



BAHRAIN CENTER FOR HUMAN RIGHTS
Defending and promoting human rights in Bahrain



From 2011 to 2019: The Screams of Torture Still Echo

26 June 2019 - International Day in Support of Victims of Torture

About Us

About Us

The Bahrain Center for Human Rights (BCHR) is a non-profit, non-governmental organization, registered with the Bahraini Ministry of Labor and Social Services since July 2002. Despite an order by the authorities in November 2004 to close down, BCHR is still functioning after gaining a wide local and international support for its struggle to promote human rights in Bahrain. The vast majority of our operations are carried out in Bahrain, while a small office in exile, founded in 2011, is maintained in Copenhagen, Denmark, to coordinate our international advocacy program.

For more than 16 years, BCHR has carried out numerous projects, including advocacy, online security training, workshops, seminars, media campaigns and reporting to UN mechanisms and international NGOs. BCHR has also participated in many regional and international conferences and workshops in addition to testifying in national parliaments across Europe, the EU parliament, and the United States Congress. BCHR has received a number of awards for its efforts to promote democracy and human rights in Bahrain.

The current President is Nabeel Rajab, who has been jailed repeatedly , including most recently on 13 June 2016 till date for "spreading false news and rumours about the internal situation in a bid to discredit Bahrain."² His recent arrest has been criticized by a number of human rights organizations, the respective governments of the UK, the USA and France, as well as a number of UN dignitaries, including UN Secretary General Ban Ki-moon.

Nedal Al Salman is the acting president while most of the staff inside Bahrain remain anonymous, including members of the Documentation Team.

Our Mission: To encourage and support individuals and groups to be proactive in the protection of their own and others' rights; and to struggle to promote democracy and human rights in accordance with international norms. To document and report on human rights violations in Bahrain. To use this documentation for advocacy to influence international policies according to the Universal Declaration of Human Rights.

For more information on our work, please visit our website:

<http://www.bahrainrights.org/>

¹ "Updates: Arrest and Detention of BCHR's President Nabeel Rajab", *BCHR*, (available at: <http://www.bahrainrights.org/en/updates-arrest-and-detention-bchrs-president-nabeel-rajab>).

² "False rumours suspect remanded in custody," *Bahrain News Agency*, 14 June 2016, (available at: <http://bna.bh/portal/en/news/732256>).

³ "Updates: Arrest and Detention of BCHR's President Nabeel Rajab", BCHR, available at: <http://bahrainrights.org/en/updates-arrest-and-detention-bchrs-president-nabeel-rajab>).

“No one shall be subjected to torture or to cruel,
inhuman or degrading treatment or punishment.”

Universal Declaration of Human Rights
Article 5

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Glossary

ACHR	Asian Centre for Human Rights
ADHRB	Americans for Democracy & Human Rights in Bahrain
AI	Amnesty International
BCHR	Bahrain Center for Human Rights
BHRO	Bahrain Human Rights Observatory
BHRS	Bahrain Human Rights Society
BICI	Bahrain Independent Commission of Inquiry
BIRD	Bahrain Institute for Rights and Democracy
CAT	Convention Against Torture
CID	General Directorate of Criminal Investigation
CIHR	Cairo Institute for Human Rights
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
EU	European Union
FIDH	International Federation for Human Rights
FLD	Front Line Defenders
GoB	Government of Bahrain
HRF	Human Rights First
HRW	Human Rights Watch
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
IHRC	The Islamic Human Rights Commission
Mol	Ministry of Interior
OHCHR	Office of the High Commissioner for Human Rights
REDRESS	Ending Torture, Seeking Justice for Survivors
SIU	Special Investigation Unit
SR	Special Rapporteur
UN	United Nations
UNSC	United Nations Security Council
UNWGAD	United Nations Working Group on Arbitrary Detention
UPR	Universal Periodic Review

I. Introduction

Torture is a crime under international law: the prohibition against torture forms part of customary international law, which implies that all states, regardless of whether they ratified or not the Convention Against Torture (CAT) and other legal instruments, have a legal obligation to treat torture as a crime and abstain from using it, as it seeks to annihilate the victim's personality, and it denies the inherent dignity of the human being.

Torture is defined as:

“Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

*Convention against Torture
Article 1, para. 1*

On the International Day in Support of Victims of Torture, 26 June, BCHR issues the report at hand, which takes stock of the acts and victims of torture in Bahrain in the year 2019.

Bahrain acceded to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN-CAT) on 6 March 1998. In accordance with its obligation under the convention, Bahrain's report was due in 1999. However, the government of Bahrain submitted its report five years late, in 2004. Although Bahrain's first treaty Periodic Report was due in 2007, no Periodic Report has been submitted since.

This report provides an overview of the current status of human rights violations in Bahrain, particularly those pertaining to allegations of ill-treatment and torture of political prisoners, including minors, while held in police custody. It also provides a background on the status of torture in Bahrain by providing readers with a glance at earlier cases and events of the last few years.

Information about ill-treatment and torture, as well as other human rights violations mentioned in this report were documented by BCHR by interviewing detainees after their release, or by recording testimonies provided by the families of detainees still in custody.

