue-at-hrc27/>, (accessed 26 September 2014).

⁴ 'Freedom for the Bahrain 13: Mohammad Al-Miqdad,' BIRD, <http://birdbh.org/mohammed-habib-al-miqdad/>, (accessed 1 July 2014).

⁵ 'Abdulhadi Al-Khawaja,' BIRD, <http://birdbh.org/abdulhadi-al-khawaja/>, (accessed 12 September 2014).

⁶ 'Bahraini activist Khawaja ends hunger strike,' BBC, 29 May 2012, <http://www.bbc.co.uk/news/world-18239695>, (accessed 12 September 2014).

⁷ 'Abdulhadi Al-Khawaja,' BIRD, <http://birdbh.org/abdulhadi-al-khawaja/>, (accessed 12 September 2014).

⁸ 'New law: Insult Bahrain's king, get thrown in jail,' CNN, 6 February 2014, <http://edition.cnn.com/2014/02/06/world/meast/barhain-new-law/>, (accessed 15 September 2014).

⁹ 'Bahrain charges four men with defaming king on Twitter,' Reuters, 18 October 2012, <http://www.reuters.com/article/2012/10/18/net-us-bahrain-defamation-king-idUSBRE89H0HI20121018>, (accessed 25 June 2014).

Government admits to having arrested twelve for this crime.¹⁰ However, evidence shows that defendants were tried based on statements that do not necessarily target the private life of the King. Ali Abdulla Ahmad al-Hayaki was arrested for two statements he made on the social media website Twitter: ‘Down with Hamad – This immortal tune longs to be called out and inspire the heart – May God bring about the fall of this tyrant,’ and ‘The people said the word and the time of dictators has passed, down with Hamad.’¹¹ Based on these two tweets, the court sentenced the defendant to four months in prison.¹² Though the statements are certainly attacks on King Hamad as a public figure, it is difficult to see how they may be interpreted as insults towards his private life.

Freedom of Assembly

Between April and October 2011, military courts convicted at least 200 defendants of ‘participating in illegal demonstrations’.¹³ In 2012, a court sentenced Nabeel Rajab to a cumulative three years for three separate charges of illegal demonstration. The Information Affairs Authority said these had been violent protests, though Rajab and his lawyer contended that they were peaceful.¹⁴ Authorities arrested many prominent activists, including Abdulwahab Hussain of the Wafa’a Movement, Hassan Mushaima of the Haq Movement and Abdulhadi al-Khawaja, all members of the Bahrain 13, for their leading roles in the February-April 2011 protests.¹⁵ YouTube videos also attest to the fact that police have cracked down upon peaceful assemblies. One such video from 2012 shows a police checkpoint stopping a small delegation led by Al Wefaq’s Ali Salman. Several minutes into the video, the police open fire on the unarmed protesters.¹⁶

On the week of 12 August 2013, the Bahrain Tamarod (‘Rebellion’) movement attempted to stage week-long protests. In response, the Bahraini parliament recommended a set of new and restrictive anti-terrorism and security laws, including a ban on all demonstrations in the capital Manama.¹⁷ On the day of the protests, the movement fizzled as security forces blocked off the capital and contained demonstrations to the outlying villages by surrounding villages with barbed-wire fence.¹⁸ Since then, the Government of Bahrain has successfully blocked any attempts to organise mass movements like the kind seen in 2011.

¹⁰ ‘Appendix II: Response of the Office of General Prosecutor Ali Fadhul Al Buainain to Human Rights Watch, April 29, 2014’ in Human Rights Watch, *Criminalizing Dissent, Entrenching Impunity: Persistent Failures of the Bahraini Justice System Since the BICI Report*, (2014), p. 63.

¹¹ Bahrain Fourth Minor Criminal Court, Case No. 07201208958, 12 November 2012.

¹² Verdict, Ibid.

¹³ Human Rights Watch, *No Justice in Bahrain: Unfair Trials in Military and Civilian Courts*, (2012), p. 11.

¹⁴ ‘Bahrain jails activist for three years over protests’, Reuters, 16 August 2012, <http://www.reuters.com/article/2012/08/16/us-bahrain-protest-activist-idUSBRE87F0G420120816>, (accessed 1 July 2014). Rajab was released in June 2014 after serving two years.

¹⁵ Americans for Democracy and Human Rights in Bahrain, *A Follow-Up Report on Bahrain’s UPR Second Cycle: The Deteriorating Human Rights Situation in Bahrain*, (2014) pp. 14-6.

