

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Bahrain: King must not ratify constitutional amendment allowing military courts to try civilians**

Amnesty International has today called on the King of Bahrain to refrain from ratifying a constitutional amendment that would enable military courts to try civilians, paving the way to further human rights violations. This call comes after the Shura Council, Bahrain's Consultative Council, voted unanimously in favour of the amendment to Article 105 (b) of the Constitution on 5 March and after it had been voted in favour by Parliament on 21 February. The amendment has now been passed to the King for ratification and could be ratified imminently.

Amnesty International is gravely concerned that the purpose of the amendment to Article 105 (b) of the Constitution, which removes the restriction of the military court's jurisdiction to military and security personnel, is to allow military courts to try civilians. Amnesty International unequivocally opposes the trial of civilians before military courts as they are contrary to the fundamental requirements of international law and standards for fair trial, including the right to be tried before a competent, independent and impartial court.

In 2011, when Bahrain was under martial law, military courts sentenced scores of opposition and human rights activists, teachers, doctors and nurses for participation in demonstrations, treating wounded protesters and other non-violent activities in grossly unfair trials.

According to the current Constitution, unless martial law is declared, "the jurisdiction of military courts shall be confined to military offences committed by members of the Bahrain Defense Force (BDF), the National Guard and the Security Forces." However, the new amendment does not explicitly restrict the jurisdiction of military courts to crimes committed by members of the military, as it reads: "The military judiciary shall be regulated by law, and shall delineate its jurisdiction and competencies with regards to the BDF, the National Guard, and Public Security Forces."

It is unclear from the amendment what cases would be tried before the military court. However, according to the [explanatory note](#) drafted by the government's Legislation and Legal Opinion Commission, which accompanied the proposed amendment, the military judiciary was created to "maintain the privacy of military agencies and secrecy of related information" and that the amendment was "incumbent...in light of what the Gulf area in particular ... face in terms of crises with their subsequent ramifications that undermine the security and structure of society". The note further states that the military court's jurisdiction is extended to "include crimes defined by law, while maintaining the integrity, stature and interests of all military bodies, including the BDF since it is mandated with defending the homeland as well as protecting and preserving its independence, sovereignty, and the integrity of its land and security". According to the [Minister of Justice](#) "those who engage in terrorist acts and violent crimes will be prosecuted by military courts as their acts are considered as armed assault".

Amnesty International is therefore alarmed that the new amendment and explanatory note is vaguely worded and could be used to try before a military court any critic deemed to be a threat to Bahrain's national security or its "independence, sovereignty or integrity", including -- as has been the case in

the past – peaceful activists prosecuted on trumped-up charges. Additionally, if military courts are deemed to exist to “maintain...the secrecy of ...information”, this could pave the way for closed trials, denial of right to counsel of choice and other violations of the right to fair trial.

Amnesty International is further concerned that military courts will also speed up trial proceedings in a way that further violates the defendants’ right to a fair trial. According to the explanatory note, a military court can “quickly address these offences in terms of investigation and litigation in the shortest time possible.” According to the Minister of Justice, “military justice is well capable of identifying military and armed acts against civilians swiftly and decisively.”

### **Background**

During a period of martial law in 2011, military courts tried on trumped-up charges and sentenced scores of peaceful [opposition and human rights activists](#), [nurses, doctors](#) and [teachers](#) to prison for leading or participating in the Bahrain uprising - in grossly unfair trials, which admitted as evidence “confessions” obtained through torture. Following the lifting of the martial law, those tried by military courts were re-tried before civilian courts. However, the civilian courts continued to use the same coerced “confessions” to sentence them in grossly unfair trials. Some of those sentenced remain imprisoned as prisoners of conscience including Dr Ali al-Ekri, who is due for release on 10 March 2017, and 11 opposition activists, serving from 15 years to life in prison.

Trials before military courts violate fundamental requirements of international law and standards for fair trial, as recognised by Article 14 of the International Covenant on Civil and Political Rights (ICCPR), to which Bahrain is a State Party. This includes the right to be tried before a competent, independent and impartial court established by law and the right to appeal to a higher court. The manner and criteria for the appointment of military judges is not yet known, nor whether there will be an appeal process, and if so, what the procedure will be.