In this report, BCHR documents different methods of ill-treatment and torture used by the Bahraini authorities, which range from physical to psychological torture methods. These include beatings, forced standing, electric shocks, sleep deprivation, food deprivation, humiliating and degrading treatment, threats against family members or of a sexual nature, among others which will be mentioned in more detail in this report. The methods of ill-treatment and torture are compared with the findings from the Bahrain Independent Commission of Inquiry (BICI) report and data from other reports on torture in Bahrain.

Results of the presented data raise questions about the Bahraini authorities practices of systematic arbitrary arrests, use of methods of torture and ill-treatment during interrogation, and detention of people based on politically-motivated charges. Based on the cases we have been able to document, prison sentences often rely on forced confessions, as the interviewees claim, and on more than one occasion defendants lack access to a legal representative during public prosecution.

The findings suggest that the Government of Bahrain (GoB) is not abiding by attributable international and national law with respect to the crime of torture. The alleged new cases presented in this report represent evidence of the current state of affairs in the Kingdom of Bahrain. The report concludes that the GoB, contrary to what it claims, is still practicing grave violations of human rights, including systematic use of torture as a tool to not only punish political dissent, but also instill fear of any attempt of such dissent.

In a number of recommendations, BCHR calls on the Bahraini government to abide by applicable international and national law prescriptions, and calls on the international community to take immediate steps to address the culture of impunity and the clearly illegal use of torture and ill-treatment, to which individuals continue to be subjected at the hands of the security forces of Bahrain in 2016.

II. Methodology

The information provided in this report is sourced primarily from testimonies provided to BCHR by families of and victims of arbitrary arrest and torture. In this report, BCHR only presents sample cases of the ongoing and systematic torture detainees currently endure at the hands of the Bahraini security forces, whilst providing a short but gruesome overview of some of the earlier cases of torture that has taken place prior to 2019.

Unfortunately, due to the current crackdown on peaceful dissent in Bahrain, and heightened oppression on activism, some arrests and abuses are bound to go undocumented, as people express fear of government retaliation. In order to combat this, and ensure to the greatest extent possible that not all government abuses go undocumented, we used only initials for some of the victims to protect them from further retaliation.

In particular regarding the general human rights situation and earlier cases of torture, the report leans on work from previous analyses found in reports by BCHR and other human rights organizations. It also refers to the findings from the Bahrain Independent Commission of Inquiry (BICI) and includes communications from the UN Special Procedures under the UN Human Rights Council and other UN dignitaries.

The analysis and subsequent conclusion is based on the careful application of pertinent national and international legislation as applied to the situation, which includes the Bahraini Constitution, Bahrain's Penal Code and international conventions to which Bahrain is a signatory party: the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture (CAT), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD).

III. Torture As Common Practice in Bahrain

A. Bahrain's First UPR Examination in 2008

Already during Bahrain's first UPR examination in 2008⁴, the **GoB** received a number of remarks related to the use of torture.⁵ BCHR, International Federation for Human Rights (FIDH) and Bahrain Human Rights Society (BHRS) noted cases of activists being harassed by the police to the extent of being physically attacked during protests or while in custody (para. 14).



Asian Centre for Human Rights (ACHR) noted that torture continued to constitute part of the law enforcement in Bahrain (para. 11). Amnesty International (AI) expressed concerns in relation to Bahraini legislation which did not explicitly prohibit the use of torture and ill-treatment by the police, and which did not give a clear and comprehensive definition of torture; consequently, the GoB was recommended to explicitly prohibit the use of torture and ill-treatment in its legislation and to make redress available to victims of torture (para. 10).

According to Front Line Defenders (FLD), human rights defenders continued to face high levels of insecurity and were subjected to various forms of repression, "such as arbitrary arrest, judicial proceedings based on false or unfounded charges of 'encouraging hatred of the state and distributing falsehoods and rumours, threats, physical assaults, ill-treatment, torture and numerous other acts of harassment by the authorities and government security forces.'" Similar concerns were echoed by ACHR and BCHR, FIDH and BHRS (para. 13).

The GoB was urged to prioritize the protection of human rights defenders and to set up an independent inquiry to investigate the source of threats, ill treatment, torture, and all forms of intimidation and harassment directed towards all those human rights defenders (para. 15).⁶

B. The Bahrain Independent Commission of Inquiry (BICI) 2011

In the Spring of 2011, tens of thousands of Bahraini citizens peacefully took to the streets to demand representation and basic human rights. Pearl Roundabout, a symbol of the country, was occupied by peaceful protests, which were met with a violent crackdown from the Bahraini authorities.



⁴ More information on the UPR see the official website of the OHCHR, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>.

⁵ A total of 14 civil society organizations, here included the BCHR, provided the Working group under the HRC with comments on the human rights situation in Bahrain.

⁶ UN General Assembly, UN Doc. A/HRC/WG.6/1/BHR/3, 6 March 2008.

Bahrain was faced with growing international pressure, *inter alia* from the UN Special Procedures. In response, the King set up the BICI, which consisted of a team of internationally respected jurists and legal scholars. More than 9,000 interviews were conducted to investigate the events that had taken place. In November 2011, the Commission released its report on the government's response to the popular uprisings.