¹⁶ ‘البحرين: النظام البحريني يغتال الشيخ علي سلمان’ (Bahrain: The Government of Bahrain assassinates Sheikh Ali Salman), 22 June 2012, <https://www.youtube.com/watch?v=A5kLYb90Hek>, (accessed 1 July 2014).

¹⁷ ‘Recommendations of the Extraordinary Session of the National Assembly,’ Bahrain News Agency, 28 July 2013, <http://www.bna.bh/portal/en/news/573207>, (accessed 22 July 2014).

¹⁸ ‘Bahrain protests fizzle under security clampdown,’ AP, 14 August 2013, <http://bigstory.ap.org/article/bahrain-troops-deploy-ahead-nationwide-protests>, (accessed 1 August 2014).

Freedom of Association

Political Societies

In 2013, the government passed a new law mandating that any meeting between a foreign official and Bahraini political parties be approved and attended by a Government representative.¹⁹ The new law remained unenforced until July 2014, when Bahrain expelled U.S. Assistant Secretary of State for Democracy, Human Rights and Labour Tom Malinowski after he met with political opposition party Al Wefaq.²⁰ Malinowski was conducting a standard procedure meeting during his tour of Bahrain, which was to include meetings with Government officials as well. The application of this law has negative consequences for civil and political society, as, if applied effectively, it will grant the Government supervision of activities of civil and political societies beyond a reasonable degree.

Civil Society

The current Law of Associations makes it difficult to establish NGOs which can meaningfully commit to political or humanitarian work. It states that a start-up NGO needs at least ten founding members and that the Government of Bahrain may decline a registration request for an NGO either explicitly, by sending a letter of rejection, or implicitly, by simply not replying to the request within a 60-day period. Those whose registration requests have been declined can appeal the rejection, which can be declined again either explicitly or implicitly in the same manner. This allows the State to decline the registration of NGOs which might be critical of the government without justification. Once an NGO has established itself, the Government can take over or dissolve a society at will, or severely limit the society's funding. The law also explicitly prohibits organisations from 'engaging in politics.'²¹

Human Rights Watch detailed the difficulties ten NGOs have faced with Bahrain's Law of Associations.²² Of these, five were human rights organisations, including the Bahrain Center for Human Rights, four were professional societies, and one was a rejected proposal for a society which would have conducted independent electoral coverage.²³

Freedom of Religion

The Bahraini constitution does not explicitly protect freedom of religion, but does provide for freedom of worship, and the government has generally respected the right of citizens and foreign residents to practice their religion.²⁴ However, Bahrain's native Shi'a, who make up an

¹⁹ 'Bahrain insists political groups seek approval before dealing with international community,' The National, 12 September 2013, <http://www.thenational.ae/world/middle-east/bahrain-insists-political-groups-seek-approval-before-dealing-with-international-community>, (accessed 10 September 2014).

²⁰ 'Bahrain: U.S. diplomat "unwelcome and should immediately leave,"' CNN, 8 July 2014, <http://edition.cnn.com/2014/07/08/world/meast/bahrain-us-diplomat-unwelcome/index.html>, (accessed 10 September 2014).

²¹ Human Rights Watch, 'Interfere, Restrict, Control': Restraints on Freedom of Association in Bahrain, (2013), p. 2.

²² Ibid.

²³ Human Rights Watch, 'Interfere, Restrict, Control': Restraints on Freedom of Association in Bahrain, (2013), pp. 18-22.

²⁴ U.S. Commission on International Religious Freedom (USCIRF), *Annual Report 2012*, (2012), p. 328 [http://www.uscirf.gov/sites/default/files/resources/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscirf.gov/sites/default/files/resources/Annual%20Report%20of%20USCIRF%202012(2).pdf), (accessed 1 July 2014).

estimated 60% of the Bahraini population, have faced discrimination.²⁵ Despite accounting for the majority population in Bahrain, Shi'a are a political minority, with limited numbers in important government roles, in the army, and in security services.²⁶

The elected National Assembly is designed to artificially weaken the Shi'a political parties. Bahrain's constituencies segregate majority Shi'a areas from majority Sunni areas, so that any particular constituency is either wholly Shi'a or Sunni. The Shi'a constituencies are fewer in number and larger in population than the Sunni constituencies, with the largest constituency, home to a dense Shi'a population, having twenty-one times the voting population of the smallest constituency, which has a majority Sunni population.²⁷ The voting power of a person in the smallest constituency is twenty-one times greater than the voting power of a person in the largest.²⁸ The result of this is an inability of the Shi'a parties to win a majority in the National Assembly, even when they win the majority of the votes. In 2010, the Shi'a party Al Wefaq won 64% of the vote, but only claimed 45%, or 18 out of 40 seats, of the Assembly.

