



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



# **From 2011 to 2016, The Screams of Torture Still Echo**

**26 June 2016 - International Day in Support of Victims of Torture**

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## 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 13 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<sup>1</sup>, including most recently on 13 June 2016 for "spreading false news and rumours about the internal situation in a bid to discredit Bahrain."<sup>2</sup> 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.<sup>3</sup>

BCHR's Vice-President **Said Yousif Al-Muhafdhah** has been forced into exile since October 2013 after being a target of arbitrary arrests for his human rights work in Bahrain. Most of the staff inside Bahrain remain anonymous, including a second Vice-President and 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/>

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<sup>1</sup> "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>).

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

<sup>3</sup> "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 2016.

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 2016.

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 2008<sup>4</sup>, the **GoB** received a number of remarks related to the use of torture.<sup>5</sup> 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 was 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).<sup>6</sup>

#### 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.



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

<sup>5</sup> 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.

<sup>6</sup> 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".<sup>7</sup> One of these deaths were caused by medical negligence, whereas the others were largely attributed to mistreatment while in custody.<sup>8</sup>
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)".<sup>9</sup>
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".<sup>10</sup>
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".<sup>11</sup>

## C. Bahrain's Second UPR Examination 2012

During the second UPR examination, Bahrain once again received remarks on the use of torture.<sup>12</sup> 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).

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

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

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

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

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

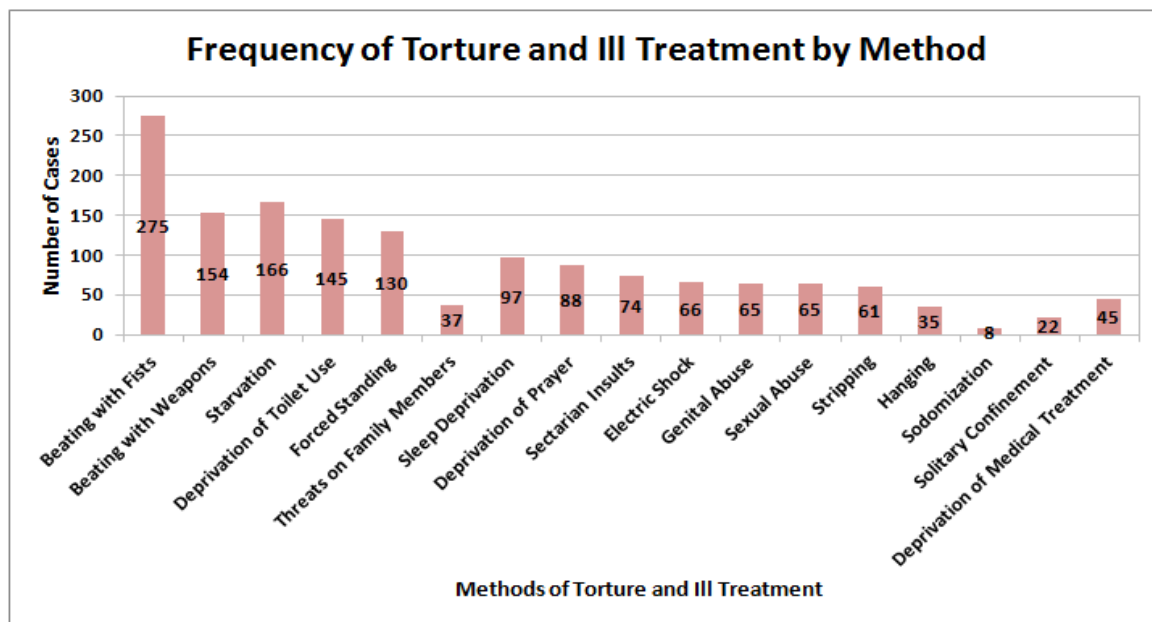
<sup>12</sup> A total of nineteen submissions on the human rights situation in Bahrain were submitted by civil society organizations to the Working Group of the HRC.

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).<sup>13</sup>

## 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.<sup>14</sup> 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.

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

<sup>14</sup> 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.<sup>15</sup> 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.

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<sup>15</sup> "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 2015/2016

### A. New Alleged Cases of Torture

*BCHR chooses to use only initials for some of the victims to protect them from further retaliation. All details concerning arrests, detentions, ill-treatment and torture are based on the victims' and their families' testimonies.*

BCHR received complaints of arbitrary arrests, torture and ill-treatment from the people accused of being involved in the alleged Karbabad terror attack that took place on 16 April 2016. Bahrain's MoI reported that a policeman died, and two others were injured, as a result of a molotov cocktail attack on a police vehicle by an alleged terrorist group in Karbabad.<sup>16</sup> The circumstances regarding this incident are still unclear, as we have not yet had any independent investigation in the incident. As a response, the security forces subjected the residents of Karbabad to collective punishment, by launching a campaign of random house raids and arbitrary arrests. The authorities justified these arrests as a means to investigate the incident. However, from the testimonies of torture received by BCHR, it became apparent that coerced confessions are being used as the basis of the investigations, which is in breach with, *inter alia*, Article 19 of Bahrain's Constitution, prohibiting arbitrary restraints and unequivocally forbids the use of torture, annulling any statement or confession thus obtained.

A total of five complaints were received in relation to the alleged Karbabad terror attack: **Sayed Ali Mohsen** (21 years old), and **Q.A.** (20 years old); as well as minors, including **Hasan Al-Tajer** (17 years old), **A.A.** (17 years old), and **Sayed Ayman Mohsen** (16 years old).