Amongst its findings and general observations on the events, the Commissioners concluded:

1. **Five persons died as a result of torture:** "Five persons allegedly died as a result of torture. Three of these deaths occurred while the deceased persons were in the custody of the MoI at Dry Dock Detention Centre. One death occurred at the BDF Hospital after the deceased had been transferred from the custody of the National Security Agency (NSA). One death occurred four days after the individual was released from the custody of the MoI at Dry Dock Detention Centre".⁷ One of these deaths were caused by medical negligence, whereas the others were largely attributed to mistreatment while in custody.⁸
2. **The most common techniques for mistreatment used on detainees included:** "blindfolding; handcuffing; enforced standing for prolonged periods; beating; punching; hitting the detainee with rubber hoses (including on the soles of the feet), cables, whips, metal, wooden planks or other objects; electrocution; sleep-deprivation; exposure to extreme temperatures; verbal abuse; threats of rape; and insulting the detainee's religious sect (Shia)."⁹
3. **The cases of torture evidence a deliberate practice:** "Many detainees were subjected to torture and other forms of physical and psychological abuse while in custody [...] The extent of this physical and psychological mistreatment is evidence of a deliberate practice, which in some cases was aimed at extracting confessions and statements by duress, while in other cases was intended for the purpose of retribution and punishment".¹⁰
4. **The lack of accountability has led to a culture of impunity:** "The Commission is of the view that the lack of accountability of officials within the security system in Bahrain has led to a culture of impunity, whereby security officials have few incentives to avoid mistreatment of prisoners or to take action to prevent mistreatment by other officials".¹¹

C. Bahrain's Second UPR Examination 2012

During the second UPR examination, Bahrain once again received remarks on the use of torture.¹² AI once again noted that legislation did not explicitly prohibit the use of torture and other ill-treatment; nor provide a clear definition of torture in line with the CAT. Torture and other ill-treatment of detainees remained widespread. In the fourth joint submission (JS4) by BCHR and Cairo Institute for Human Rights (CIHR), the GoB was reported to have a long history of torture being utilised by the state security apparatuses with impunity (para. 23).

⁷ BICI report, 2011, *Chapter VI - Allegations of Human Rights Violations Against the Person*, p 219.

⁸ BICI report, 2011, *Chapter VI - Allegations of Human Rights Violations Against the Person*, p 225, (paras 873-878).

⁹ BICI report, 2011, *Chapter XII - General Observations and Recommendations*, p 417, para 1696.

¹⁰ BICI report, 2011, *Chapter XII - General Observations and Recommendations*, p 417, para 1694.

¹¹ BICI report, 2011, *Chapter XII - General Observations and Recommendations*, p 418, para 1698.

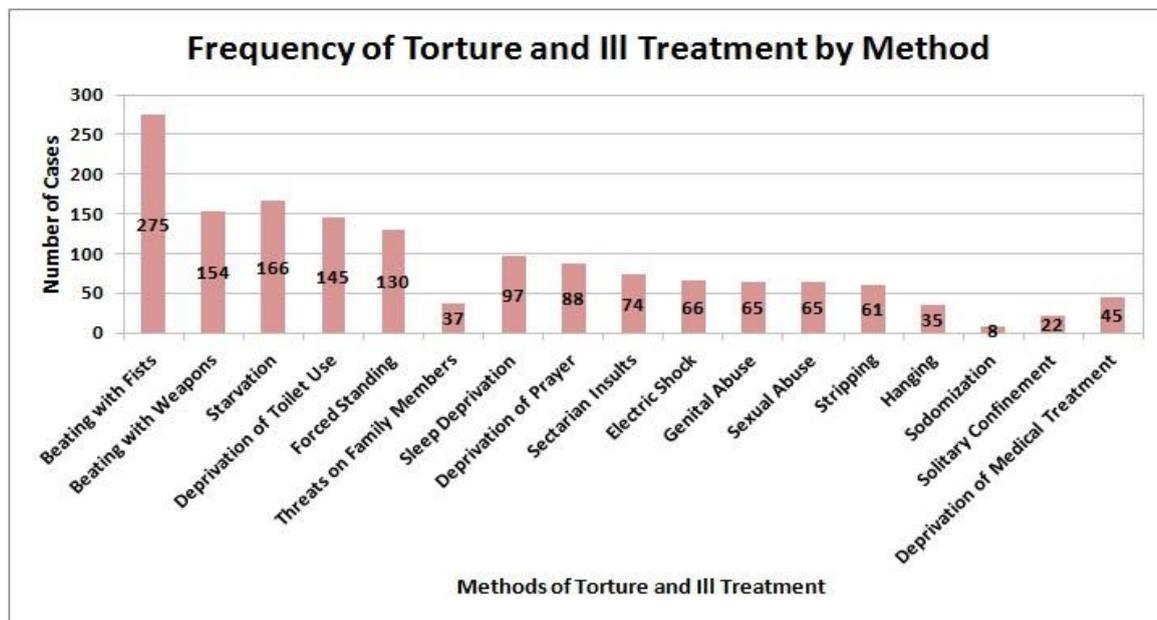
¹² A total of nineteen submissions on the human rights situation in Bahrain were submitted by civil society organizations to the Working Group of the HRC.

In relation to the arrests of doctors and nurses in 2011, FLD stated that allegations of torture and ill treatment had not been investigated or acknowledged by the court (para. 22).

