

**REPRIEVE**



**Submission to the Committee Against Torture in Relation to the  
Third Reporting Cycle of Bahrain**

**FAILURE OF THE BAHRAINI GOVERNMENT TO INVESTIGATE TORTURE  
ALLEGATIONS IN DEATH PENALTY CASES**

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## Contents

I.	INTRODUCTION.....	3
II.	MANDATES OF OMBUDSMAN, SIU, NIHR AND PDRC .....	4
III.	INTERNATIONAL APPRAISALS OF OMBUDSMAN, SIU, NIHR AND PDRC.....	5
IV.	ABBAS AL-SAMEA, SAMI MUSHAIMA AND ALI AL-SINGACE.....	7
	a. Arrest and torture of Abbas al-Samea.....	7
	b. Arrest and torture of Sami Mushaima.....	8
	c. Arrest and torture of Ali al-Singace .....	9
	d. Trial and execution of Mr al-Samea, Mr Mushaima and Mr al-Singace.....	10
	e. SIU involvement in the case of Mr al-Samea, Mr Mushaima and Mr al-Singace .....	11
	f. Ombudsman involvement in the case of Mr al-Samea, Mr Mushaima and Mr al-Singace.....	12
	g. NIHR involvement in the case of Mr al-Samea, Mr Mushaima and Mr al-Singace .....	12
	h. PDRC involvement in the case of Mr al-Samea, Mr Mushaima and Mr al-Singace.....	13
	i. Violations of international law in the case of Mr al-Samea, Mr Mushaima and Mr al-Singace .....	13
V.	MOHAMED RAMADHAN AND HUSAIN MOOSA .....	15
	a. Arrest and torture of Mohamed Ramadhan .....	15
	b. Arrest and torture of Husain Moosa.....	16
	c. Trial of Mohamed Ramadhan and Husain Moosa .....	17
	d. Ombudsman involvement in the case of Mr Ramadhan and Mr Moosa .....	18
	e. SIU involvement in the case of Mr Ramadhan and Mr Moosa .....	21
	f. NIHR involvement in the case of Mr Ramadhan and Mr Moosa .....	21
	g. PDRC involvement in the case of Mr Ramadhan and Mr Moosa.....	22
	h. Violations of international law in the case of Mr Ramadhan and Mr Moosa.....	22
VI.	ROLE OF OMBUDSMAN, SIU, NIHR AND PDRC IN DEATH SENTENCES.....	24
VII.	RECOMMENDATIONS.....	25

## I. INTRODUCTION

1. Torture is prohibited under both Bahraini domestic law and binding international law to which Bahrain is signatory. Bahrain has signed and ratified both the UN International Covenant on Civil and Political Rights (ICCPR) <sup>1</sup> and the UN Convention Against Torture (CAT),<sup>2</sup> though it has not ratified the CAT's Optional Protocol (OPCAT). Article 19(d) of Bahrain's Constitution provides that "No person shall be subjected to physical or mental torture, enticement or degrading treatment, and the law shall provide the penalty for these acts."<sup>3</sup> Royal Decree No. 52 of 2012, which amends Articles 208 and 232 of Bahrain's Penal Code, criminalizes torture and provides a definition of torture that is in line with the definition in Article 1 of CAT.<sup>4</sup>
2. In response to the recommendations of the report of the Bahrain Independent Commission of Inquiry (BICI), Bahrain has, over the past five years, established two institutions for the purported purpose of investigating allegations of torture and mistreatment lodged against security personnel. These are the Ombudsman for the Ministry of Interior ("the Ombudsman") and the Special Investigation Unit (SIU).
3. Bahrain has also established the Prisoners' and Detainees' Rights Commission (PDRC), a prisons inspectorate and purported National Preventive Mechanism (NPM) that Bahrain claims is in line with OPCAT requirements. Finally, Bahrain has established a National Institute for Human Rights (NIHR), tasked with monitoring the general human rights situation in the country, as well as receiving and investigating complaints of human rights abuses.
4. Accordingly, on a technical level, Bahrain has improved its laws and institutional framework to criminalise torture, identify cases of torture and refer cases with merit for investigation.
5. However, these technical improvements have not translated into tangible protection from torture for individuals arrested on charges that carry the death penalty in Bahrain. The Bahraini government and its international allies—namely the United Kingdom, which trains and helped to establish the Ombudsman, SIU, PDRC and NIHR—have forwarded a narrative on the world stage which claims that these are impartial bodies which "safeguard human rights and provide independent oversight of police behaviour and detention

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<sup>1</sup> Bahrain acceded to the ICCPR on 20 September 2006. Office of the High Commissioner for Human Rights (OHCHR), *Ratification Status of Bahrain*, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=13&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=13&Lang=EN).

<sup>2</sup> 60 1465 UNTS 85, 10 December 1984. Bahrain acceded to CAT on 6 March 1998 upon promulgation of Decree Law No. 4 of 1998 passing the CAT into national legislation. Bahrain has deposited a reservation in respect of article 30(1) of the CAT.

<sup>3</sup> *Bahrain: Constitution of the Kingdom of Bahrain* [Bahrain], 14 February 2002, unofficial English translation available at: <http://www.refworld.org/docid/48b54f262.html>.

<sup>4</sup> Royal Decree No. 52 criminalizes "the infliction of severe pain or suffering, whether physical or mental, on a detained person by or under the control of a public employee or public servant in order to obtain information, extract a confession or punish, intimidate or coerce that person or another person." Official English translation available at: <http://www.legalaffairs.gov.bh/Media/LegalPDF/K5212.pdf>

standards.”<sup>5</sup>

6. This submission details extensive failures by these bodies tasked with investigating torture complaints in the cases of five persons sentenced to death in Bahrain, including the systematic failure to investigate torture, allowing for the imposition of unlawful death sentences.
7. Sami Mushaima, Abbas al-Samea and Ali al-Singace were executed on 15 January 2017. Mohamed Ramadhan and Husain Moosa face imminent execution, having exhausted all legal appeals. All five men alleged that police tortured them during interrogation until they provided false confessions. In each of these cases, the abovementioned institutions failed to investigate torture allegations, and in some cases deliberately obscured and whitewashed the torture of these five men, allowing for the introduction of torture evidence at trial and leading to the imposition of their death sentences.

## **II. MANDATES OF OMBUDSMAN, SIU, NIHR AND PDRC**

8. The Ombudsman was established by Royal Decree No. 27/2012, which was later amended by Royal Decree No. 35/2013. This enabling legislation enumerates the Ombudsman’s powers and structure and sets out the relationship between the Ombudsman, the Ministry of Interior and the executive branch of government in Bahrain.
9. Royal Decree No. 27/2012 provides that the Ombudsman is responsible for:

“Receiving and examining complaints submitted to any authority against Public Security Forces personnel (...) This includes planning, ordering, colluding, inciting and aiding and abetting the commission of criminal offences or conduct justifying disciplinary proceedings or omitting to act as required by the law.”<sup>6</sup>

The current Ombudsman is Mr Nawaf al-Moawda.

10. The SIU was established within Bahrain’s Public Prosecution Office (PPO) by Attorney General Decision No. 8 of 2012.<sup>7</sup> The SIU is tasked with carrying out criminal investigations of complaints and “determining criminal responsibility of government officials who have violated the law, including by causing murder, torture, abuse or other mistreatment.”<sup>8</sup>
11. It is the Ombudsman’s task to receive complaints of torture and mistreatment lodged against government employees and investigate those complaints for merit. Then, “where the evidence examined suggests that a criminal act may have been committed, cases are referred to the Public Prosecution or the Special Investigations Unit.”<sup>9</sup> Thereafter, the SIU

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<sup>5</sup> UK Foreign and Commonwealth Office (FCO), *Human Rights Priority Country Update Report on Bahrain July to December 2016*, 8 February 2017, <https://www.gov.uk/government/publications/bahrain-human-rights-priority-country/human-rights-priority-country-update-report-july-to-december-2016>

<sup>6</sup> Decree No. 27 of 2012, <http://www.ombudsman.bh/mcms-store/legal/en/Decree-No-27/files/assets/downloads/publication.pdf>

<sup>7</sup> Decree No. 8 of 2012, <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=7604#.WLIXDfn5eJA>

<sup>8</sup> Ibid.

<sup>9</sup> Ombudsman, *First Annual Report 2013/14*, <http://www.ombudsman.bh/en/periodic-public>

carries out its own investigation to determine the criminal culpability of the accused. The SIU can also receive complaints directly.

12. The NIHR was established by Royal Decree No. 26/2014, which enumerates the NIHR's mandate and responsibilities. Among these responsibilities is "to receive, examine and consider complaints related to human rights, refer the complaints, which NIHR deems necessary, to the relevant authorities, follow-up the complaints effectively, or inform those concerned of the procedures that should be applied, help them take such procedures, or assist in the settlement of complaints with the relevant authorities."<sup>10</sup>
13. The PDRC was established by Royal Decree No. 61/2013. The PDRC's mandate is to visit Bahraini prisons and detention facilities in order to "investigate conditions of detention and detainee treatment in order to ensure that detainees are not subjected to torture or cruel, inhuman or degrading treatment."<sup>11</sup> This decree establishes that the Chief Ombudsman for the Ministry of Interior (currently Mr al-Moawda) also leads the PDRC.

