

BAHRAIN

**Protecting human rights
after the protests**

*Amnesty International
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**AMNESTY
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INTRODUCTION

In this submission, prepared for the UN Universal Periodic Review of Bahrain taking place in May-June 2012, Amnesty International comments on the government's implementation of recommendations that Bahrain supported during its previous UPR in April 2008, concerning women's rights, women's rights to confer citizenship rights, a new family law, the draft press law, and signature of the International Convention for the Protection of All Persons from Enforced Disappearance.

With regard to Bahrain's human rights framework Amnesty International notes that key human rights standards and safeguards contained in human rights treaties to which Bahrain is a party are not reflected in domestic legislation. Moreover, the National Human Rights Institution, established in November 2009, appears to have limited impact on the promotion and protection of human rights.

Amnesty International expresses concern at the excessive use of force by security forces in the context of anti-government protests, in which unarmed protesters were killed. Protesters have also been subjected to arbitrary arrest and detention, and torture and other ill-treatment. Scores of detainees have received unfair trials before the National Safety Court. Human rights activists, journalists and media workers continue to face harassment and arrest.

FOLLOW UP TO THE PREVIOUS REVIEW

When Bahrain was first considered under the UPR in 2008, the government supported and agreed to implement recommendations made during the interactive dialogue concerning women's rights, citizenship, a new family law, the draft press law and signature of the International Convention for the Protection of All Persons from Enforced Disappearance.

The government of Bahrain agreed to undertake a public education campaign aimed at withdrawing reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratifying the Optional Protocol and harmonizing national legislation with the Convention.¹ In practice, however, reservations made to CEDAW arising from the perceived conflict between the Convention and Shari'a law and Islamic traditions remain, and the Optional Protocol has yet to be ratified.² Women are still subject to discrimination in law as well as in practice; for example, although the government accepted a recommendation to prioritize a draft law that would enable Bahraini women married to foreign spouses to pass on Bahraini nationality to their children, as Bahraini men married to foreign spouses can do, this is still not possible.³

Bahrain also supported a recommendation to undertake consultations towards the adoption of a family law.⁴ On 27 May 2009 the King of Bahrain approved a new family law for Sunni Muslims, which protects the rights of women in Shari'a law courts. However, Bahrain's majority Shi'a Muslim population was excluded in the legislation after scholars and members of parliament from the Shi'a community threatened to organize widespread protests against the law.

Several draft laws proposed by the government have not yet been approved by the Shura Council (the appointed Upper House of Parliament). These include a draft children's law setting out the rights of children in Bahrain; however, on 31 October 2011 the Shura Council adopted one article of the draft law that will raise the upper age definition of a child from 16 to 18 years, in line with the Convention on the Rights of the Child.⁵

The draft press law, which would prohibit the detention of media workers, is still under consideration by the Shura Council.⁶ As of November 2011, Bahrain had yet to sign the International Convention for the Protection of All Persons from Enforced Disappearance.⁷

NORMATIVE AND INSTITUTIONAL FRAMEWORK OF THE STATE

IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS IN DOMESTIC LAW

Bahrain has ratified a number of human rights treaties, including the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child. However, some of the key human rights standards and safeguards contained in these treaties are not reflected in domestic legislation. For example, Bahraini legislation does not explicitly prohibit the use of torture and other ill-treatment by the police and other security forces; nor does it provide a clear, comprehensive definition of torture in line with Articles 1 and 4 of the Convention against Torture. Torture and other ill-treatment of detainees persist and remain widespread. The government has invited the UN Special Rapporteur on torture to visit Bahrain; however, by December 2011 no date for the visit had been agreed.

PROTECTION AND PROMOTION OF HUMAN RIGHTS IN NATIONAL LEGISLATION

Some laws introduced by the government prior to its first UPR undermine human rights protection; for example, the “Protecting Society from Terrorist Acts” law of August 2006 allows the death penalty for anyone convicted of committing or planning terrorist acts.⁸

Legislation used to regulate public meetings and gatherings⁹ violates the rights to freedom of expression, association and assembly contained in international human rights treaties ratified by Bahrain.¹⁰ Bahraini legislation defines “public gathering” very broadly so that even meetings held in private and involving a small number of people are subject to prior official notification. Political rallies and meetings for non-citizens are prohibited, and demonstrations for election purposes are banned. In 2011 hundreds of people were arrested, detained and prosecuted for participating in anti-government protests.

On 15 March 2011, the King of Bahrain declared a state of emergency, termed the State of National Safety, in response to anti-government protests which were subsequently forcibly quelled with the assistance of troops from Saudi Arabia. The State of National Safety gave the security forces sweeping powers of arrest and detention and established a system of military-dominated special courts, without any explicit human rights safeguards. It was lifted on 1 June 2011.