In September 2014, the constituencies were redrawn in the run-up to the general election in November, with some of the larger constituencies broken up into several smaller ones.²⁹ However, this as yet does not appear to resolve the issue within Bahrain's constituency boundaries whereby some votes are worth more than others.

Lending credibility to the theories of sectarian government policy is a 2006 leak of government documents revealing a conspiracy to artificially increase the number of Sunni persons in Bahrain to displace the Shi'a majority and affect the general election result.³⁰ One of the released documents pushes for a focused nationalisation policy of Sunni Iraqis, Baluchis, Bengalis and Yemenis³¹ The net result of these plans are that foreign Sunni nationals are employed in the military, naturalised, and compelled to vote for pro-Government, pro-status quo parties at the general elections.

In 2011, Bahrain saw an increase in state actions targeting Shi'a Muslims. The Government increasingly scrutinized clerics' sermons, arrested members of the Shia community, and in 2012 stripped the citizenship of 31 Shia persons, including three clerics, who the Government alleged posed a security threat to the country.³² The report of the Bahrain Independent

²⁵ 'Facts on the Ground: A Reliable Estimate of Bahrain's Sunni-Shi'i Balance, and Evidence of Demographic Engineering,' Religion and Politics in Bahrain, 5 April 2011, <http://bahrainipolitics.blogspot.co.uk/2011/04/facts-on-ground-reliable-estimate-of.html>, (accessed 26 August 2014). The only survey which has counted Shi'a and Sunnis separately, using a representative sample of 500 households, found that Shi'a comprise 58% of Bahrain's population. The Shi'a opposition assert that they comprise at least 60% of the population.

²⁶ Human Rights First, *Plan B for Bahrain*, (2013), p. 4.

²⁷ 'Gerrymandering in Bahrain: Twenty-one persons, one vote,' Bahrain Watch, 11 February 2013, <https://bahrainwatch.org/blog/2013/02/11/gerrymandering-in-bahrain-twenty-one-persons-one-vote/>, (accessed 14 August 2014).

²⁸ Ibid.

²⁹ 'Central Governorates dissolved,' Gulf Daily News, 23 September 2014, <http://www.gulf-daily-news.com/NewsDetails.aspx?storyid=386389>, (accessed 26 September 2014).

³⁰ "'Al-Bandar Report": Demographic engineering in Bahrain and mechanisms of exclusion,' BCHR, 30 September 2006, <http://www.bahrainrights.org/en/node/528>, (accessed 14 August 2014).

³¹ 'Original Report [Arabic] – Part 2,' BCHR, https://docs.google.com/viewer?a=v&pid=explorer&chrome=true&srcid=149xcN6Qk8eH4e1wova6aWbCFj6gMofQ4INoy9H6ksUNBFwEAnDJqt8Fb3LSR&hl=en_US, (accessed 14 August 2014).

³² Ibid.

Commission of Inquiry includes findings and recommendations related to the destruction of 53 Shi'a religious structures by Bahraini authorities between 1 March and 11 May 2011. The report found that, in violation of its own law, the Bahraini government did not give adequate notice of the demolitions, nor did it allow judicial review before the demolitions took place.³³ There is additional evidence that some individual members of the Shi'a community were harassed, interrogated, and arrested for returning to some of the destroyed sites to pray or retrieve religious materials.³⁴ The majority of police arrests since 2011 have been Shi'a.

Arbitrary Detention and Torture

Arrest without warrant or with unknown or fabricated charges is a common occurrence in Bahrain. On 30 August 2014, authorities detained Maryam al-Khawaja, a prominent human rights activist, as she arrived in Bahrain's airport. Police escorted her to the public prosecution, who charged her with assaulting a police officer. Her lawyer was not present.³⁵ Arbitrarily detained individuals, as with the case of Maryam al-Khawaja, are usually targeted for expressing political opinions unpopular with the Government, and are considered prisoners of conscience. They often suffer torture or ill-treatment, which police and interrogators continue to use systematically against prisoners of conscience. By most accounts, torture usually occurs during interrogation, however political prisoners are generally ill-treated and deprived of adequate medical attention even after conviction.

Ahmad Mushaima, a student charged with 'illegal gathering with an intent to commit crimes and disturb public security,' stated in a court hearing on 10 April 2014 that officials had tortured him in detention, and his family reported that his health was deteriorating.³⁶ On 20 February 2014, Amnesty International reported that Ahmed al-Arab, another political detainee, required urgent medical attention after he told his family that he was suffering injuries resulting from numerous beatings sustained while in government custody, including shoulder injuries resulting from a stress position in which security officers hung Mr. al-Arab by his wrists while they were tied behind his back.³⁷ The Special Procedures of the United Nations reiterated the concerns regarding Mr. al-Arab in September 2014.³⁸

³³ Report of the Bahrain Independent Commission of Inquiry, 23 November 2011, para. 1332.