### **III. INTERNATIONAL APPRAISALS OF OMBUDSMAN, SIU, NIHR AND PDRC**

14. The conduct of the Ombudsman, SIU, NIHR and PDRC stands in stark contrast with the narrative of the Bahrain and UK governments about progressing human rights reform in Bahrain. The UK government helped to establish these bodies and has provided them with extensive training and technical assistance, spending millions of pounds in the process.<sup>12</sup>
15. Reprieve and BIRD have presented the information contained in this submission directly to the UK FCO. Nevertheless, as noted at paragraph 5 above, the FCO contends that these institutions "safeguard human rights and provide independent oversight of police behaviour and detention standards."<sup>13</sup> The FCO continues to lobby UN member states to dampen criticism of Bahrain's human rights record and refuses to endorse European-sponsored joint statements regarding human rights abuses in Bahrain.<sup>14 15</sup>
16. The Bahraini government has also argued to the European Parliament, the UN Committee Against Torture, and individual EU and UN member states that the Ombudsman, SIU, NIHR and PDRC are independent and professional bodies enjoying high levels of public confidence. Bahrain's March 2016 State Party Report to the Committee Against Torture

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reports/reports/annual-report-2013-2014

<sup>10</sup> Law No. 26/2014

<sup>11</sup> Law No. 61/2013.

<sup>12</sup> iNews, *Britain condemned for 'inadequate' response to execution by Bahrain of Shia 'torture victims'*, 15 January 2017, <https://inews.co.uk/essentials/news/uk/britain-condemned-inadequate-response-execution-bahrain-shia-torture-victims/>

<sup>13</sup> UK Foreign and Commonwealth Office (FCO), *Human Rights Priority Country Update Report on Bahrain July to December 2016*, 8 February 2017, <https://www.gov.uk/government/publications/bahrain-human-rights-priority-country/human-rights-priority-country-update-report-july-to-december-2016>

<sup>14</sup> Middle East Eye, *UK refuses to back UN statement on Bahrain rights abuses*, 1 March 2017, <http://www.middleeasteye.net/news/exclusive-uk-refuses-back-un-statement-bahrain-rights-abuses-333918817>

<sup>15</sup> Guardian, *Britain lobbied UN to whitewash Bahrain police abuses*, 21 February 2016, <https://www.theguardian.com/politics/2016/feb/21/britain-lobbied-un-bahrain-human-rights-abuses>

claims that all torture investigations are carried out in strict accordance with the Istanbul Protocol and depicts these institutions as indications of Bahrain's progress on torture issues.<sup>16</sup>

17. The UK and Bahraini governments have also claimed that these human rights bodies, and particularly the PDRC, "[comprise] many elements of a national preventive mechanism established by State parties to the Optional Protocol to the Convention Against Torture."<sup>17</sup> Bahrain has further stated that "the Kingdom was considering the matter of ratifying the Optional Protocol to the Convention [Against Torture]." It should be noted that in reality, Bahrain has taken no steps toward ratifying OPCAT and continues to refuse the mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to enter the country.<sup>18</sup> In its March 2016 State Party Report to the Committee Against Torture, Bahrain stated that the repeated visit requests of former Special Rapporteur on torture Juan Mendez had "come at an inopportune time."<sup>19</sup> Separately, Bahrain's Public Security Chief has stated that Mr Mendez was not allowed to visit Bahrain because of his "biased thoughts" about the country.<sup>20</sup>
18. Elsewhere, appraisals of Bahrain's human rights reforms and general human rights record have begun to shift. Where the European Union Delegation in Riyadh awarded the Ombudsman and NIHR with the Chaillot Prize for the Promotion of Human Rights in the GCC Region in 2014,<sup>21</sup> the European Parliament has since passed two separate urgency resolutions on the cases of Mr Mushaima, Mr al-Samea, Mr al-Singace, Mr Ramadhan and Mr Moosa, making specific reference to their torture allegations and unfair trials.<sup>22 23</sup>
19. UN Special Procedures have also communicated extensively on the cases of Mr al-Samea and Mr Ramadhan. The mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment have issued three joint urgent appeals on the case of Mr Ramadhan, dated

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<sup>16</sup> Committee Against Torture, *Third Periodic Report of State Parties due in 2011: Bahrain*, 6 March 2016, CAT/C/BHR/3\*, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CAT/C/BHR/3&Lang=E>

<sup>17</sup> See the statement of the previous UK Ambassador to Bahrain, Iain Lindsay: <https://www.gov.uk/government/world-location-news/british-ambassador-welcomes-the-prisoners-and-detainees-commission>: "The establishment of the Prisoners' and Detainees' Rights Commission brings Bahrain a step closer to ratifying the Optional Protocol to the Convention Against Torture."

<sup>18</sup> BBC, *UN torture investigator 'deeply disappointed' with Bahrain*, 24 April 2013, <http://www.bbc.co.uk/news/world-middle-east-22280381>

<sup>19</sup> Committee Against Torture, *Third Periodic Report of State Parties due in 2011: Bahrain*, 6 March 2016, CAT/C/BHR/3\*, para. 19, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CAT/C/BHR/3&Lang=E>

<sup>20</sup> Bahrain Mirror, *Bahrain's Public Security Chief: We denied UN Rapporteur on Torture Visit due to his "Biased thoughts on Bahrain"*, 2 November 2015, <http://bhmirror.myftp.biz/en/news/27298.html>

<sup>21</sup> Bahrain News Agency, *NIHR, Ombudsman win Chaillot Prize 2014*, 8 December 2014, <http://bna.bh/portal/en/news/644770>

<sup>22</sup> European Parliament, *Resolution on the case of Mohammed Ramadan*, 4 February 2016, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0044&language=EN&ring=P8-RC-2016-0174>

<sup>23</sup> European Parliament, *Resolution on executions in Kuwait and Bahrain*, 16 February 2017, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0044&language=EN&ring=P8-RC-2017-0150>

14 August 2014, 20 November 2015 and 16 August 2016.<sup>24 25 26</sup> Each appeal addressed Mr Ramadhan's torture and forced confession, and the latest appeal expressed specific concern about the Ombudsman, noting that its conduct in Mr Ramadhan's case "raised serious questions about its independence, professionalism and thoroughness."<sup>27</sup> The joint communication dated 14 August 2014 also addressed Mr al-Samea's torture and forced confession.

20. Following the executions of Mr Mushaima, Mr al-Samea and Mr al-Singace, the mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment issued a joint statement condemning the torture of the three men and deeming the executions arbitrary.<sup>28</sup> The Special Rapporteur on extrajudicial, summary or arbitrary executions also declared the executions "extrajudicial killings" on her personal twitter account.<sup>29</sup>
21. Mr Mendez has decried Bahrain for its artificial reform efforts, stating, "[Bahrain tells] everyone, 'We have an inspectorate of prisons,' but they won't invite me. The UK should not be a party to it."<sup>30</sup>

## **IV.ABBAS AL-SAMEA, SAMI MUSHAIMA AND ALI AL-SINGACE**

### ***a. Arrest and torture of Abbas al-Samea***

22. On 3 March 2014, a bombing killed three police officers in the Bahraini village of al-Daih. In the late evening of 3 March or early morning of 4 March, Criminal Investigations Directorate (CID) officers arrested Mr al-Samea from the home of his grandparents. No warrant was presented. Officers then put Mr al-Samea on a bus and took him to the CID building, where they tortured him and accused him of involvement in the al-Daih bombing.
23. During Mr al-Samea's torture in CID custody in March 2014, officers stripped him naked and blindfolded him. They beat and kicked him in the head and torso repeatedly, causing him to lose consciousness several times. Mr al-Samea's lawyer has reported that as a result of these beatings, Mr al-Samea lost almost all of his teeth and was visibly missing teeth when he later appeared in court. Officers also beat Mr al-Samea repeatedly on his genitals. They subjected him to electric shocks and the *falaqa* technique, in which he was restrained and the soles of his feet beaten with a cane. They also forced him into stress

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<sup>24</sup> OHCHR, AL BHR 11/2014, 14 August 2014,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=13929>

<sup>25</sup> OHCHR, AL BHR 7/2015, 20 November 2015,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=14209>

<sup>26</sup> OHCHR, AL BHR 6/2016, 15 August 2016,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=3313>

<sup>27</sup> Ibid.,

<sup>28</sup> OHCHR News, *Urgent appeal to the Government of Bahrain to stop new executions – UN rights experts*, 25 January 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21118&LangID=E>

<sup>29</sup> Tweet by UN Special Rapporteur on Extra-Judicial Killings, Agnes Callamard, 14 January 2017, <https://twitter.com/AgnesCallamard/status/820532830744772608>

<sup>30</sup> BuzzFeed, *UN Torture Expert Says Britain Should Pressure Bahrain To Allow Him To Visit*, 1 June 2016, <https://www.buzzfeed.com/alanwhite/un-torture-expert-says-britain-should-pressure-bahrain-to-al>

positions in which he could not breathe.