REDRESS stated that there had been a massive increase in the use of torture within Bahraini police stations and by Bahraini state security services. Accordingly, the frequency and recurring patterns of torture suggested that torture had been carried out in a systematic way, at least in respect of the recent crackdown against protesters. Moreover, the JS4 reported that Bahraini NGOs had documented over 1800 reports of individuals who were tortured since February 2011 (para. 24). Lastly, Human Rights First (HRF) noted that there was strong evidence that human rights defenders had been tortured in detention: at least four detainees had died in custody in suspicious circumstances, according to the JS4 (para. 25).¹³

D. Frequency of Torture and Ill-Treatment by Method

In a recent report, data analysed from UN complaints submitted by BCHR and other organizations, which included cases from 2011 to 2015, showed broad trends in the human rights abuses carried out by the GoB against its own citizens were revealed.¹⁴ It was found that the government is engaged in persistent, violent, and systematic repression, evidenced by widespread allegations of arbitrary arrest, detention, torture, and – in some cases – extra-judicial killing. Below is a figure from the report portraying the frequency of torture and ill treatment by method:



Many of the torture methods documented in the report coincide with the common techniques of mistreatment used on detainees the BICI had observed during the 2011 uprising. As the received testimonies show that authorities continue to perpetuate such violence with impunity, the human rights situation in Bahrain will likely continue to deteriorate.

¹³ UN General Assembly, UN Doc. A/HRC/WG.6/13/BHR/3, 8 March 2012.

¹⁴ BCHR, ADHRB & BIRD. (2016). *From the Ground: Torture Systematic in Bahrain*, (available at: <http://www.bahrainrights.org/en/node/7717>).

In spite of routinely making referrals of torture allegations to the Ministry of Interior's (MoI) Special Investigations Unit (SIU), the third annual report from the Office of the Ombudsman, released on 1 June 2016, indicates that there have been no convictions in alleged cases of torture relating to political unrest since the office was set up back in 2012.¹⁵ As an example, the report discloses no information on the status of 15 complaints relating to the alleged torture of inmates by prison officials after unrest in Jau Prison in March 2015.

In several of its publications, BCHR came to the conclusion that the newly established institutions that were supposed to ensure accountability have failed to hold any official accountable, end the practice of torture, and provide victims with redress. This finding was reiterated by many international human rights organizations.

The GoB is obliged to ensure prompt and impartial investigations into all allegations of torture in accordance with Article 12 of the CAT. The number of reports presented here sadly supports the general perception about the status on torture in Bahrain showcased in this report: the authorities in Bahrain have made little progress in holding police and security forces accountable for crimes of torture.

¹⁵ "Bahrain: Lagging Efforts to End Torture", *Human Rights Watch*, 13 June 2016, (available at: <https://www.hrw.org/news/2016/06/13/bahrain-lagging-efforts-end-torture>).

IV. Status on Torture in Bahrain

A. Cases of Torture

- Ebtisam Al-Saegh:

Ebtisam AlSaegh, a human rights defender of long standing, told Salam DHR: "When I received a phone call from the National Security Agency on May 25, 2017, the caller asked me to come to the NSA building. When I arrived at the building in Muharraq, they blindfolded me, interrogated me because of my human rights activities. During the interrogation, they used the worst forms of physical torture. They told me some harsh words, threatened me and sexually abused me in a way that made me hit a sequential collapse. They repeatedly chanted that no one can protect you".

International human rights organizations have repeatedly raised her case. Following two earlier interventions in July 2017, Special Procedures of the UN's High Commissioner for Human Rights once again drew attention to the abuse she faced.

In August 2017, the government responded to assert politically-motivated charges, including that she was working for 'terrorists', and stated that no allegation of ill treatment had been filed. They did not address the substantive allegations as they were dismissed, out of hand. Nevertheless, the case against Ebtisam AlSaegh exemplifies concerns expressed by the Committee on the Elimination of Discrimination against Women. In its 10 March 2014 Concluding Observations on the third report submitted to it, as required by the treaty, it expressed concern "about allegations that, in the aftermath of the political events of February/March 2011, some women experienced ill-treatment and intimidation by law enforcement officials [...]".

- Yousef Al-Jamri:

The activist Yousef Al-Jamri was summoned for Tweeting on social networking accounts in August 2017. "The members of the National Security Service insulted me. They threatened me with rape, cutting my livelihood, preventing treatment, depriving my family of education and housing, in addition to psychological and physical torture", Jamri said.

The activist Yousuf al-Jamri appealed to the governor of Bahrain to protect him and ensure his safety after being subjected to torture and ill-treatment for about 3 days in the National Security Service in Muharraq.

- Radhi Al-Qatri

On May 29, 2017, security forces arrested Al-Qatri and he was not allowed to contact his family or his lawyer.

In August 2017, the security authorities transferred the human rights activist Radhi Al-Qatri to the detention center of Hidd Prison after more than two months of detention in the Criminal Investigation Department (CID). He was subjected to torture and ill-treatment during those 2 months.

The authorities have charged terrorism-related charges to many human rights activists, including the Qatari, and ordered to be held for six months on pending investigation.

B. Death Penalties based on Coerced Confessions

- Zuhair Ebrahim:

On December 1, 2018, a Bahraini court sentenced Zuhair Ebrahim Abdullah to death for his supposed involvement in a bomb explosion at Al-Qadam village.

According to Zuhair, he told his family that he has been tortured during his presence at CID in Jau Central Prison: electric shock in sensitive places, beatings, kicking and punching. During torture he was stripped of his clothes, and was sexually harassed by touching his private parts. He was hanging from his hands and legs up.