³⁴ USCIRF, *Annual Report 2012*, p. 328.

³⁵ 'Maryam al-Khawaja, the Inconvenient Activist,' *Foreign Policy*, 4 September 2014, http://www.foreignpolicy.com/articles/2014/09/04/maryam_al_khawaja_the_inconvenient_activist, (accessed 11 September 2014).

³⁶ 'Document – Bahrain: Further Information: Student Protestor's Trial Resumes: Ahmad Mshaima,' Amnesty International, 10 April 2014, <http://www.amnesty.org/en/library/asset/MDE11/013/2014/en/b7c86a82-de4d-44a9-a65f-30b2ead21735/mde110132014en.html>, (accessed 31 July 2014).

³⁷ 'Document – Bahrain: Further Information: Ahmed Al-Arab now needs medical attention: Ahmed Mohammad Saleh Al-Arab,' Amnesty International, 20 February 2014, <http://www.amnesty.org/en/library/asset/MDE11/009/2014/en/580c6788-841d-4398-94fb-5d973b8363e7/mde110092014en.html>, (accessed 31 July 2014).

³⁸ Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and cruel, inhuman and degrading treatment or punishment to the Office of the United Nations High Commissioner for Human Rights, 15 April 2014, [https://spdb.ohchr.org/hrdb/27th/public_-_UA_Bahrain_15.04.14_\(4.2014\).pdf](https://spdb.ohchr.org/hrdb/27th/public_-_UA_Bahrain_15.04.14_(4.2014).pdf), (accessed 12 September 2014).

Rihanna al-Mosawi was arrested in April 2013 while protesting during the Formula One Grand Prix in Bahrain. She testified in court to police stripping her of her clothes twice during interrogation, and that security officers subjected her to torture and threatened her with rape.³⁹

There are several people who since 2011 face life imprisonment for peaceful political activities. Abdulhadi al-Khawaja, Abdulwahab Husain, Dr. Abduljalil al-Singace, Hassan Mushaima, Sheikh Saeed al-Noori, Sheikh Abduljalil al-Muqdad and Mohammad Habib al-Muqdad, seven of the Bahrain 13,⁴⁰ are currently serving life sentences. Al-Khawaja and al-Singace are both human rights activists and the other four are members of the political opposition.⁴¹ No conclusive proof of violent action or terrorism has been brought against them.

Since 2013, the rate at which courts have handed down life sentences has increased precipitously. In October 2013, a court sentenced nine to life in prison on alleged terrorism charges.⁴² In November 2013, a court sentenced to life two men for a car exploding outside a mosque.⁴³ On 30 March 2014 a court sentenced thirteen to life for the attempted murder of two policemen.⁴⁴ In April 2014 a court sentenced twelve to life for allegedly operating as spies for Iran, and that same month a court sentenced another eight to life for killing a policeman in 2013.⁴⁵ In May 2014, a court convicted four people for attempting to disrupt the 2013 Formula 1 Grand Prix by exploding a car and sentenced them to life.⁴⁶ In September 2014, a court sentenced fourteen people to life in connection with an explosion in the previous year which wounded four policemen.⁴⁷ Along with the seven of the Bahrain 13 listed above, this report finds at least sixty-nine persons to be serving a life sentence in Bahrain for politically related charges.

³⁹ 'Bahrain: Rihanna Al-Mosawi, an example of violations practiced against women as a punishment for claiming their legitimate rights,' BCHR, 21 July 2013, <http://www.bahrainrights.org/en/node/6243>, (accessed 14 August 2014).

⁴⁰ The Bahrain 13 are political leaders, human rights activists and members of Bahrain's intelligentsia who have been punished for expressing their views for reform in Bahrain.

⁴¹ Bahrain 13 campaign, BIRD, <http://birdbh.org/bahrain-13/>, (accessed 8 July 2014).

⁴² '9 sentenced in Bahrain to life imprisonment over "terrorism,"' Russia Today, 7 October 2013, <http://rt.com/news/nine-sentenced-bahrain-terror-848/>, (accessed 8 July 2014).

⁴³ 'Life for Riffa bomb plotters,' Gulf Daily News, 11 November 2013, <http://www.gulf-daily-news.com/NewsDetails.aspx?storyid=364684>, (accessed 26 September 2014).