24. On 6 March 2014, following three days of torture, Mr al-Samea lost consciousness and could not be woken. CID officers then transported him to the Bahrain Defence Force (BDF) al-Qurain hospital, where he was admitted. Mr al-Samea's family have stated that medical tests at the time confirmed that Mr al-Samea was suffering from extensive internal bleeding, a broken pelvis, and dangerously low blood pressure. The hospital note obtained by Reprieve and BIRD indicates that Mr al-Samea was admitted to the hospital on 6 March 2014 with "generalized body weakness, dark urine, left thigh pain and swelling for [a] few days" (Annex 1). The note states that he was admitted as a case of rhabdomyolysis and describes a haematoma to his left thigh." The admission note also refers to Mr al-Samea as a "political prisoner."
25. At this time, Mr al-Samea was treated by Dr Yahya Siddiq al-Zaman, who is employed by Bahrain's military inside of a military hospital. On 12 March 2014, CID officers removed Mr al-Samea from the hospital and continued to torture him. Mr al-Samea's family have stated that as the admitting physician, Dr al-Zaman objected to Mr al-Samea's removal from the hospital, but CID officers overruled him.
26. The same day of Mr al-Samea's discharge from the hospital, 12 March 2014, he was examined by a forensic medical examiner from Bahrain's Public Prosecution. This forensic doctor, Dr Hatem Mahmoud Nabil, examined Mr al-Samea and wrote a two-page report (Annex 2). Reprieve provided a copy of this report to Dr Brock Chisholm, a clinical psychologist and independent expert in the assessment of torture survivors using the UN Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("the Istanbul Protocol").
27. Dr Chisholm produced a medicolegal assessment of this forensic medical examiner's report. Dr Chisholm's assessment states that the examination "fails in almost all aspects of what is required in a forensic investigation of possible torture" and "is in complete violation of the internationally recognised Istanbul Protocol and should therefore be completely disregarded" (Annex 3).
28. The purpose of Mr al-Samea's torture in CID custody in March 2014 was to extract a confession to involvement in the Daih bombing. Mr al-Samea later told his family that interrogators repeatedly ordered him to confess to this crime throughout his torture. At some point, officers presented him with a document. They did not allow him to read it. They told him they would continue to torture him if he did not sign it, so he signed the document. The next day, security officers took Mr al-Samea and several other defendants to the scene of the alleged crime. Under threat of torture, security officers forced Mr al-Samea to confess to murdering three police officers. They videotaped his false confession.

#### ***b. Arrest and torture of Sami Mushaima***

29. In the late evening of 3 March 2014 or early morning of 4 March 2014, Mr Mushaima's family home in Sihla was raided by approximately 15 security officers, who broke down the front door. No warrant was presented. Following Mr Mushaima's arrest, officers took him to Riffa police station and accused him of involvement in the al-Daih bombing. He stayed at Riffa police station for the majority of the following several weeks. During his time there, security officers periodically transported him to the CID building.



30. During his initial detention, which lasted approximately 25 days, security officers shuttled Mr Mushaima back and forth between Riffa police station and the CID building. Officers tortured him in both locations. They stripped Mr Mushaima naked and beat him, focusing especially on his genitals. They applied electric shocks to various parts of his body, including his genitals. They sodomized him by inserting objects into his anus. Interrogators threatened to rape his mother and sisters in front of him. Mr Mushaima was made to stand for hours on end without moving, during which time he was beaten in the mouth, causing him to lose five of his teeth. Interrogators inserted an object into his ear, rupturing his eardrum. Mr Mushaima's interrogators also subjected him to the *falaqa* technique, which involves placing a pole between the victim's bent knees with his hands restrained in front of him. They suspended Mr Mushaima upside down in this position and beat the soles of his feet with a rubber hose. Throughout the period of his torture (at least 25 days), officers kept Mr Mushaima in solitary confinement whenever they were not torturing him. They did not allow him to shower, did not feed him regularly, and subjected him to frequent sleep deprivation.
31. The purpose of Mr Mushaima's torture was to extract a confession to involvement in the Daih bombing. Mr Mushaima later told his family that his interrogators repeatedly ordered him to confess to this crime throughout his torture. Mr Mushaima initially resisted this, at which point interrogators told him they would rape his mother and sister in front of him if he did not confess. Ultimately, after weeks of torture, Mr Mushaima finally agreed to confess to make the torture stop. At this point he signed a confession, despite the fact that he could not read. He was also later made to confess on video.
32. Mr Mushaima first saw his family on 23 March 2014. Before his family arrived, police told Mr Mushaima not to answer any of his family's questions or tell them about the treatment he had received. When the family arrived, Mr Mushaima was behind a glass barrier and wearing winter clothes and a jacket although the weather was very hot. The family believes Mr Mushaima was made to wear these clothes to cover marks of torture. The family could see marks of torture on Mr Mushaima anyway. His face was swollen, his teeth were broken and missing, and there were burn marks on his hands, which the family believed resulted from electric shocks. Mr Mushaima's family also reported that in later visits, it was clear that he was no longer able to walk regularly. The family also reported that other inmates had told them that Mr Mushaima had been seen vomiting blood. Mr Mushaima later told his family that even if he was released, he knew he would never have any children because the damage to his genitals from beatings and electrocution was so severe.

### ***c. Arrest and torture of Ali al-Singace***

33. At the time of the 3 March 2014 bombing in al-Daih, Mr al-Singace had been in hiding from police for more than a year. From the time Mr al-Singace was 15 years old, police had detained him, tortured him and sexually assaulted him on several occasions as part of a larger attempt to force him to act as an informant for the Ministry of Interior, causing him to go into hiding. When police announced they were seeking to arrest Mr al-Singace in connection with the bombing in al-Daih, he remained in hiding. He was eventually arrested by CID officers on 2 April 2015, when he was 19 years old.
34. In the CID building, officers punched Mr al-Singace in the head and face repeatedly. They subjected him to electric shocks on his arms and body and sexually assaulted him. After

seven hours of torture, officers allowed Mr al-Singace to contact his family briefly and tell them where he was. Thereafter, police held him incommunicado in the CID building for another seven days. Officers continued to torture him during this period. After seven days, police moved Mr al-Singace to Jau Prison, Bahrain's long term prison for male detainees.

35. The purpose of Mr al-Singace's torture appears to have been to extract a confession. However, it should be noted that at the time of Mr al-Singace's arrest, his initial trial in relation to the Daih bombing had already concluded, and he had been sentenced to death in absentia on the basis of Mr al-Samea and Mr Mushaima's coerced confessions. Accordingly, interrogators did not interview Mr al-Singace about the Daih bombing specifically. They tortured him and interrogated him about his alleged involvement in other matters. It is not clear exactly what Mr al-Singace confessed to; this confession did not appear in trial judgments, again because the first instance trial had already concluded by the time of Mr al-Singace's arrest. Nevertheless, Mr al-Singace told his family that police tortured him for the purpose of forcing him to confess to involvement in illegal activity, and that he eventually did so in order to make the torture stop.

#### ***d. Trial and execution of Mr al-Samea, Mr Mushaima and Mr al-Singace***

36. The trial of Mr Mushaima, Mr al-Samea and Mr al-Singace began on 30 April 2014 in Bahrain's Fourth Superior Criminal Court before Judge Ali Khalifa al-Zahrani. They were charged with three counts of premeditated murder and thirteen counts of attempted murder for their alleged involvement in the al-Daih bombing. Mr al-Singace had not yet been arrested at this point and was tried in absentia. On 30 April, Mr Mushaima and Mr al-Samea both entered pleas of not guilty and told the court that their confessions had resulted from torture in CID custody.
37. The ensuing trial of Mr Mushaima, Mr al-Samea and Mr al-Singace featured numerous violations of their fair trial rights, as enshrined in ICCPR Article 14. The men were denied access to lawyers from the moment of their arrest, in violation of ICCPR Articles 14(b) and 14(d), as well as Article 20 of Bahrain's constitution.<sup>31</sup> <sup>32</sup> At trial, the court denied the defendants any opportunity to summon or examine prosecution witnesses, in gross violation of the principle of equality of arms enshrined in ICCPR Article 14(3)(e).<sup>33</sup> Most egregiously, the written judgments in their trial relied heavily on statements extracted under torture. This constitutes a violation of CAT Article 15, which requires that statements resulting from torture not be invoked as evidence.<sup>34</sup> Reliance on such

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<sup>31</sup> International Covenant on Civil and Political Rights (ICCPR) articles 14(3)(b): 'To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing'; and 14(3)(d): 'To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.' 16 December 1966, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

<sup>32</sup> *Constitution of the Kingdom of Bahrain*, 14 February 2002, Article 20(c): "An accused person shall be presumed innocent until proved guilty in a legal trial in which the necessary guarantees for the exercise of his right of defense in all the stages of investigation and trial are ensured in accordance with the law," available at: <http://www.refworld.org/docid/48b54f262.html>