He was threatened to get his sons and wife killed and thrown in the sea. After 13 days of torture, Zuhair reached death, as he said, and told the forces that he is ready to say any information they want only to stop torture. He signed on the papers while he was stitched. He was presented, without a lawyer, to Public Prosecution that detained him for 6 months under the law of terrorism on the charge of joining terrorist cell, training on weapons, and the participation in the bombing.

- Ali Al-Aarab and Ahmad Al-Malali:

On May 6, 2019, Bahrain's Court of Cassation sentenced Ali Alarab and Ahmad Almalali to death in a mass trial with 58 other defendants. Security forces arrested Al-Arab and Al-Malali separately without a warrant on 9 February 2017. Al-Arab's family told Human Rights Watch and the Bahrain Institute for Rights and Democracy that during his interrogation, members of the Criminal Investigations Directorate (CID) beat him, used electric shocks on him, and pulled out his toenails, after which they forced him to sign a "confession" while blindfolded. During Al-Malali's arrest, he was struck by at least two bullets, but UN human rights experts noted that the bullets were not removed until 23 days later. Al-Malali was held incommunicado for around two months at the CID and, according to the experts, was allegedly tortured into signing a "confession" without reading it beforehand.

C. Torture as a Control Enforcement Method

With the onset of 2017, the Ministry of Interior announced that 10 individuals fled the prison. Inmate Rida Al-Ghasra and 9 others escaped. Therefore, the prison administration and two senior officials from the Interior Minister were referred to investigation.

The interior ministry announced in a statement on January 1, 2017 that a group of 4-5 individuals carried out an armed attack with automatic rifles and pistols against the Reformation and Rehabilitation Center in Jaw at about 5:30 a.m. on Sunday (January 1, 2017) that led to the death of a policeman identified as Abdulsalam Saif Ahmad, and the injury of another policeman during confrontations. Ten inmates convicted in "terrorist" cases escaped.

The security authorities deployed checkpoints across Bahrain in an unprecedented way to search for al-Ghasra and his companions. This led to hindering the traffic in the country for over a week. The forces also raided several areas, however, they failed to find the fugitives.

On another note, the authorities carried out an execution sentence on January 15 against the 3 death row convicts to send a message that it intends to use the worst and most brutal ways in confronting everyone. The detainees who were executed are: Abbas Al-Samie, Sami Mushaima and Ali Al-Singace.

One month and 10 days after the escape, and 6 days after the 6th anniversary of the 14th February uprising, Rida Al-Ghasra (29 years old), along with Mahmoud Yahya (22 years old) and Mostafa Yousef (35 years old), were martyred, after being shot at by Bahraini security forces, while attempting to leave the country after chasing them in their small boat in the sea. The 3 were martyred and 7 of those on the boat were arrested with 2 of them injured, according to the ministry of interior's statement.

D. Denial of treatment as a torture tool

The deterioration of prison conditions in Bahrain is the other side of arbitrary detention. Prisoners are housed in reform institutions that do not meet the Standard Minimum Rules for the Treatment of Prisoners and provide a fertile environment for torture and ill-treatment in order to make them confess. Human rights reports confirm that prisons in Bahrain are widely applied to the policy of denial of treatment in the context of "systematic revenge and healing", which has led to deterioration in the conditions of prisoners' health, especially with the prevalence of physical and psychological torture and deprivation of other basic rights. The Bahrain Center for Human Rights (BCHR) has received testimonies from detainees which highlights their health situation.

E. Taking Stock of UN Procedure Communications 2011-2016



In a joint report by the BCHR, Americans for Democracy & Human Rights in Bahrain (ADHRB) and Bahrain Institute for Rights and Democracy (BIRD) issued on the 14 June 2016²⁷, an analysis of the five-year period between

2011 and 2016 focuses on the list of communications from the UN Special Procedures issued directly to the GoB. Broadly speaking, the communications "express varying but universally significant anxiety regarding a host of human rights issues, including most prominently torture and killing, due process issues, and free expression and assembly".²⁸ Below is a list of the total numbers of communications, signatures, outstanding visit requests and communications especially concerning the use of torture and extra-judicial, summary or arbitrary executions.

²⁴ BCHR, ADHRB & BIRD. (2015). *Inside Jau: Government's Brutality in Bahrain's Central Prison*, (available at: http://bahrainrights.org/sites/default/files/file_attach/Inside-Jau.pdf).

²⁵ "Bahrain's Miscarriage of Justice in Sentencing 57 Jau Prisoners", *BCHR*, 28 January 2016, (available at: <http://www.bahrainrights.org/en/node/7696>).

²⁶ "Bahrain's Dry Dock Detention Center: Mass and Indiscriminate Punishment," *BCHR*, 9 June 2016, (available at: <http://www.bahrainrights.org/en/node/7876>).

²⁷ BCHR, ADHRB & BIRD. (2016). *Charting the Seas of Abuse: Analysis of United Nations Special Procedure Communications to the Kingdom of Bahrain - 2011-2016*, (available at: <http://www.bahrainrights.org/sites/default/files/Charting-the-Seas.pdf>).

²⁸ *Ibid.*, p 5.

UN Special Procedure Communications 2011-2016

Outstanding visit requests: Since 2011, Bahrain has seven outstanding visit requests by the mandate holders concerning torture, expression, assembly, human rights defenders, extreme poverty, migrants, and arbitrary detention (p 5).