⁴⁴ 'Bahrain jails 13 for life over protest, attack: lawyer,' Reuters, 31 March 2014, <http://www.reuters.com/article/2014/03/31/us-bahrain-courts-idUSBREA2U0LV20140331>, (accessed 8 July 2014).

⁴⁵ 'Bahrain sentences 12 people for life for spying, Iran links,' Reuters, 22 April 2014, <http://www.reuters.com/article/2014/04/22/us-bahrain-court-idUSBREA3L1K020140422>, (accessed 8 July 2014). Bahrain sentences eight people to life for policeman bomb death,' Reuters, 27 April 2014, <http://www.reuters.com/article/2014/04/27/us-bahrain-trial-idUSBREA3Q0C720140427>, (accessed 8 July 2014).

⁴⁶ 'Bahrain sentences four to life over Grand Prix bomb plot,' Middle East Eye, 27 May 2014, <http://www.middleeasteye.net/news/bahrain-sentences-four-life-over-grand-prix-bomb-plot-1370226033>, (accessed 8 July 2014).

⁴⁷ 'Leading Bahrain activist released from jail, but still faces travel ban,' U.S. News, 18 September 2014, <http://www.usnews.com/news/world/articles/2014/09/18/leading-bahrain-activist-released-from-jail>, (accessed 26 September 2014).

Table 1: Life Sentences since 2011⁴⁸

<i>Case</i>	<i>Date</i>	<i>Life Sentences</i>
Bahrain 13	2011	7
Terrorism	2013	9
Bombing (a)	2013	2
Murder (a)	2014	13
Murder (b)	2014	8
Espionage	2014	12
Formula 1	2014	4
Bombing (b)	2014	14
Total		69

It is entirely within the state’s prerogative to try suspects of terrorism and murder and, should they be found guilty, issue severe punishments equal to the crimes committed. However, as discussed below, there are serious concerns as to the fairness of trials conducted in Bahrain since 2011, as well as to reports by lawyers and family that confessions extracted under torture were used in these trials. For this reason, BIRD seriously questions whether the sixty-nine individuals listed above have been convicted beyond reasonable doubt for crimes of terrorism, murder and spying, and is of the view that many of these are cases of arbitrary detention.

Prison Conditions and the Ombudsman

Political detainees deprived of their liberty, often through arbitrary measures, are often treated with little respect for their human dignity in Bahrain. Three medics detailed the poor conditions of their detention in a letter dated 30 October 2013.⁴⁹ Ibrahim al-Demestani, Secretary General of the Bahrain Nursing Society, Hassan Matooq, a nurse, and Dr. Ali al-Ekri, a paediatric orthopaedic surgeon, were all arrested during the state of emergency in 2011. The former two are currently serving three year sentences, while al-Ekri is serving a five year sentence.⁵⁰ In their letter they described their living conditions as an ‘over-crowded cell’ which ‘devoids the basic hygienic and health standers with a total of 13 prisoners of different criminal charges (sic).’⁵¹

In 2012, the Government established an Ombudsman office, responsible for oversight of the treatment of prisoners and detainees, and it is empowered to receive, review and act upon

⁴⁸ This is by no means a complete list, but reflects the growing normality of courts handing down life sentences in the last year.

⁴⁹ ‘Bahrain – Medical professionals subjected to ill treatment in prison to set up Medics for Human Rights,’ Gulf Center for Human Rights, 11 November 2013, <http://gc4hr.org/news/view/529>, (accessed 7 July 2014).

⁵⁰ ‘Bahrain Court Eases Sentences for Uprising Medics,’ Voice of America, 14 June 2012, <http://www.voanews.com/content/bahrain-court-eases-sentences-for-uprising-medics/1211285.html>, (accessed 7 July 2014). ‘Counterfeit justice in Bahrain: Court of Cassation upholds the military provisions of the illegitimate National Safety Court,’ Bahrain Center for Human Rights, 2 December 2011, <http://bahrainrights.org/en/node/4876>, (accessed 7 July 2014). ‘Stories from Bahrain’s Crackdown: Dr. Ali Al Ekri,’ Human Rights First, 17 March 2014, <http://www.humanrightsfirst.org/blog/stories-bahrains-crackdown-dr-ali-al-ekri>, (accessed 7 July 2014).