<sup>33</sup> ICCPR Article 14(e) : 'To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.' 16 December 1966, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

<sup>34</sup> Convention Against Torture (CAT) article 15: 'Each State Party shall ensure that any statement which is established

statements is also in breach of the right to be free from self-incrimination, and violates the presumption of innocence, a right guaranteed by ICCPR Article 14(2).<sup>35</sup>

38. On 26 February 2015, the Fourth Superior Criminal Court sentenced Mr al-Samea, Mr Mushaima, and Mr al-Singace to death. As above, the judgment cited the confessions of Mr al-Samea and Mr Mushaima as key pieces of evidence and specifically rejected defence arguments that the confessions resulted from torture.
39. Bahrain's Court of Cassation finalized the death sentences of Mr al-Samea, Mr Mushaima and Mr al-Singace on 9 January 2017.
40. All three men were executed by firing squad on 15 January 2017. None of their families were notified before the executions took place. These executions were unlawful. As noted above in paragraph 37, the trial leading to these death sentences featured numerous violations of fair trial rights, as enshrined in ICCPR Article 14. The UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty stipulate that executions may only be carried out following trials which met all fair trial safeguards contained in ICCPR Article 14.<sup>36</sup> Only full respect for these rights distinguishes capital punishment from summary execution.<sup>37</sup> The decision of Bahraini authorities to carry out these executions following trials which did not satisfy the requirements of ICCPR Article 14 rendered these executions unlawful.

#### ***e. SIU involvement in the case of Mr al-Samea, Mr Mushaima and Mr al-Singace***

41. On 17 April 2014, Mr Mushaima's lawyer, Mohamed al-Tajer, filed a complaint regarding Mr Mushaima's torture with the SIU. This complaint describes Mr Mushaima's torture in great detail (Annex 4). The complaint requested an immediate criminal investigation of those who interrogated Mr Mushaima. Despite this, to the knowledge of Mr al-Tajer, Reprieve and BIRD, the SIU never carried out an investigation. The SIU did not communicate with Mr al-Tajer, Mr Mushaima, or Mr Mushaima's family about an ongoing investigation or any investigation results.
42. On 16 July 2014, the human rights organization Americans for Democracy and Human Rights in Bahrain (ADHRB) submitted a complaint to the Ombudsman, detailing Mr al-Samea's torture (Annex 5). Around the same time, Mr al-Samea's mother also submitted a complaint to the Ombudsman. On 22 December 2014, the Ombudsman's Office emailed ADHRB, informing them that these complaints had been investigated and that the investigation "led to criminal allegations so the case was referred to the Special

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to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.' 10 December 1984, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

<sup>35</sup> ICCPR Article 14(2): 'Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.' 16 December 1966, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

<sup>36</sup> OHCHR, *Safeguards guaranteeing protection of the rights of those facing the death penalty*, 25 May 1984, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx>

<sup>37</sup> UNHRC, Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Urgent Appeal to the Kingdom of Saudi Arabia regarding Hajras bin Saleh bin Muhammad al-Qurey, 20 August 2014, SAU 8/2014

Investigation Unit (SIU)” (Annex 6).

43. The SIU did not release its findings to Mr al-Samea, his family or his lawyer. The only details available about this investigation come from two short articles published by Bahrain’s state news agency, indicating that SIU investigators reviewed a report written by the Public Prosecution’s medical examiner Dr Hatem Mahmoud Nabil, who examined Mr al-Samea on 12 March 2014; ordered Mr al-Samea be re-examined by that same medical examiner, and; obtained copies of the Public Prosecution’s investigations and questioning record.<sup>38 39</sup> On the basis of those steps, the SIU found that Mr al-Samea had caused his own injuries while “resisting arrest” and declared he had not been tortured. An independent analysis which Reprieve commissioned into Dr Nabil’s first report found it was in complete violation of the Istanbul Protocol (see paragraph 27).

***f. Ombudsman involvement in the case of Mr al-Samea, Mr Mushaima and Mr al-Singace***

44. Also in 2014, ADHRB submitted a detailed complaint to the Ombudsman regarding the torture and forced confession of Mr Mushaima (Annex 7). Despite this, to the knowledge of ADHRB, Reprieve, BIRD and Mr al-Tajer, the Ombudsman never carried out an investigation. The Ombudsman did not communicate with Mr al-Tajer, ADHRB, Mr Mushaima or Mr Mushaima’s family about an ongoing investigation or any investigation results, nor does it appear that the Ombudsman referred this complaint to the SIU for further investigation.
45. As above in paragraph 42, the Ombudsman referred complaints about Mr al-Samea’s torture, submitted separately by his mother and ADHRB, to the SIU for criminal investigation.

***g. NIHR involvement in the case of Mr al-Samea, Mr Mushaima and Mr al-Singace***

46. On 17 September 2014, ADHRB filed complaints with the NIHR regarding the torture and forced confession of Mr al-Samea (Annex 8).
47. On 11 December 2015, after not hearing anything from the NIHR regarding this complaint for more than a year, ADHRB wrote to Maria Khoury, who oversees complaints for the NIHR. ADHRB asked specifically about the status of the complaint about Mr al-Samea’s torture (Annex 9). On 21 February 2016, following several more requests for information from ADHRB, Ms Khoury replied, indicating that the complaint about Mr al-Samea “was followed up at the time in 2014 in coordination with the Ombudsmen office in Bahrain and the Ministry of Interior and the result was that mistreatment allegations were not evident” (Annex 10).
48. Following the executions of Mr al-Samea, Mr Mushaima and Mr al-Singace, the NIHR issued a statement “[affirming] that the Kingdom of Bahrain has not violated any of its international legal obligations by executing the death penalty pursuant to the International

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<sup>38</sup> Bahrain News Agency, *SIU says torture claims investigated*, 27 February 2015, <http://bna.bh/portal/en/news/656189>

<sup>39</sup> Bahrain News Agency, *SIU rejects convict’s torture claims*, 27 February 2015, <http://www.bna.bh/portal/en/news/656241>

Covenant on Civil and Political Rights” and claiming that the trial of the three men was conducted “in accordance with recognized international standards.”<sup>40</sup> As noted at paragraph 40 above, these claims were demonstrably false; the Bahraini government’s failure to uphold the fair trial rights enshrined in Article 14 of the ICCPR rendered these executions unlawful.

#### ***h. PDRC involvement in the case of Mr al-Samea, Mr Mushaima and Mr al-Singace***

49. The PDRC carried out an inspection of the CID building on 24 and 25 December 2014. At this time, the PDRC was well aware of the allegations that Mr al-Samea and Mr Mushaima were tortured into providing false confessions in CID custody in March 2014. As noted in paragraph 47 above, Ms Khoury, in her capacity as Head of Complaints for the NIHR, had personally received complaints filed on behalf of Mr al-Samea and Mr Mushaima. Ms Khoury is also a member of the PDRC. Moreover, PDRC head Mr al-Moawda, in his capacity as Ombudsman, had also received complaints about the torture of Mr al-Samea and Mr Mushaima in CID custody.
50. Despite these allegations, the PDRC’s report on its inspection of the CID building contains only three pages of content and does not engage with allegations that torture is practiced systematically within the CID for the purpose of extracting confessions.<sup>41</sup> Notably, this reporting falls far short of the minimum standards utilized by the UK Her Majesty’s Inspectorate of Prisons (HMIP), which trains the PDRC and delivered a detailed planning session to the PDRC in specific preparation for the CID inspection. HMIP’s minimum standards for inspections are laid out in its *Expectations* document, which requires that inspections assess detention facilities according to a number of different criteria. These include: that allegations of prisoner victimisation are investigated thoroughly and actions to protect victims taken promptly; that, where abuse is alleged or suspected to have occurred, prompt and appropriate action is taken to protect the prisoner, and; that prisoners who have been the victim of abuse or rape are identified and supported to address their specific needs.<sup>42</sup>
51. The PDRC’s report on the CID facility failed to address any of these basic, crucial criteria, despite PDRC members being aware of numerous allegations that prisoners facing death sentences were tortured into making false confessions in CID custody. Especially worrying is the fact that after the PDRC’s failed inspection, Mr al-Singace alleged that he too was tortured in the CID building, where conditions apparently remained unchanged.

#### ***i. Violations of international law in the case of Mr al-Samea, Mr Mushaima and Mr al-Singace***

52. The collective failure of the SIU, Ombudsman, and NIHR to carry out legitimate investigations into the torture allegations of Mr al-Samea and Mr Mushaima represented a breach of Bahrain’s obligation to prohibit torture and to uphold the victims’ right to an

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<sup>40</sup> National Institution for Human Rights, *NIHR’s Statement on the Execution of Three Individuals*, January 2017, <http://www.nihr.org.bh/EN/Administrator/MediaHandler/GenericHandler/documents/Statements/16Jan2017.pdf>

<sup>41</sup> Prisoners and Detainees Rights Commission (PDRC), *Report No. 6: Unannounced Visit to the General Directorate of Criminal Investigations and Forensic Science December 14-25 2014*, May 2015, [http://pdrc.bh/mcms-store/pdf/c0c77248-5000-4f98-832d-d3ac3c60b1ae\\_Investigation%20-%206.pdf](http://pdrc.bh/mcms-store/pdf/c0c77248-5000-4f98-832d-d3ac3c60b1ae_Investigation%20-%206.pdf)

<sup>42</sup> *Ibid.*

effective investigation of their allegations.