Communications concerning torture and extra-judicial, summary or arbitrary executions: There have been a total of 34 communications, which have been spread evenly over the five years. Whilst there was a slight decrease in the number of communications in 2015, some of the communications cover more than 39 cases (p 14).

Besides stressing the way torture and ill-treatment is used systematically by the Bahraini security forces, three broad trends are disclosed:

1. **The victims** generally seem to be human rights and political activists, however also regular individuals and even minors fall victims of the torture and ill-treatment.
2. **The rights violations** are generally related to freedom of assembly and association.
3. **Coerced confessions** seem to be a fairly recent phenomenon, starting from March 2014 to November 2015.

Based on the combined list of communications by the mandate holders on torture and extra-judicial, summary or arbitrary executions, the report finds that they “demonstrate the interconnected nature of Bahrain’s suppression of dissent, and the consistent use of torture and ill-treatment against dissidents”.²⁹

Based on the combined communications by the SR on the independence of judges and lawyers and the SR on human rights and fundamental freedoms, nearly half concern the use of confessions extracted under torture as evidence to convict defendants.³⁰ Additionally, the communications sent by the SR on health suggest that after the GoB tortures its citizens, it routinely denies much needed health care and medical assistance after they have been subjected to torture.³¹

Moreover, 16 out of 28 of the communications by the Working Group on Arbitrary Detention and the SR on torture demonstrate that detention in Bahrain is often closely followed by torture. The report further highlighted that the Working Group had expressed concern regarding the apparently systematic character of arbitrary detention in Bahrain, citing that “such issues may amount to crimes against humanity”.³² Although the GoB is not a member to the International Criminal Court (ICC), which has jurisdiction over crimes against humanity, the UNSC does have the power to refer cases even to non-members of the ICC.³³

²⁹ Ibid., p 16.

³⁰ Ibid. p 24.

³¹ Ibid. p 30.

³² Ibid. p 39. Crimes against humanity is defined in Article 7 in the Rome Statute of the International Criminal Court. Torture and imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law are among the acts that qualify as crimes against humanity “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”

³³ Rome Statute, Article 13(b).

Irrespective of a country's membership status, it may therefore in the special case of a UNSC referral still be subjected to its jurisdiction.

From the testimonies of torture and arbitrary arrests described in detail in the report at hand, it seems apparent that coerced confessions are being used as the basis of the investigations for convictions, which tends to be out of proportion and in breach with both national and international legislation.

The otherwise commendable initiatives by the GoB to establish the BICI, the Office of the Ombudsman, the SIU and the Prisoners and Detainees Rights Commission following the popular uprisings in 2011 seems more to have been intended to shield the government and the security forces from criticism than to bring accountability and redress to victims of torture and other criminal offenses committed in Bahrain. Whether the use of torture and ill-treatment in Bahrain has amounted to a systematic practice, something which a number of reports seem to suggest, needs to be dealt with by appropriate authorities. The alleged new cases of torture presented in this report, together with the number of incidents and reports documenting previous use of torture by the Bahraini security forces sadly bely the GoB's claims earlier in May 2016 to have fully implemented all the recommendations of the 2011 report of the BICI.³⁴

³⁴ "BICI recommendations fully implemented", *Bahrain News Agency*, 9 May 2016, (available at: <http://bna.bh/portal/en/news/726548>).

V. Conclusion

Regrettably, allegations of torture suggests that cases of torture are still being perpetrated in 2016: amongst the new testimonies presented in this report, even minors are allegedly being subjected to cruel, inhumane and degrading treatment by the GoB's security forces, which is in clear breach with the general prohibition against torture as well as a number of legal proscriptions codified in attributable national and international law with respect to the crime of torture.³⁵

The report at hand and the tireless work of a number of human rights activists, human rights defenders and organizations, including UN officials, sadly contradict the government's claims about its commitment to uphold national as well as international law.

For a longer period of time the GoB seems to have demonstrated failure to prevent, halt, investigate and prosecute the alleged crimes through appropriate mechanisms.

Based on the sample cases BCHR have been able to document along with a number of incidents which have been presented in this report on the alleged use of torture, it seems reasonable to conclude that the culture of impunity in relation to an alleged systematic use of torture condoned by the GoB, which was reported already in 2011 by the BICI, seems beyond reasonable doubt to continue. These cases therefore suggest that torture has acquired the status of common practice in Bahrain.

³⁵ For a detailed description of Bahrain's legal obligations, see the Annex.