⁵¹ ‘Bahrain: “A Message from Behind Bars” – Letter from Imprisoned Medics,’ Front Line Defenders, 11 November 2013, <http://www.frontlinedefenders.org/node/24219>, (accessed 13 August 2014). Matooq’s name does not appear on the letter but he is listed in the Gulf Center for Human Rights article (note 84).

prisoner complaints and commit prison visits. It published its first annual report in 2014.⁵² However, the Ombudsman's office falls under the Ministry of Interior, the same ministry responsible for the prisons and police. It is therefore not independent. Thus far, the Ombudsman has only conducted a visit to Jaw prison, where convicted prisoners are held. Most cases of torture and other abuse occur prior to conviction in Bahrain; thus, the Ombudsman's visit has avoided addressing these topics.⁵³

Despite these issues, the Ombudsman did find significant shortcomings in the availability of medical personnel for prisoners, hygiene standards, and space, with many juvenile prisoners aged 15-18 sharing cells with adults. However, ADHRB interviewed prisoners at the same prison who reported collective punishment in the form of mass beatings, of which the Ombudsman makes no mention.⁵⁴ The Ombudsman further reported that Jaw prison is overcrowded, holding 1608 prisoners when its capacity is 1201.⁵⁵ It is probable that other prisons and detention centres are also over capacity, but official figures only exist for Jaw. Estimates for the total number of political detainees place the figure as high as 4,000.⁵⁶ Article 10.3 of the ICCPR affirms that prison systems should be a place for social rehabilitation and reformation. However, Bahrain's prisons are overflowing with political detainees, many of whom cannot be said to need social rehabilitation and would not be in prison if the Government of Bahrain did not take harsh measures against the freedoms of association and expression of its critics.

The Ombudsman report has failed to take a full account of human rights abuses facing prisoners despite receiving complaints of arbitrary detention and torture. ADHRB found that the Ombudsman has been selective in which complaints upon which it chooses to act, reflecting the office's lack of independence.⁵⁷

The Right to Fair Trial and Rights of Prisoners

Unfair Trial

One case emblematic of unfair judicial process is the trial of fifty men allegedly involved in the February 14 Coalition. The February 14 Coalition, formed shortly before the start of protests in February 2011, is a banner under which many youth activists and protestors fall. It has an unclear structure with no publicly known leader. It has several subsidiary groups, including the February 14 Media Group, which operates on social media, sharing news, photographs and videos of events in Bahrain, and which some journalists have been accused

⁵² ADHRB, *Subservient and Unaccountable: A Shadow Report on the Bahraini Ombudsman for the Ministry of the Interior and Bahrain National Institute for Human Rights*, (2014), p. 4.

⁵³ *Ibid*, pp. 21, 9.

⁵⁴ ADHRB, *Subservient and Unaccountable*, pp. 10, 26.

⁵⁵ Ministry of the Interior, Bahrain Independent Ombudsman, *First Annual Report 2013/2014*, Manama, (2014), p. 95.

⁵⁶ 'Advocacy Associate Engages Interactive Dialogue on Arbitrary Detention at HRC27,' Americans for Democracy and Human Rights in Bahrain, 14 September 2014, <http://adhrb.org/2014/09/adhrb-advocacy-associate-engages-agenda-item-3-interactive-dialogue-at-hrc27/>, (accessed 26 September 2014).

⁵⁷ *Ibid*, pp. 4, 13.

of being a part of.⁵⁸ The Government of Bahrain considers the February 14 Coalition a terrorist organisation.⁵⁹ While it is certainly true that members of the February 14 Coalition have engaged in acts of violence and that the Government of Bahrain must prosecute violent offenders, BIRD and other NGOs have observed that the Government uses this fact of violence to target non-violent protesters for alleged involvement with terrorism, as seen in the trial of fifty below.

Article 4.3(a) of the ICCPR entitles a person to be informed promptly of the nature of the charges against him. One of the defendants in the February 14 case, Abd Ali Kheir, an IT technician, was not made aware of his charges and only knew of the trial when a list of the 50 names began circulating in social media in June-July 2013. He received no court summons in the weeks after the list began circulating.⁶⁰ Kheir was subsequently arrested and sentenced to 10 years in prison on charges of gathering money for a terrorist organisation.⁶¹ Contrary to Article 4.3(b) (the guarantee for ‘adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing’), defendants did not have adequate time with their lawyers to defend themselves. Lawyers complained that they were not allowed to visit their clients or call witnesses.⁶² Furthermore, a great deal of the evidence put forward was what defence lawyers term ‘secret evidence’, and which only the prosecution was privy to. It is believed by the defence lawyers that this evidence was extracted under torture.