53. Bahrain is bound by Article 12 of CAT, which requires state parties to carry out a “prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.”<sup>43</sup> The state’s failure to initiate any investigation into Mr Mushaima’s torture allegations represented a breach of CAT Article 12.
54. Moreover, where Bahrain did carry out an investigation into these torture allegations, that investigation violated Bahrain’s ancillary procedural obligations arising out of CAT Article 12 to investigate all allegations of torture in a manner that is consistent with the international minimum standards set out in the Istanbul Protocol. As the mandate of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has made clear, “States have an obligation to investigate in full compliance with the Istanbul Protocol as a procedural obligation.”<sup>44</sup> As such, any torture investigation that does not comply with the Istanbul Protocol does not satisfy the requirements of CAT Article 12.
55. The SIU’s investigation into Mr al-Samea’s torture allegations failed to comply with the international minimum standards set out in the Istanbul Protocol, constituting a breach of CAT Article 12.
56. The SIU relied on medicolegal evidence compiled by the State, without paying due regard to the ability of the State’s forensic doctors to conduct the examination with impartiality. This represents a breach of Istanbul Protocol paragraph 66, which stipulates that health professionals working with torture victims “cannot be obliged by contractual or other considerations to compromise their professional independence.”<sup>45</sup> Moreover, the content of the state forensic medical reports upon which the SIU relied fail to comply with the Istanbul Protocol. These failures are enumerated in Dr Chisholm’s report (Annex 3). The medical assessments conducted by Bahraini authorities are thus unacceptable as forensic evidence and reliance on them by investigating authorities renders any conclusions legally meaningless. any reliance on such medical evidence to support a finding that no torture occurred constitutes a misuse of assessments.<sup>46</sup> Further, the SIU did not commission any additional independent medical examination of Mr al-Samea, despite the failings of the original forensic medical examiner’s report. There were ample grounds for disregarding the results of this medical report, creating an obligation for the SIU to independently verify the information, an action that was never taken.<sup>47</sup>

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<sup>43</sup> CAT, Article 12: ‘Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.’ 10 December 1984, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

<sup>44</sup> United Nations General Assembly, Interim report of the Special Rapporteur on torture and cruel, inhuman and other degrading treatment or punishment: the role of forensic medicine (sixty--ninth session, 2014), UN DOCA/69/387.

<sup>45</sup> UN Office of the High Commissioner for Human Rights (OHCHR), Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”), para. 66, 2004, <http://www.refworld.org/docid/4638aca62.html>

<sup>46</sup> United Nations General Assembly, Interim report of the Special Rapporteur on torture and cruel, inhuman and other degrading treatment or punishment: the role of forensic medicine (sixty--ninth session, 2014), UN DOCA/69/387.

<sup>47</sup> *ibid.*,

57. The SIU did not uphold Mr al-Samea's right to participate in the complaints process by failing to disclose its investigation results to him, his relatives or his legal counsel, as required by paragraphs 81, 89, and 116 of the Istanbul Protocol, which require such disclosure. Paragraph 116 emphasises "the role of the survivor as a party to the proceedings" and notes "the especially important role his/her interests play in the conduct of the investigation."<sup>48</sup> The SIU's failure to disclose these details deprived Mr al-Samea of the opportunity to challenge the results, depriving him of access to an effective complaints mechanism.

## **V. MOHAMED RAMADHAN AND HUSAIN MOOSA**

### ***a. Arrest and torture of Mohamed Ramadhan***

58. On 14 February 2014, a bombing in the Bahraini village of al-Dair killed a police officer. At 2:30 am on 18 February 2014, police arrested Mr Ramadhan from the Bahrain International Airport, where he worked as a police officer, and accused him of involvement in the bombing. CID took him to the CID building, where tortured him until 21 February. Then they transferred him to Riffa police station. Between 21 February and 3 March, Mr Ramadhan spent nights at Riffa police station and was transported to the CID building for interrogation and torture during the day.

59. When Mr Ramadhan arrived to the CID building on 18 February, officers blindfolded him, stripped him naked, and took him to a freezing cold room. They beat, punched and kicked him. Officers focused on his head, ears and especially genitals, as he was suffering from a prior injury to his genitals that left him very sensitive. Interrogators handcuffed Mr Ramadhan's hands behind his back periodically applied pressure to the handcuffs and beat him in the back with iron rods. Interrogators threatened to rape Mr Ramadhan's wife and other female family members in front of him, and forced him to listen to the screams of other prisoners being tortured. Sometime between 21 February and 3 March 2014, officers removed Mr Ramadhan from the CID building and brought him to a pro-government demonstration, where demonstrators chanted for the execution of those accused of having carried out the al-Dair bombing.

60. The main purpose of Mr Ramadhan's torture was to extract a confession of involvement in the al-Dair bombing. Mr Ramadhan later told his family that his interrogators repeatedly ordered him to confess to this crime throughout his torture. At one point, they succeeded in forcing him to sign a confession in CID custody. On 20 February 2014, officers brought Mr Ramadhan before a public prosecutor and ordered him to repeat his confession. When brought before the prosecutor, Mr Ramadhan asked him, "Do you want me to tell you the story they told me to tell you, or the truth?" The prosecutor shouted at him and told him to leave. After this, officers brought Mr Ramadhan back to the CID building for further torture. Mr Ramadhan's family has stated that he did sign a confession, but that this confession did not contain explicit admission of involvement in the bombing itself.

61. The other principal purpose of Mr Ramadhan's torture seems to have been retribution. Because he was a police officer, Mr Ramadhan's interrogators considered his participation in opposition marches to be especially treasonous. Mr Ramadhan's family has stated that

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<sup>48</sup> Istanbul Protocol, para. 116, 2004, <http://www.refworld.org/docid/4638aca62.html>

on 21 February, his interrogators handed him a phone. The person on the phone told Mr Ramadhan that the government knew he was innocent but that his participation in marches and other activities made him a traitor. The man told Mr Ramadhan that he would be charged with the killing of a police officer as punishment for his “treasonous” activities.

62. Police first permitted Mr Ramadhan’s family to visit him on 28 February 2014 in the CID building. Before this visit, police warned Mr Ramadhan’s wife, parents, son, and sister not to ask him any questions about the accusations against him or why he was arrested. They were told the visit would be terminated immediately if they disobeyed. The visit lasted 30 minutes and took place in a room with a video camera carrying live sound and image to a monitored control room. There were also three guards in the room with them during the visit. The family stated that Mr Ramadhan appeared exhausted.
63. On 2 March 2014, forensic medical examiner from Bahrain’s Public Prosecution examined Mr Ramadhan. This forensic doctor, Dr Mohamed Nour al Din Ahmad Ans Fowda, wrote a two-page report (Annex 11).
64. Reprieve provided a copy of the forensic medical examiner’s report on Mr Ramadhan to Dr Brock Chisholm, clinical psychologist and independent expert in the assessment of torture survivors using the Istanbul Protocol. Dr Chisholm wrote a medicolegal assessment of this forensic medical examiner’s report. Dr Chisholm’s assessment, which states that the forensic examination “fails in almost all aspects of what is required in a forensic investigation of possible torture. The report provided to me is in complete violation of the internationally recognised Istanbul Protocol and should therefore be completely disregarded” (Annex 12).

#### ***b. Arrest and torture of Husain Moosa***

65. On 14 February 2014, a bombing in the Bahraini village of al-Dair killed a police officer. On 21 February 2014 at approximately 3:30 am, police arrested Mr Moosa from the apartment of a friend in the Bahraini village of Samaheej and accused him of involvement in the al-Dair bombing. They then transported him to the CID building, where they held and tortured him until 24 February 2014. Thereafter Mr Moosa was transferred to Dry Dock Prison.
66. In CID custody, interrogators handcuffed Mr Moosa and hung him from the ceiling, leaving him that way for three days. They took turns beating him with police batons. They beat him especially on his back and his genitals.
67. The main purpose of Mr Moosa’s torture was to extract a confession to involvement in the al-Dair bombing. Mr Moosa later told his family that his interrogators repeatedly ordered him to confess to this crime throughout his torture. He eventually confessed in order to make the torture stop, and his coerced confession specifically implicated his co-defendant Mr Ramadhan. He later repeated that confession before a Public Prosecutor, though he later recanted it at trial. After his death sentence was handed down, Mr Moosa called Mr Ramadhan’s family and apologized for implicating Mr Ramadhan in his false confession. He told them he wished he had been able to withstand the torture and apologized for failing to do so.
68. Police did not allow Mr Moosa’s family to visit him in the CID building. His family knew



nothing about his whereabouts until 24 February 2014, at which point officers allowed Mr Moosa to call them and tell them that he was in Dry Dock Prison, and that he was doing okay. Mr Moosa's family visited him in Dry Dock prison, on or around 3 March 2014. After that visit, Mr Moosa's family described seeing signs of beatings evident on his body, namely bruising on his hands and his back. During that visit, Mr Moosa told his family that during his torture, he wished for death.