VI. Recommendations

A. BCHR calls on the Bahraini government to immediately:

- Allow the SR on Torture and other SRs from the UN Special Procedures to visit Bahrain at their earliest convenience;
- Sign and ratify the Optional Protocol against Torture of the Convention Against Torture, which will ensure the possibility of sudden prison visits by an independent committee, a practical step that would show Bahrain's seriousness to end torture in prisons.
- Take all effective legislative, administrative, judicial or other measures to prevent acts of torture in accordance with Article 2 of the CAT; to that end,
- Ensure that education and information regarding the absolute prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment in accordance with Article 10 of the CAT;
- Take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, in accordance with Article 19 of the CRC; in particular,
- Seek to end the alleged practice of subjecting citizens, including minors, to arbitrary arrests and systematic torture in prisons in order to obtain confessions in accordance with Article 19 of the Bahrain Constitution, the absolute prohibition on torture that has become part of customary international law including the prohibition against arbitrary arrests codified in Article 9 of the ICCPR;
- Seek to end the alleged practice of curtailing communication between unlawfully detained citizens, including minors, and their families in accordance with Article 37 of the CRC establishing the right to maintain contact with family members through visits and communications and Article 17 of the ICCPR establishing that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, or correspondence, nor to unlawful attacks on his honor or reputation.
- Ensure establishment of effective measures to perform independent, transparent and quick investigations on allegations of torture, especially for cases where victims are undergoing trials or facing harsh sentences including the death penalty; and ensure that the courts apply these measures before proceeding to pass sentences where torture allegations are not fairly addressed;
- Ensure that officials allegedly responsible for acts of torture are charged for these criminal offenses in accordance with Articles 208 and 232 of the Bahrain Penal Code to combat the culture of impunity that currently seem to characterize the situation in Bahrain;
- Ensure access to functional mechanisms for remedies to victims of unlawful arrest, detention, and torture and ensure that complainants and witnesses are protected against ill-treatment or intimidation in accordance with Article 13 of the CAT;

- Ensure that competent authorities proceed to prompt and impartial investigations concerning all alleged acts of torture in accordance with Article 12 of the CAT
- Ensure that victims of torture obtain redress and receive fair and adequate compensation for the offenses they have been subjected to, including the means for as full rehabilitation as possible in accordance with Article 14 of the CAT;
- Publicly condemn torture in all its forms whenever it occurs to send a clear signal that the abuse of office or power is a criminal offense to which perpetrators will be held accountable in accordance with the Bahrain Penal Code Articles 208 and 232;
- Accept and implement recommendations and calls from the international community, including the High Commissioner for Human Rights and other UN Special Procedure mandate holders, in particular in relation to the recommendations regarding the unlawful use of torture and in general in relation to the general human rights situation in Bahrain.

B. BCHR calls on the international community to:

- Continue to raise concerns about the systematic way in which torture is allegedly being practiced by the GoB both through words and actions with a view to ensure full compliance with the absolute prohibition on torture in Bahrain;
- Push for respect for human rights with a point of departure in the observations and recommendations of the BICI and the UPR; in particular,
- Condemn the application of the death penalty in particular against Mohammed Ramadan and Husain Ali Moosa and all others, whose confessions were allegedly obtained through the use of torture and ill-treatment;
- Call on Bahrain to urgently allow the SR on Torture and other SRs from the UN Special procedures to visit Bahrain at their earliest convenience.

VII. Appendix

Bahrain's Legal Obligations

A number of legal instruments apply to the cases of torture in Bahrain. The International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (CAT), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD) constitute the international legal instruments to which the Bahraini government has legal obligations. Applicable national law emanates from the Constitution of Bahrain and the Bahrain Penal Code.

1. Applicable International Law

The International Covenant on Civil and Political Rights (ICCPR) represents one of the key human rights documents that together with its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration of Human Rights constitute the so-called International Bill of Rights. The ICCPR entered into force in 1976 and currently has a total of 168 States Parties.³⁶ Bahrain acceded to the Covenant in 2006 and is thus legally bound by its provisions. Article 7 of the ICCPR reiterates the prohibition against torture from the Universal Declaration of Human Rights' Article 5. A number of other provisions deriving from the ICCPR are however relevant for the cases of torture and arbitrary arrests that currently take place in Bahrain.

The ICCPR codifies provisions of a fundamental character that e.g. ensure the freedom of thought (Article 18), the freedom of expression (Article 19) and the right to be treated equally before the law (Article 26). Article 9 of the ICCPR clearly indicates that no one shall be subjected to arbitrary arrest or detention. As established in the preamble of the Convention, "the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." All States Parties, Bahrain included, are according to Article 2 of the ICCPR, obliged to respect and to ensure the rights of all individuals within their territory and subject to their jurisdiction recognized in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (commonly referred to as the Convention against Torture) represents a seminal document; it was first adopted by the UN General Assembly in 1984 and entered into force in 1987. As of June 2016, 159 states are parties to the Convention.³⁷

³⁶ United Nations, *Treaty Series*, Status at 9 June 2016, (available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&lang=en).

³⁷ United Nations, *Treaty Series*: Status at 8 June 2016, (available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en).

The GoB acceded to the Convention in 1998 and thus represents one of the States Parties to the Convention. As has already been established, the prohibition against torture has become part of international customary law and therefore applies to all states.³⁸

Convention against Torture, 1984

Article 2:

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. 2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. 3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

It follows from this article that states not only should respect the general prohibition against the use of torture; *they should take active steps to prevent acts of torture*. Moreover, according to para. 2, it is understood that torture can never be justified. Acts based on superior orders, as was established during the Nuremberg Tribunals, does not exempt a person from criminal liability.³⁹ This article stresses the fact that the prohibition against torture has come to be viewed as a peremptory norm under international law: the prohibition against torture therefore constitutes an absolute prohibition.

Convention against Torture, 1984

Article 10:

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. 2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

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.

Article 13:

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14:

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible [...]

³⁸ United Nations Committee Against Torture, *CAT General Comment No. 2: Implementation of Article 2 by States Parties*, 23 November 2007, (available at: http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.GC.2.CRP.1.Rev.4_en.pdf).

³⁹ Cf. Principle IV: "The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him", Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal, 1950, (available at: http://legal.un.org/ilc/texts/instruments/english/draft_articles/7_1_1950.pdf).