Article 4.3(d) requires that a defendant be tried in their presence, yet many were tried and sentenced in absentia, including among them Saeed al-Shehabi, Ali Mushaima and Abbas Omran, who are in exile in the United Kingdom and have all three been sentenced to 15 years in prison.⁶³

This case is indicative of a general trend of unfair trials in Bahrain. Courts try political and human rights activists without respecting the legal rights owed to the defendants. Alongside the above-mentioned trends, it is common for courts to dismiss and ignore evidence of torture. Ibrahim Sharif, one of the Bahrain 13, attests to having been deprived the right to defend himself before the National Safety Court in 2011.⁶⁴ In September 2012, an appeal court upheld his sentence, despite determining that the evidence against him had been obtained under

⁵⁸ ‘Blogger and photographer tortured, lawyer held for tweeting about it,’ Amnesty International, 14 August 2013, <http://www.amnesty.org.uk/blogs/sms-action-network/blogger-and-photographer-tortured-lawyer-held-tweeting-about-it> (accessed 26 June 2014).

⁵⁹ ‘Bahrain puts groups on terrorism list after bomb kills three police,’ Reuters, 4 March 2014, <http://www.reuters.com/article/2014/03/04/us-bahrain-unrest-idUSBREA231FC20140304>, (accessed 1 July 2014).

⁶⁰ Interview with Abd Ali Kheir, 13 July 2013.

⁶¹ Public Prosecution, Kingdom of Bahrain, untitled case papers obtained from defence lawyers, 2 July 2013, p. 6.

⁶² ‘Bahrain: 50 Shi’a activists sentenced amid torture allegations,’ Amnesty International, 30 September 2013, <http://www.amnesty.org/en/news/bahrain-50-shi-activists-sentenced-amid-torture-allegations-2013-09-30>, (accessed 1 July 2014).

⁶³ ‘Bahrain Court Sentences 50 Defendants, Including Human Rights Defenders, Under Terrorism Law, and Reduces Sentence For Two Police Officers Convicted of Torturing Detainee to Death,’ Bahrain Centre for Human Rights, <http://www.bahrainrights.org/en/node/6418> (accessed 1 July 2014).

⁶⁴ ‘Ebrahim Sharif Al-Sayed’s Speech Before the Supreme Court of Appeal,’ BIRD, <http://birdbh.org/2012/05/ebrahim-sharif-al-sayeds-speech-before-the-supreme-court-of-appeal/>, (accessed 2 July 2014).

torture.⁶⁵ In another case, the Ministry of Interior published a statement denying a detainee's claims of torture and severe that his ribs had been broken, despite hospital x-rays which proved he had sustained such injuries.⁶⁶

Juveniles

Human Rights Watch found that Bahrain's security forces routinely detain children in adult detention facilities and prisons and subject them to ill-treatment. At least one 14-year-old boy attests to having been burned with cigarette butts, for example.⁶⁷ Juvenile detention centres are over capacity, and the Ombudsman has reported that juveniles share cells with adults in adult prisons.⁶⁸

High school student Abdulla Jaffar missed his final exams due to his prolonged detention. He was released on bail pending trial on 23 June 2014 and will have to re-sit the school year.⁶⁹ In his case, the prison and court system have failed to adequately provide for his circumstances. Such disregard for the needs of juveniles is systematic, and is at odds with the spirit of rehabilitation which the ICCPR stresses should be a core principle of the justice and prison systems, especially as regards children (Articles 10.3 and 14.4).

Accountability, Appeals and Compensation

The right to have a conviction and sentence reviewed by a higher tribunal has been largely upheld by Bahraini courts, with many cases since 2011 going to the appeals court. However, there is a concerning tendency of the appeals courts towards upholding the sentences of political activists, regardless of evidence or allegations of torture. On the other hand, the Government and courts of Bahrain have singularly failed to prosecute security personnel accused of human rights abuses. Beyond the prosecution of Lieutenant-Colonel Mubarak Abdullah Bin Huwayl al-Marri and Lieutenant Shaikha Nura Bint Ibrahim Al Khalifa, both of whom were acquitted, no other official of any high rank has been brought to court, nor is there evidence of that the courts are pursuing such officials.⁷⁰

Allegations of torture reach individuals as close to the King as his own son, Prince Nasser bin Hamad. Prince Nasser, commander of the Royal Guard and president of the Bahrain Olympic Committee, is alleged to have tortured at least three individuals, including Mohammad Habib al-Muqdad, one of the Bahrain 13. The BCHR reports that 'Al-Muqdad recalls that while being tortured suddenly everybody was silent ... his blindfold was removed and the man in front of him said "I'm Prince Nasser Bin Hamad Al-Khalifa. When you protested outside our castle in Safriya, only a wall separated us".'⁷¹ Prince Khaled, another of King Hamad's sons and a

⁶⁵ 'Unsung Heroes,' Foreign Policy, 3 October 2012, http://www.foreignpolicy.com/articles/2012/10/03/unsung_heroes, (accessed 1 July 2014).