69. On 2 March 2014, a forensic medical examiner from Bahrain's Public Prosecution examined Mr Moosa. This forensic doctor, Dr Mohammed Nour al Din Ahmad Ans Fowda, wrote a two-page report (Annex 13).
70. Reprieve provided a copy of the forensic medical examiner's report on Mr Moosa to Dr Brock Chisholm, clinical psychologist and independent expert in the assessment of torture survivors using the Istanbul Protocol. Dr Chisholm wrote a medicolegal assessment of this forensic medical examiner's report. Dr Chisholm's assessment (Annex 14) states, "there are clear violations of the Istanbul Protocol and compelling reasons to suspect that sufficient independence was lacking. It is my professional opinion that the report provided to me for scrutiny failed to meet the minimum standards expected from an Istanbul Protocol report following allegations of torture or ill treatment."

### **c. Trial of Mohamed Ramadhan and Husain Moosa**

71. The trial of Mr Ramadhan and Mr Moosa began on 19 June 2014 before the Fourth Superior Criminal Court and presiding judge Ali Khalifa al-Zahrani. They were charged with one count of premeditated murder and four counts of attempted murder for their alleged involvement in the al-Dair bombing. At the first hearing in this trial, both Mr Ramadhan and Mr Moosa entered pleas of not guilty and told the judge that they had been tortured into providing false confessions in CID custody.
72. The ensuing trial of Mr Ramadhan and Mr Moosa featured numerous violations of their fair trial rights, as enshrined in ICCPR Article 14. The men were denied access to lawyers from the moment of their arrest, in violation of ICCPR Articles 14(b) and 14(d),<sup>49</sup> as well as Article 20 of Bahrain's constitution.<sup>50</sup> At trial, the men were denied the opportunity to summon or examine prosecution witnesses, in gross violation of the principle of equality of arms enshrined in ICCPR Article 14(3)(e).<sup>51</sup> Most egregiously, the written judgments in their trial relied heavily on statements extracted under torture. This constitutes a violation of CAT Article 15, which requires that statements resulting from torture not be invoked as evidence.<sup>52</sup> Reliance on such statements is also in breach of the right to be free from self-incrimination, and doing so violates the presumption of innocence, a right guaranteed by ICCPR Article 14(2).<sup>53</sup>

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<sup>49</sup> ICCPR Articles 14(3)(b) and 14(3)(d), 16 December 1966, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

<sup>50</sup> *Constitution of the Kingdom of Bahrain*, 14 February 2002, Article 20(c): "An accused person shall be presumed innocent until proved guilty in a legal trial in which the necessary guarantees for the exercise of his right of defense in all the stages of investigation and trial are ensured in accordance with the law," available at: <http://www.refworld.org/docid/48b54f262.html>

<sup>51</sup> ICCPR Article 14(3)(e), December 1966, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

<sup>52</sup> CAT Article 15, 10 December 1984, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

<sup>53</sup> ICCPR Article 14(2), 16 December 1966, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

73. On 29 December 2014, the Fourth Superior Criminal Court sentenced Mr Ramadhan and Mr Moosa to death. The judgment cited the confessions of both men as key pieces of evidence and specifically rejected defence arguments that the confessions resulted from torture.
74. Bahrain's Court of Cassation finalized the death sentences of Mr Ramadhan and Mr Moosa on 16 November 2015. Both men now face imminent execution.

***d. Ombudsman involvement in the case of Mr Ramadhan and Mr Moosa***

75. Despite direct complaints to Bahrain's Ombudsman for the Ministry of Interior, Mr Ramadhan and Mr Moosa's torture allegations were not investigated at any time prior to the finalization of their death sentences.
76. On 16 July 2014, ADHRB submitted a detailed complaint about Mr Ramadhan's torture to the Ombudsman (Annex 15). Reprieve and BIRD know for certain that the Ombudsman's Office received and saw this complaint, because it emailed ADHRB in January 2016 (Annex 16), acknowledging that it had received a complaint from ADHRB about Mr Ramadhan's case on 16 July 2014—a reference to the torture complaint. However, the Ombudsman failed to open an investigation into Mr Ramadhan's torture allegations for more than two years, during which time Mr Ramadhan and Mr Moosa were sentenced to death in a series of trials which relied heavily on their coerced confessions.
77. After receiving Mr Ramadhan's torture allegations, rather than opening an investigation, the Ombudsman spent the better part of the next two years misleading international actors, including the European Parliament and the UK Foreign & Commonwealth Office (FCO), by insisting that it had never received any torture complaints in Mr Ramadhan's case. On 29 January 2016, Bahrain's Mission to the EU contacted 750 Members of European Parliament (MEPs). The Bahraini Mission sent an email, attaching a briefing summarizing the "Investigation of the complaints submitted to the Office of the Ombudsman on Behalf of Mr. Mohamed Ramadan". The briefing is attached at Annex 17 and the email is attached at Annex 18. The email incorrectly stated,  
  
"Please note that these complaints, submitted during the period spanning from after his initial arrest until the days after his sentencing by the Higher Criminal Court, do not include any claims of ill-treatment and torture to extract a confession, as is now being falsely claimed by the defendant, his family and legal representative."  
  
78. Thereafter, the Ombudsman repeatedly told the UK FCO that it had not received any torture complaints in Mr Ramadhan's case. On 19 April 2016, Tobias Ellwood, UK Minister for the Middle East and North Africa, stated in response to a parliamentary question, "[UK Embassy in Bahrain] officials have been in direct contact with the Ombudsman, who has confirmed that whilst there have been a number of complaints raised with his office in the case of Mr Ramadan, there have been no allegations of mistreatment or torture."<sup>54</sup> Then, on 12 May 2016, following a letter from Reprieve

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<sup>54</sup> Hansard, *Mohamed Ramadan: Written Question – 33305*, 11 April 2016, <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/commons/2016-04-11/33305/>

pointing out that the Ombudsman had in fact received torture allegations in Mr Ramadhan's case, the UK FCO wrote to Reprieve, stating, "Foreign and Commonwealth Office Parliamentary Under-Secretary of State, Tobias Ellwood's reply to a House of commons Question for Written Answer was also correct. On receipt of your letter we have reconfirmed with the Ombudsman's office in Bahrain that no allegations of mistreatment or torture have been made by or on behalf of Mr Mohamed Ramadan" (Annex 19). After these exchanges, Reprieve wrote to the UK FCO several more times, demonstrating that the Ombudsman's Office itself had acknowledged that it received a torture complaint in Mr Ramadhan's case in 2014. Reprieve, BIRD and ADHRB also wrote directly to the Bahraini Prime Minister and to the Ombudsman, providing proof that the Ombudsman had received torture complaints in Mr Ramadhan's case and referring to Dr Chisholm's medicolegal assessment, which declared the forensic medical examination received by Mr Ramadhan to be inadequate (Annexes 20 and 21).

79. The Ombudsman finally acknowledged that it had in fact received torture complaints in Mr Ramadhan's case. In a 15 June 2016 statement sent to the UK FCO and forwarded by the UK FCO to Reprieve (Annex 22), the Ombudsman's Office wrote, "It is the case that in July 2014, an NGO brought many complaints to the Ombudsman Office and that one of these related to Mr. Ramadan. Whilst the Ombudsman Office complaint form completed by the NGO did not allege mistreatment or torture, an accompanying emailed statement did make such allegations. The NGO's complaint form included consent from Mr. Ramadan's wife. Ombudsman Office Investigators were aware of the e-mailed statement but because they were already in direct contact with Mr. Ramadan's wife, they focused on the family complaints. (...) It is a matter of regret that the information provided by my Office regarding the complaints received from Mr. Ramadan's family, did not include the separate allegation by an NGO." It is worth noting that the "emailed statement" the Ombudsman refers to was in fact appended to the Ombudsman's own complaint form (Annex 15). More important, the Ombudsman's statement amounts to an acknowledgement that his office willfully disregarded a complaint about Mr Ramadhan's torture and chose to "focus" on other complaints.
80. The Ombudsman's 15 June 2016 statement went on to state that he "took a decision in May 2016 to initiate a full, independent investigation into the treatment [of] both Mohamed Ramadan and Hussain al-Moosa from the point of their arrest to throughout their detention. This investigation is ongoing and the findings will be reported in due course."<sup>55</sup> This investigation commenced 46 months after the Ombudsman first received Mr Ramadhan's torture allegations, at a point when Mr Ramadhan and Mr Moosa had already been sentenced to death in trials that relied on confessions extracted through torture.
81. Reprieve and BIRD have monitored this new Ombudsman investigation closely, and it has failed to comply with international minimum standards for torture investigations, namely the Istanbul Protocol. During this investigation, the Ombudsman's office:
- Interviewed Mr Ramadhan in prison without the presence of his lawyer;
  - Summoned Mr Ramadhan's wife, Zainab Ebrahim, under the guise of interviewing her for the purposes of Mr Ramadhan's investigation, and