At the end of June 2011, the King established by decree the Bahrain Independent Commission of Inquiry (BICI), composed of five international experts under the chairmanship of Professor Cherif Bassiouni, to investigate alleged human rights abuses related to the February-March 2011 protests. The BICI published its report on 23 November 2011.¹¹ The report was deeply critical of the authorities’ handling of demonstrations in February and March and other abuses in the following months, and criticized the use of torture and “excessive force” during the protests. The report included recommendations urging the Bahraini government to immediately establish an independent body made up of representatives of civil society, the opposition and the government; to oversee the implementation of the BICI’s recommendations; to usher in legislative reforms to ensure laws are in line with international human rights standards; and to bring to account those responsible for abuses.

On 11 November 2009, the King established by decree a National Human Rights Institution (NHRI) and appointed its members, including civil society representatives, in April 2010.¹² Its mandate includes promoting human rights awareness and proposing legislative amendments and reforms. In 2011, several of its members resigned in protest at the government crackdown on protesters and, to date, the NHRI appears to have had limited impact on protecting and promoting human rights in Bahrain.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

EXCESSIVE USE OF FORCE IN RESPONSE TO ANTI-GOVERNMENT PROTESTS

Beginning in February 2011, large anti-government protests were held mostly by members of the Shi'a Muslim community who constitute a majority of the population. They complained of discrimination, especially in employment and housing, and called for political, constitutional, economic and social reforms. The government dispersed the first protests using excessive force between 14 and 17 February 2011. Seven protesters were killed and others were injured, some due to the use of live ammunition and shotguns at close range by the police and army. In March 2011, as the protests continued, Saudi Arabian troops were dispatched to Bahrain and on 15 March the King declared a state of emergency (see above). The next day, Bahraini troops stormed the Pearl Roundabout and the Financial Harbour where protesters were gathered, causing further deaths and injuring many. Although the state of emergency was lifted on 1 June, protests continued in Shi'a villages and towns and the security forces continued to use excessive force against the protesters.

Since the start of the protests, Bahrain's security forces have committed numerous and severe human rights violations, though they too have suffered casualties. Up to 47 people have been killed, including two police officers and three migrant workers alleged to have been killed by protesters. Most of those killed were protesters, said to have been unarmed at the time they were shot at close range by police or soldiers using shotguns and other firearms; for example, Ahmed al-Jaber al-Qatan, aged 16, died after being hit by shotgun pellets while participating in an anti-government protest near Manama on 6 October 2011.

ARBITRARY ARREST AND DETENTION OF SUSPECTED PROTESTERS

More than 1,000 people have been detained since the protests started on 14 February 2011. In virtually all cases the whereabouts of detainees remained unknown for weeks after their arrest. In most cases the government refused to allow any contact with the detainees, prompting anxiety about their safety and welfare. Family members who were present when their relatives were detained reported a common pattern to Amnesty International: those detained were usually taken from their homes by groups of soldiers and security officials who arrived in several vehicles in the early hours of the morning and forced their way into houses. They did not produce arrest warrants. Often, some of the arresting officers were hooded or masked and in plain clothes while others wore police or army uniforms. Typically, they were extremely aggressive and abused and assaulted those they detained. They also conducted searches and took away personal belongings such as laptops, mobile phones and money, without providing any records of what was taken. They did not say where they were taking those they detained. Families were unable to obtain information from the authorities when they subsequently inquired at police stations, the Office of the Public Prosecutor and the headquarters of the Police Criminal Investigations Department. Some detainees were allowed to make one phone call to their families from the police stations where they were initially held, but their conversations were monitored and the detainees were able only to say that they were "all right" and to request that clothes be brought for them. When their relatives took clothes to the police stations they were not permitted to see their detained

relatives.

TORTURE AND OTHER ILL-TREATMENT OF DETAINEES

Reports of torture and other ill-treatment of people detained in connection with the protests have been widespread. Methods of torture have included punching with fists, kicking with boots, beatings with wooden batons and, in some cases, the use of electric shocks. In one instance, 'Abdulhadi Alkhwaja, a prominent human rights defender and former Protection Co-ordinator for Front Line, was arrested in his daughter's house on 9 April 2011 in connection with the protests.¹³ According to his family, he was beaten during the arrest, taken away barefoot and not allowed to take his medication with him. He was initially denied family visits. When 'Abdulhadi Alkhwaja was admitted to the Bahrain Defence Force military hospital in al-Riffa' at the end of April, he had serious head injuries, for which he required surgery, and marks on his arms, apparently caused by torture. After six days in hospital, he was returned to prison where he is alleged to have been tortured again. At his trial before the military National Safety Court of First Instance, he told the court that he had been tortured. The court did not investigate his allegations, but convicted him and sentenced him to life imprisonment.