⁶⁶ Ibid.

⁶⁷ 'Bahrain: Security Forces Detaining Children,' Human Rights Watch, 15 September 2013, <http://www.hrw.org/news/2013/09/15/bahrain-security-forces-detaining-children>, (accessed 1 July 2014).

⁶⁸ ADHRB, Subservient and Unaccountable, p. 10.

⁶⁹ 'Update: 17-Year-Old U.S. Citizen Abdulla Jaffar Released from Bahraini Prison,' ADHRB, 1 July 2014, <http://adhrb.org/2014/07/update-17-year-old-u-s-citizen-abdulla-jaffar-released-from-bahraini-prison/>, (accessed 15 September 2014).

⁷⁰ HRW, Criminalizing Dissent, Entrenching Impunity, p. 35.

⁷¹ 'Some members of the Bahraini royal family beating & torturing political prisoners,' BCHR, 17 August 2011, <http://bahrainrights.org/en/node/4516>, (accessed 15 September 2014).

military officer, is also alleged to have tortured individuals during 2011.⁷² But the Bahraini courts have not investigated or tried these cases and the princes have been left unaccountable.

Conclusion

Since 2011, Bahrain has seen significant regression in its respect for important civil and political freedoms and has developed an unfair justice and penitentiary system to punish political and human rights activists alike. Criticism of the King and Government are considered crimes and, though the law appears on paper to defend the King and Government from libel and defamation, it is in practice used to crack down on expressions of political dissatisfaction. Though such political views as republicanism are controversial in Bahrain, simply being a republican or calling for limitations upon the monarchy should not be a crime in itself.

Equally, the freedom of assembly has been severely limited since 2011 in order to stymie any movement that might threaten to gain the same kind of popular traction as the Arab Spring protests three years ago. The bans on protests within the capital Manama and the vicinity of government buildings ensure that protests are forced to occur beyond the sights of the Government officials who are the targets. The limitations of the freedom of association, affecting both civil and political societies, holds negative implications for the democratic potential within the country.

As most of the protesters are Shi'a, actions against the Shi'a faith are seen as collective punishment of the Shi'a people and protesters. The demolition of mosques in 2011 was a clear act of collective punishment. In more recent times, the Government's dissolution of the Islamic Scholars' Council and banning of some Shi'a religious clerics from giving sermons has given Shi'a Bahrainis the view that their Government is against their faith. The practice of naturalising foreign Sunnis is a form of demographic engineering employed by the Government to make the Shi'a a minority within the country.

By restricting these freedoms of association, expression, assembly and religion, the Bahraini government silences peaceful political dissent. By tightly limiting peaceful means of expression, the Government has pushed greater parts of the opposition towards violent action. Therefore, it falls upon the Government of Bahrain to make a conciliatory move and diffuse current tensions.

Beyond merely legislating against dissent, the government has developed the security and judicial system over the last few years to silence protests through arbitrary detention, torture, unfair trials and inhumane prison conditions. These practices and conditions are systematic within Bahrain. Every political detainee to whose case study BIRD has studied for this report has been subjected to torture or ill-treatment. The prisons, which are overflowing with political prisoners, have unsanitary conditions, provide inadequate medical care for their wards and fail to separate juvenile prisoners from adults.

Victims have named many police officers and senior commanders, including members of the royal family and two of the king's sons, as perpetrators of torture. These allegations are serious, but Bahraini courts do not treat them with the weight that they deserve. As of September 2014, no court has held a high-ranking official accountable of torture. The justice system, which

⁷² Ibid.

cannot be described as independent, has tried very few officials for torture. The courts have reduced the sentences of low-ranking officers convicted of torture and related offences to prison terms unequal to the severity of the crime. The highest-ranking official brought to trial has been a Lieutenant-Colonel, who the court acquitted. On the other hand, the courts have punished political detainees with heavy penalties in unfair trials, with the life sentence becoming increasingly more common in Bahrain.

BIRD finds that the Government of Bahrain has failed to adhere to the standards of the ICCPR. Arbitrary detentions and torture are a common occurrence. The judiciary is non-independent and does not observe the standards of fair trial. Laws limiting the freedoms of expression, association and assembly have been expanded to stymie the development of a strong civil society and the chances for open dialogue between the Government and opposition. This system has proven to be very effective in silencing the most vocal opponents of the Bahraini Government.

BIRD calls on the Human Rights Committee to investigate these abuses and to pressure the Bahraini Government towards reforming the judicial and penitentiary systems, and to revise or scrap laws which negatively impact the freedoms protected within the International Convention of Civil and Political Rights, which is itself a part of Bahraini law.