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<sup>55</sup> Ombudsman, *First annual report 2013 – 2014*, <http://www.ombudsman.bh/en/periodic-public-reports/reports/annual-report-2013-2014>

interrogated her about her contact with foreign NGOs. Her interviewer produced a copy of an authorization form that Ms Ebrahim had signed for ADHRB and demanded to know what it was and what was the nature of her contact with human rights groups;

- Refused to conduct a new, Istanbul Protocol-compliant medical examination of Mr Ramadhan. Instead, it relied entirely on the inadequate medical examinations Mr Ramadhan had already received, opting to “[*examine*] the records of the forensic doctor who examined Mr. Ramadan” and “[*interview*] the doctors who examined Mr. Ramadan over the 11 days following his arrest” (an email from the Ombudsman to Reprieve, outlining the actions taken in this investigation, is attached at Annex 23), and;
- Refused offers of free international expert assistance in this investigation. Dr Chisholm, who wrote the medicolegal assessment of Mr Ramadhan’s initial forensic medical examination, wrote directly to the Ombudsman on 5 August 2016, offering to aid this investigation by conducting the required psychological examination of Mr Ramadhan and enlisting a qualified expert to conduct the physical examination (Annex 24). He never received any response.

This conduct represents breaches of various paragraphs of the Istanbul Protocol, which are addressed at paragraphs 95-100 below.

82. On 24 October 2016, the Ombudsman emailed Reprieve, stating that he had “suspended all further investigative activity” into Mr Ramadhan and Mr Moosa’s case and referred their torture allegations to the SIU for criminal investigation (email attached at Annex 23). This appears to be a recognition that Mr Ramadhan and/or Mr Moosa were likely victims of a crime while held in police custody, as the Ombudsman’s 2013 report states, “Where the evidence examined suggests that a criminal act may have been committed, cases are referred to the Public Prosecution or the Special Investigations Unit.”<sup>56</sup>
83. Nevertheless, despite the apparent conclusion of the Ombudsman’s investigation, his office has refused to release any details of its findings to Mr Ramadhan, Mr Moosa, their families or their lawyer, Mr al-Tajer. Reprieve, Mr al-Tajer and Ms Ebrahim have made repeated requests for the release of this information, citing the relevant paragraphs of the Istanbul Protocol requiring disclosure of findings to legal counsel of the alleged victim, but the Ombudsman has released no information.
84. On 1 November 2016, Reprieve wrote to the Ombudsman’s office, calling for immediate disclosure of the findings to Mr al-Tajer (Annex 25). The Ombudsman responded on 10 November 2016, stating that he would not disclose any information at this time, as doing so could “fatally compromise” the ongoing criminal investigation being conducted by the SIU (Annex 26). Reprieve responded to the Ombudsman on 25 November 2016, reminding him again that the Istanbul Protocol requires disclosure of findings to the alleged victim’s legal counsel, and pointing out that releasing this information to Mr al-Tajer does not amount to a public disclosure and would not influence the ongoing criminal investigation in any way (Annex 27).
85. The Ombudsman did not engage with these requests for disclosure further. The next

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<sup>56</sup> Ombudsman, *First annual report 2013 – 2014*, <http://www.ombudsman.bh/en/periodic-public-reports/reports/annual-report-2013-2014>

contact Reprieve received from his office was on 13 December 2016, in an email which stated that the Ombudsman would no longer “share complaint investigations findings with third party complainants unless they are [authorized] with written consent to act on behalf of the detainee/prisoner” (Annex 28). Reprieve does have written consent from Ms Ebrahim to act on behalf of her husband Mr Ramadhan, but was reticent to send this document to the Ombudsman’s office, because Ombudsman investigators used an authorization form signed by Ms Ebrahim with another NGO (ADHRB) to bully and intimidate her (see above at paragraph 81). Accordingly, Reprieve responded to the Ombudsman’s office on 16 December 2016. This email stated that Reprieve has both oral and written consent from Ms Ebrahim, but has been reticent to share the written document with the Ombudsman’s office because of the reasons listed above. The email went on to say, “As such, we would be happy to share with you our written consent to act on behalf of Mr Ramadan, if you will first provide us with a written guarantee that this document will not be used to in any way bully or intimidate Mr Ramadan or his family, and that they will not suffer any retributive action as a result of having signed this form” (Annex 29). Reprieve never received any response to this request.

86. On 19 January 2017, Mr al-Tajer made a written request to the Ombudsman, requesting immediate disclosure of the investigation findings to him (Annex 30). Thereafter, on 26 January 2017, Ms Ebrahim wrote to the Ombudsman herself, attaching Mr al-Tajer’s previous letter and requesting immediate disclosure of the investigation findings to Mr al-Tajer (Annex 31). Neither received any response.
87. On 3 February 2017, Reprieve again wrote to the Ombudsman’s office, this time attaching Ms Ebrahim’s written consent form and again calling on the Ombudsman to comply with international law and release his findings to Mr Ramadan, Mr Moosa and their lawyer (Annex 32). The Ombudsman’s office has not responded.

***e. SIU involvement in the case of Mr Ramadhan and Mr Moosa***

88. As noted above at paragraph 82, the Ombudsman referred Mr Ramadhan and Mr Moosa’s torture allegations to the SIU on 24 October 2016. In the four months since, the SIU has made no attempt to contact Mr Ramadhan, Mr Moosa, their families or their lawyer. The SIU has released no details regarding any investigation.

***f. NIHR involvement in the case of Mr Ramadhan and Mr Moosa***

89. On 17 September 2014, ADHRB filed a complaint with the NIHR regarding the torture and forced confessions of Mr Ramadhan and Mr Moosa (Annex 33).
90. On 11 December 2015, after not hearing anything from the NIHR regarding this complaint for more than a year, ADHRB wrote to Maria Houry, who oversees complaints for the NIHR. ADHRB asked specifically about the status of the complaint about Mr Ramadhan and Mr Moosa’s torture (Annex 9). On 21 February 2016, following several more requests for information from ADHRB, Ms Houry replied, denying that any complaint had been submitted on behalf of Mr Ramadhan or Mr Moosa, which was false (this email is attached at annex 10).

**g. PDRC involvement in the case of Mr Ramadhan and Mr Moosa**

91. As noted above at paragraphs 49 through 51, the PDRC carried out an inspection of the CID building on 24 and 25 December 2014. the PDRC was aware of the allegations that Mr Ramadhan and Mr Moosa were tortured into providing false confessions in CID custody in February 2014. As noted in paragraph 90 above, Ms Khoury, in her capacity as Head of Complaints for the NIHR, had personally received complaints filed on behalf of Mr Ramadhan. Ms Khoury is also a member of the PDRC. Moreover, PDRC head Mr al-Moawda, in his capacity as Ombudsman, had also received complaints about the torture of Mr Ramadhan in CID custody.
92. As noted above at paragraphs 49 through 51, the PDRC's report on its inspection of the CID building contains only three pages of content and does not engage with allegations that torture is practiced systematically within the CID for the purpose of extracting confessions.<sup>57</sup>

**h. Violations of international law in the case of Mr Ramadhan and Mr Moosa**

93. The collective failure of the SIU, Ombudsman, and NIHR to carry out legitimate investigations into the torture allegations of Mr Ramadhan and Mr Moosa represented a breach of Bahrain's obligation to uphold their right to an effective investigation of their torture allegations.
94. The state's failure to initiate any investigation into the torture of Mr Ramadhan and Mr Moosa until June 2016, despite receiving torture complaints in their case two years prior, represents a breach of CAT Article 12's requirement for a "prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed."<sup>58</sup>
95. Moreover, where Bahrain has carried out investigations into these torture allegations, those investigations have violated Bahrain's ancillary procedural obligations arising out of CAT Article 12 to investigate all allegations of torture in a manner that is consistent with the international minimum standards set out in the Istanbul Protocol. As the mandate of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has made clear, "States have an obligation to investigate in full compliance with the Istanbul Protocol as a procedural obligation."<sup>59</sup> As such, any torture investigation that does not comply with the Istanbul Protocol does not satisfy the requirements of CAT Article 12.
96. In various ways, the Ombudsman's 2016 investigation into Mr Ramadhan and Mr Moosa's torture allegations failed to comply with the international minimum standards set out in the Istanbul Protocol, constituting a breach of CAT Article 12.

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<sup>57</sup> Prisoners and Detainees Rights Commission (PDRC), *Report No. 6: Unannounced Visit to the General Directorate of Criminal Investigations and Forensic Science December 14-25 2014*, May 2015, [http://pdrc.bh/mcms-store/pdf/c0c77248-5000-4f98-832d-d3ac3c60b1ae\\_Investigation%20-%206.pdf](http://pdrc.bh/mcms-store/pdf/c0c77248-5000-4f98-832d-d3ac3c60b1ae_Investigation%20-%206.pdf)

<sup>58</sup> CAT, Article 12, 10 December 1984, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

<sup>59</sup> United Nations General Assembly, Interim report of the Special Rapporteur on torture and cruel, inhuman and other degrading treatment or punishment: the role of forensic medicine (sixty-ninth session, 2014), UNDOCA/69/387.