At least four detainees have died in custody in suspicious circumstances. 'Abdel-Karim al-Fakhrawi, a 49-year-old businessman and member of al-Wefaq, the largest Shi'a political association, died in police custody on 12 April 2011. According to reports, his body bore marks of torture, but the authorities attributed his death to kidney failure.

UNFAIR TRIALS BEFORE THE NATIONAL SAFETY COURT

Scores of detainees have received unfair trials before the National Safety Court, a military court established under the State of National Safety (state of emergency). The court, headed by a military judge with two civilian judges alongside him, was located in the headquarters of the Bahrain Defence Force. Prominent opposition activists, health workers, teachers, students and human rights activists have appeared before this court on a wide range of charges, including participation in illegal demonstrations, attempting to overthrow the regime by force, inciting hatred of the regime, propagating false information and occupying public places by force.

Trials before this court did not meet international standards for fair trial. Defendants were denied access to their lawyers before the start of the trials. Many detainees told the court that they had been tortured and that confessions obtained under torture were used to incriminate them. However, the court did not investigate their allegations of torture or dismiss their contested "confessions", nor did they refer defendants for independent medical examination. Some of the defendants were released on bail to await appeals after being sentenced.

At the end of August 2011, the King issued a decree referring all cases being examined by the National Safety Court to civilian courts, and by early October 2011 all such cases had been referred to civilian courts; however, scores of people had already received lengthy prison terms at the National Safety Court. Four people were sentenced to death by this Court: two had their sentences commuted to life imprisonment, but the other two remained under sentence of death by early November. Eighteen health workers, including prominent medical doctors, were sentenced to up to 15 years' imprisonment in September 2011; they were released on bail pending an appeal before the civilian High Criminal Court of Appeal which was still in progress in November 2011. Six of the 18 health workers were women. Two teachers' leaders, Mahdi 'Issa Mahdi Abu Dheeb and Jalila al-Salman, former president and vice-president of the Bahrain Teachers' Association, were sentenced by the National Safety Court to 10 and three years in prison respectively on charges that included using their positions within the BTA to call for a teachers' strike, "inciting hatred of the regime and attempting to overthrow the ruling system by force, possessing pamphlets and disseminating fabricated stories and information". Jalila al-Salman was released on bail but rearrested and held for several days in late October. Their appeal hearing before a civilian court of appeal was heard in December 2011 and then it was

postponed until 9 February 2012.

HARASSMENT OF HUMAN RIGHTS ACTIVISTS AND JOURNALISTS

Harassment of human rights activists has continued unabated. Several leading activists were summoned for questioning by the military prosecutor in April and May 2011 and questioned about their role in the February and March 2011 anti-government protests. Some were banned from travelling abroad. On 31 May, police ordered Nabeel Rajab, director of the banned Bahrain Centre for Human Rights, to report urgently to the military prosecutor's office where he was questioned without the presence of a lawyer for five hours about comments he had made to foreign media and messages he had sent by Twitter about human rights violations in Bahrain. He was not charged, but was threatened with prosecution before the military National Safety Court. Two days earlier, officials at Manama airport prevented him from boarding a flight to Lebanon and told him he had been banned from leaving Bahrain; the ban was later lifted. Human rights defender 'Abdullah al-Derazi, secretary general of Bahrain Human Rights Society, was summoned to appear before the military prosecutor on 22 May and questioned about a speech he had made to protesters at the Pearl Roundabout in March in which he condemned human rights violations in Bahrain and about interviews he had given to foreign media. He had been suspended from his job as a university lecturer at Bahrain University on 17 April apparently in connection with the protests.

Journalists and media workers who covered the protests for newspapers and satellite TV channels have faced harassment and arrest. More than 68 journalists and media workers, including some 30 journalists working for pro-government newspapers, have been dismissed from their jobs. A number of journalists and bloggers have been detained, including on-line activist, Zakariya Rasheed Hassan al-'Ushayri, who was arrested from his home in al-Dair on 2 April 2011. He died in custody on 9 April in suspicious circumstances. The Interior Ministry has attributed his death to ill-health, but at burial his body was reported to have borne marks indicating that he may have been tortured.