In order to effectively prevent acts of torture, Article 10 of the CAT clearly delineates what concrete measures that need to be taken: training of law enforcement personnel and rules or instructions clearly highlighting the prohibition against torture are essential for this task. In cases of allegations of torture, all States Parties are obliged to ensure prompt and impartial investigations under Article 12. The right to file complaints and to have a case tried by competent authorities is established in Article 13, whereas the right to obtain redress is established in Article 14 of the CAT.

The Convention on the Rights of the Child emphasizes and proscribes the special considerations states should apply in relation to persons below the age of eighteen. The Convention was adopted by the UN General Assembly in 1989 and entered into force in 1990. As of June 2016, 196 states are parties to the CRC.⁴⁰ The GoB acceded to the Convention in 1992.

Convention on the Rights of the Child, 1989

Article 19:

1. States Parties shall take *all appropriate legislative, administrative, social and educational measures to protect the child* from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, *while in the care of parent(s), legal guardian(s) or any other person* who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of *prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment* described heretofore, and, as appropriate, for judicial involvement.

It follows from Article 19 of the CRC that all States Parties to the Convention, Bahrain included, have quite pervasive legal obligations to ensure the protection of the child. As clearly established in para.2, the protection of the child necessitate protective measures - insofar, this article should be seen establishing a positive right to which action is obliged. A negative right on the other hand would only require the duty-bearer to refrain from an action.

Article 37 of the CRC clearly stresses that the GoB has a legal obligation to ensure that no child is subjected to torture or other cruel, inhumane or degrading treatment or punishment, nor arbitrary arrest; and that arrests, detention or imprisonment are only to be used as a measure of last resort and that the duration of such measure should be limited as much as possible. Additionally and as a general rule, children deprived of their liberty are to be separated from adults and they have the right to maintain contact with their family through correspondence and visits.

⁴⁰ United Nations, *Treaty Series*: Status at 8 June 2016, (available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en).

Article 40 of the CRC delineates the special treatment all children should expect in case they are either alleged to, or accused of, or recognised as having infringed the penal law. Factors such as the child's age and the child's reintegration into society are matters that should be taken into account (para. 1). Reiterating some of the fundamental civil and political rights from the ICCPR, children should be presumed innocent until proven guilty; they should be informed promptly and directly of the charges made against them; have the matter determined without delay and not be compelled to give testimony or confess guilt etc. (para. 2). Moreover, States Parties are to ensure such special treatment through establishment of laws, procedures, authorities and institutions (para. 3) and a variety of dispositions such as care, guidance, counselling, education etc. should be made available for children to ensure their well-being (para. 4).

The Convention on the Rights of Persons with Disabilities entered into force in 2008 and currently has a total of 164 States Parties.⁴¹ Its purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. The GoB ratified the Convention in 2011 and is thus legally bound by its provisions. Similar to the CRC, the CRPD establishes a number of positive rights, which is to ensure special attention for persons with disabilities.

2. Applicable National Law

The Bahrain Constitution, 2002

Article 19:

- a. Personal freedom is guaranteed under the law.
- b. A person cannot be arrested, detained, imprisoned, or searched, or his place of residence specified, or his freedom of residence or movement restricted, except under the provisions of the law and under judicial supervision.
- c. A person cannot be detained in prisons or locations other than those designated in the prison regulations covered by health and social care and subject to the control of judicial authority.
- d. No person shall be subjected to physical or mental torture, or inducement, or undignified treatment, and the penalty for so doing shall be specified by law. Any statement or confession proved to have been made under torture, inducement or such treatment, or the threat thereof, shall be null and void.

It follows from Article 19 of the Bahrain Constitution that arbitrary arrests and torture of any kind, including threats are illegal under national law in Bahrain - in accordance with international law provisions on the absolute prohibition on torture.⁴² Moreover, the article clearly establish that confessions made under torture, the threat of torture or any similar treatment are invalid. Article 19 is followed up by a penalty, which is specified in the articles from the Bahrain Penal Code below.⁴³

⁴¹ United Nations, *Treaty Series*, Status at 15 June 2016, (available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-15&chapter=4&lang=en).

⁴² The Bahrain Constitution can be accessed at: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/68652/91874/F551077135/BHR68652%202.pdf>.

⁴³ The Bahrain Penal Code can be accessed at: https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code.html/Bahrain_Penal_Code_1976.pdf.

The Bahrain Penal Code, 1976

Article 208:

A prison sentence shall be the penalty for every civil servant or officer entrusted with a public service who uses torture, force or threat, either personally or through a third party, against an accused person, witness or expert to force him to admit having committed a crime or give statements or information in respect thereof.

The penalty shall be life imprisonment should the use of torture or force lead to death.

Article 232:

A prison sentence shall be the penalty for any person who uses torture, force or threatens to use them, either personally or through a third party, against an accused person, witness or expert to make him admit the commission of a crime or to give statements or information in respect thereof. The punishment shall be imprisonment for at least six months if the torture or use of force results in harming the safety of the body. The punishment shall be imprisonment if the use of force or torture leads to death.

In Chapter 4 on the abuse of office or power, Article 208 of the Bahrain Penal Code clearly states that an official committing an act of torture is criminal responsible for such an act. Both in Article 208 and Article 232 of the Bahrain Penal Code it is made clear that the punishment of such an offense is imprisonment.