97. The Ombudsman relied on medicolegal evidence compiled by the State, without paying due regard to the ability of the State's forensic doctors to conduct the examination with impartiality. This represents a breach of Istanbul Protocol paragraph 66, which stipulates that health professionals working with torture victims "cannot be obliged by contractual or other considerations to compromise their professional independence."<sup>60</sup> Moreover, the content of the state forensic medical reports upon which the Ombudsman relied fail to comply with the Istanbul Protocol. These failures are enumerated in Dr Chisholm's reports (Annexes 12 and 14). The medical assessments conducted by Bahraini authorities are thus unacceptable as forensic evidence and reliance on them by investigating authorities renders any conclusions legally meaningless. In particular, any reliance on such medical evidence to support a finding that no torture occurred constitutes a misuse of assessments.<sup>61</sup> Further, the Ombudsman did not commission any further medical examinations of Mr Ramadhan or Mr Moosa, despite the original reports' failings. There were ample grounds for disregarding the results of these medical reports, creating an obligation for the Ombudsman to independently verify the information, actions that were never taken.<sup>62</sup>
98. As noted at paragraph 81 above, Dr Chisholm, an international expert in using the Istanbul Protocol to assess torture victims, reached out to the Ombudsman and offered his assistance free of charge. The Ombudsman did not engage with Dr Chisholm's offer. This runs counter to the spirit of Istanbul Protocol paragraph 90, which stipulates, "The investigator should also have access to international expert advice and assistance throughout the investigation."<sup>63</sup>
99. The Ombudsman, by refusing to allow Mr Ramadhan to notify or summon his lawyer before interviewing him in prison, breached paragraph 81 of the Istanbul Protocol, which stipulates that the legal representatives of alleged torture victims must be informed of all information relevant to the investigation.<sup>64</sup>
100. The Ombudsman did not uphold Mr Ramadhan and Mr Moosa's right to participate in the complaints process by failing to provide disclosure of the investigation results to them, their relatives or their legal counsel, as required by Paragraphs 81, 89 and 116 of the Istanbul Protocol, which require such disclosure. Paragraph 116 emphasizes "the role of the survivor as a party to the proceedings" and notes "the especially important role his/her interests play in the conduct of the investigation."<sup>65</sup> The Ombudsman refuses to disclose the investigation results to this day.
101. The SIU, in its failure to communicate with Mr Ramadhan and Mr Moosa, their families and their lawyer regarding its apparently ongoing investigation into their torture allegations has further breached paragraphs 81, 89 and 116 of the Istanbul Protocol.

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<sup>60</sup> Istanbul Protocol, para. 66, 2004, <http://www.refworld.org/docid/4638aca62.html>

<sup>61</sup> United Nations General Assembly, Interim report of the Special Rapporteur on torture and other cruel, inhuman and other degrading treatment or punishment: the role of forensic medicine (sixty-ninth session, 2014), UN DOC A/69/387.

<sup>62</sup> *ibid.*,

<sup>63</sup> Istanbul Protocol, para. 81, 2004, <http://www.refworld.org/docid/4638aca62.html>

<sup>64</sup> Istanbul Protocol, para. 81, 89, 116, 2004, <http://www.refworld.org/docid/4638aca62.html>

<sup>65</sup> Istanbul Protocol, para. 116, 2004, <http://www.refworld.org/docid/4638aca62.html>

## **VI.ROLE OF OMBUDSMAN, SIU, NIHR AND PDRC IN DEATH SENTENCES**

102. In the cases of death row inmates in Bahrain, the Ombudsman, SIU, NIHR and PDRC have refused to investigate torture complaints. These institutions have instead acted to cover up and ignore such allegations.
103. The Ombudsman's refusal to investigate Mr Mushaima's torture allegations; the SIU's refusal to investigate Mr Mushaima's torture allegations; the SIU's failure to investigate Mr al-Samea's torture allegations in accordance with the Istanbul Protocol, and; the SIU's refusal to share any details of its investigation with Mr al-Samea or his lawyer all allowed Mr Mushaima, Mr al-Samea and Mr al-Singace to be sentenced to death in trials that relied heavily on evidence extracted through torture, despite the fact that Mr Mushaima and Mr al-Samea's torture allegations were never investigated.
104. The Ombudsman's refusal to investigate Mr Ramadhan's torture allegations for two years; the Ombudsman's false claims to international actors that it never received torture complaints in Mr Ramadhan's case, and; the NIHR's false claims that it never received torture complaints regarding Mr Ramadhan and Mr Moosa all allowed Mr Ramadhan and Mr Moosa to be sentenced to death in trials that relied heavily on evidence extracted through torture, despite the fact that their torture allegations were never investigated. Thereafter, the Ombudsman's failure in 2016 to investigate Mr Ramadhan and Mr Moosa's torture allegations in accordance with the Istanbul Protocol; the Ombudsman's refusal to disclose any investigation results to Mr Ramadhan, Mr Moosa or their lawyer, and; the SIU's refusal to disclose any information about its apparently ongoing investigation to Mr Ramadhan, Mr Moosa or their lawyer all continue to place Mr Ramadhan and Mr Moosa at heightened risk of imminent and unlawful execution.
105. The PDRC's inadequate inspection of the CID detention facility, as well as its refusal to consider allegations of systematic torture for the purpose of extracting false confessions, further deflected attention away from the torture allegations of Mr Mushaima, Mr al-Samea, Mr al-Singace, Mr Ramadhan and Mr Moosa, placing them at heightened risk of execution.
106. The NIHR's false public statement claiming that the executions of Mr Mushaima, Mr al-Samea and Mr al-Singace were carried out in line with Bahrain's international legal obligations places Mr Ramadhan and Mr Moosa at heightened risk of imminent execution.
107. Taken together, the performance of the Ombudsman, SIU, NIHR and PDRC in these five death row cases indicates that these institutions are not genuine efforts at human rights reform, backed by political will. Rather, they represent an ongoing effort by the Bahraini government to whitewash its poor human rights record with cosmetic and toothless reform bodies.



## **VII. RECOMMENDATIONS**

108. In light of this submission, Reprieve and BIRD make the following recommendations:

109. *To the Government of Bahrain:*

- Ratify OPCAT.
- Allow the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Bahrain.
- Issue a royal pardon to Mr Ramadhan and Mr Moosa.  
Establish a demonstrably independent commission of inquiry, separate from the Ombudsman and SIU, to re-investigate the torture allegations of Mr Ramadhan and Mr Moosa, as well as all other inmates facing possible death sentences who have alleged torture, including Sami Mushaima, Abbas al-Samea and Ali al-Singace.

110. *To the Government of the United Kingdom:*

- Call on Bahrain to pardon Mr Ramadhan and Mr Moosa.
- Call on Bahrain to ratify OPCAT.
- Call on Bahrain to allow the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit the country.
- Make all future technical assistance to Bahrain, including assistance to the Ombudsman, SIU, NIHR and PDRC, immediately conditional on Bahrain first ratifying the Optional Protocol to the Convention Against Torture and allowing the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit the country.
- Call on Bahrain to establish a demonstrably independent commission of inquiry, separate from the Ombudsman and SIU, to re-investigate the torture allegations of Mr Ramadhan and Mr Moosa, as well as all other inmates facing possible death sentences who have alleged torture, including Sami Mushaima, Abbas al-Samea and Ali al-Singace.
- Call on Bahrain to establish an independent inquest into the unlawful executions of Sami Mushaima, Abbas al-Samea and Ali al-Singace.

111. *To the international community:*

- Call on Bahrain to pardon Mr Ramadhan and Mr Moosa.
- Call on Bahrain to ratify OPCAT.
- Call on Bahrain to allow the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit the country.
- Make all future technical assistance to Bahrain, including assistance to the Ombudsman, SIU, NIHR and PDRC, immediately conditional on Bahrain first ratifying the Optional Protocol to the Convention Against Torture and allowing the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit the country.
- Call on Bahrain to establish a demonstrably independent commission of inquiry, separate from the Ombudsman and SIU, to re-investigate the torture allegations of Mr Ramadhan and Mr Moosa, as well as all other inmates facing possible death sentences who have alleged torture, including Sami Mushaima, Abbas al-Samea and Ali al-Singace.
- Call on Bahrain to establish an independent inquest into the unlawful executions of Sami Mushaima, Abbas al-Samea and Ali al-Singace.

112. *To the mandate of the UN Special Rapporteur on torture:*

- Issue a renewed request to visit Bahrain.
- Call on Bahrain to establish a demonstrably independent commission of inquiry, separate from the Ombudsman and SIU, to re-investigate the torture allegations of Mr Ramadhan and Mr Moosa, as well as all other inmates facing possible death sentences who have alleged torture, including Sami Mushaima, Abbas al-Samea and Ali al-Singace.
- Call on Bahrain to ratify OPCAT.