Around 4,400 people who joined the protests were dismissed from their employment in government service, state institutions and private companies, including university lecturers, school teachers and medical doctors and nurses. The justification put forward for these dismissals is generally that the employees had breached the terms of their employment by joining the protests; in practice, the sackings appear to have been intended to send a clear signal that those who continue to take to the streets to demand change will suffer adverse consequences. Scores of students were also expelled from university. Dozens of Bahraini students studying abroad have had their grants terminated because they demonstrated outside Bahraini embassies in the countries where they study.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Bahrain:

Normative and institutional framework of the State:

- To implement through national law its obligations under the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child;
- To explicitly prohibit torture and other ill-treatment by the police and other security forces in national legislation and in practice; to incorporate a clear and comprehensive definition of

torture in national legislation in line with its obligations under Articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and to ensure that all allegations of torture or other ill-treatment are independently, promptly and thoroughly investigated, and that those responsible for such abuses are brought to justice;

- To ensure that all allegations of torture or other ill-treatment are independently, promptly and thoroughly investigated, and that those responsible for such abuses are brought to justice;
- To agree a firm date for the visit to Bahrain by the Special Rapporteur on torture.

Protection and promotion of human rights in national legislation:

- To repeal Article 6 of the law on “Protecting Society from Terrorist Acts”;
- To remove restrictions on freedom of expression contained in law 32 of 2006, in line with Bahrain’s obligations under Article 19 of the International Covenant on Civil and Political Rights;
- To ensure that meetings held in private and involving a small number of people are not subject to obtaining prior official notification;
- To amend or repeal Article 10(a) of law 32 of 2006 in order to allow political rallies and meetings for non-citizens;
- To amend or repeal Article 10(b) of law 32 of 2006 in order to allow demonstrations for election purposes;
- To strengthen the National Human Rights Institution to ensure that it functions effectively, and in full compliance with the Paris Principles;
- To implement the recommendations made by the Bahrain Independent Commission of Inquiry, set up to investigate alleged human rights abuses during recent protests, with a view to ensuring full accountability, justice and reparation for the victims of such abuses.

Excessive use of force in response to anti-government protests/torture and ill-treatment of detainees:

- To instruct the police and security forces of their responsibility to respect human rights at all times; ensure that all allegations of unlawful killings and excessive force against protesters by the security forces are independently, promptly and thoroughly investigated; and bring those responsible to justice and provide appropriate reparation to victims of human rights violations and their families.

Arbitrary arrest and detention of suspected protesters:

- To release all detainees held solely for participating in peaceful anti-government protests and who did not advocate violence.

Unfair trials:

- To ensure that all detainees are charged with a recognizable criminal offence and receive a fair trial before normal criminal courts in accordance with international standards;
- To commute all death sentences and to declare a moratorium on executions.

Harassment of human rights activists and journalists:

- To cease all intimidation of human rights defenders and respect and protect the right of human rights defenders to conduct their work without hindrance, intimidation or harassment, in line with the UN Declaration on Human Rights Defenders.

Dismissal of workers and students:

- To reinstate all workers and students who have been dismissed or suspended solely for exercising their right to freedom of expression and assembly.

ENDNOTES

¹ A/HRC/8/19, recommendation 60.2 (Slovenia).

² Bahrain has made reservations to Articles 2, 9 (para. 2), 15 (para. 4), 16 and 29 (para. 1) of the Convention on the Elimination of All Forms of Discrimination against Women.

³ A/HRC/8/19, recommendation 60.5 (Russian Federation).

⁴ A/HRC/8/19, recommendation 60.3.

⁵ Article 1, Convention on the Rights of the Child.

⁶ Bahrain supported a recommendation stating that: "The draft press law ought not to be unduly restrictive on freedom of expression", A/HRC/8/19, recommendation 60.7 (Sweden).

⁷ A/HRC/8/19, recommendation 60.4 (France).

⁸ "Protecting Society from Terrorist Acts", Law 58/2006, Article 6.

⁹ Law 32 of 2006, which is an amendment to Law 32 of 1973 on Public Meetings, Processions and Gatherings.

¹⁰ Article 19, International Covenant on Civil and Political Rights.

¹¹ Bahrain Independent Commission of Inquiry Report, available at: <http://www.bici.org.bh/> (accessed 14 December 2011).

¹² The NHRI was established through Royal Decree No. 46 (for 2009).

¹³ Front Line is an international NGO that works with human rights defenders.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE¹

Crackdown in Bahrain: Human Rights at the crossroads, 11 February 2011, Index: MDE 11/001/2011.

Bloodied but unbowed: Unwarranted state violence against Bahraini protesters, 17 March 2011, Index: MDE 11/009/2011.

A Human Rights Crisis - Briefing paper, 21 April 2011, Index: MDE 11/019/2011.

¹ All of these documents are available on Amnesty International's website:
<http://www.amnesty.org/en/region/bahrain>.