BCHR also received complaints from people facing various other charges, including allegedly burning dumpsters and tires, using fake bombs, blocking roads, illegal assembly, and harboring fugitives. These charges were used to justify the arbitrary arrests of **J.A.** (36 years old), **Mohamed Buhmaid** (23 years old), and **Ali Al-Shamlan** (24 years old); and minors **Bassel Abbas** (15 years old), and **Ali Saeed** (15 years old).

According to its legal obligations under the CRC, the GoB is responsible for shielding children from violence and torture. The complaints received however suggest that the GoB is in clear breach of Article 19 of the CRC, which seeks to prevent any form of violence, either physical or mental, directed at a child and in accordance with Article 37 of the CRC should not be punished in a cruel and harmful way.

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<sup>16</sup> "1 policeman killed, 2 injured in Karbabad terror attack," *MoI*, 16 April 2016, (available at: <http://www.policemc.gov.bh/en/news/ministry/51252/>).

## From 2011 to 2016, The Screams of Torture Still Echo

Below, readers are presented with an overview of these new cases of torture, which BCHR has been able to document, in chronological order based on the date of the arrest.

Alleged Cases of Torture in 2016				
Name	Minor <sup>17</sup>	Method of arrest	Torture/ill-treatment methods	
			Physical	Psychological
1. <i>Ali Saeed</i>	✓	House raid	- Beating	- Threat of electric shock
2. <i>Ali Al-Shamlan</i>	/	Chased in the street	- Beating - Sexual harassment	/
3. <i>Bassel Abbas</i>	✓	Summoned to police station	- Beating - Forced standing - Electric shocks	/
4. <i>Q.A</i>	/	House raid	- Beating - Forced standing - Sexual assault	/
5. <i>A.A</i>	✓	House raid	- Beating - Forced standing - Deprivation of toilet use - Deprivation of water - Beating on genitals	- Threat of death - Threat of electric shock - Threats against family
6. <i>Hasan Al-Tajer</i>	✓	Summoned to CID	- Beating - Hanged - Beating on genitals - Stripped - Sleep deprivation	- Solitary confinement - Threat of rape - Verbal abuse
7. <i>J.A</i>	/	House raid	- Beating - Forced standing - Deprivation of water	/
8. <i>Sayed Ayman Mohsen</i>	✓	House raid	- Beating	- Threats against family
9. <i>Sayed Ali Mohsen</i>	/			
10. <i>Mohammed Buhmaid</i>	/	Arrested from his village	- Beating - Forced standing - Food deprivation	/

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<sup>17</sup> At the time of arrest.

Below are the testimonies which describe the details of the new cases of torture in 2016, which demonstrate the human rights violations that detainees, including children, are still subjected to by the Bahraini authorities.

**Case no. 1. Ali Saeed (15 years old)**

Ali Saeed was arrested at 2 AM on 8 February 2016 after masked security forces in civilian clothing raided his house in Hamad Town. They did not show a research or arrest warrant. His family was not given any reason to why he was being arrested, and they were not told where he was being taken either.

His family went twice to Hamad Town police station (roundabout 17) to ask about Saeed's whereabouts, but they were not given any information.

On 10 February 2016, at 12:00 pm, Saeed called his family, and he told them that he is in Hamad Town police station (roundabout 1). His family went there, and they were allowed to see him for only five minutes.

Saeed told his family that during his detention, he was subjected to ill-treatment and torture in Hamad Town police station (roundabout 17). He said he was beaten, punched on his back, and slapped. He was threatened with electric shocks if he did not confess to his alleged crime; in the end he allegedly agreed to sign a false confession claiming he had used a fake bomb. His family said he was crying during the visit.

He told his family during another call that he would be taken to the military hospital to clean his back injuries. He was interrogated at the Public Prosecution without a lawyer. He is currently held at Dry Dock detention center and his trial is ongoing.

**Case no. 2. Ali Al-Shamlan (24 years)**

Ali Al-Shamlan was arrested after he was chased by riot police in the streets on 29 March 2016 at 5:00 PM.

He was held in Hamad Town police station (roundabout 17) for a week where he was reportedly subjected to torture. He was accused of burning tires, using a fake bomb and blocking roads.

Al-Shamlan told his family that during his interrogation, he was beaten and sexually harassed by security forces, while blindfolded. He claims he was forced to sign confession papers, without reading or being informed of their content.

On 6 April 2016, he was presented to the Public Prosecution which remanded him for 30 days pending investigation. After that, security forces transferred him to the Dry Dock Prison ward 10, where he was finally allowed to call his family.

On 7 April 2016, in Hamad Town police station (roundabout 17), Al-Shamlan claimed he was interrogated again and subjected to torture. He was then brought to the Public Prosecution for a second time, where he was accused of allegedly blowing up a gas cylinder.



Al-Shamlan's father submitted complaints on behalf of his son to all national redress mechanisms, the Mol's Office of the Ombudsman, the Bahrain National Institute for Human Rights, and the SIU about the torture his son was subjected to at the hands of security forces, and lack of due process during his prosecution.

On 4 June 2016, Al-Shamlan was released without dropping the charges against him. His trial is still ongoing.

### **Case no. 3. Bassel Abbas (15 years old)**

Bassel Abbas was summoned to Hamad Town police station (roundabout 17) on 9 April 2016. His family accompanied him to the police station, where he was arrested. The authorities did not inform his family of the charges brought against him. On 10 April 2016, he was released at 4:30 AM. Based on his family's testimony, while held in custody at Hamad Town police station, he was forced to stand from 10:00 PM until 3:00 AM while blindfolded. During that time, he was allegedly severely beaten by the police, who punched and kicked him.



He was interrogated about his alleged participation in burning tires on 5 April 2016. After he denied the accusation, he was asked about the last time he participated in clashes with the police and in burning tires. He was asked to work with police as an informer in exchange for his release; they needed information about three wanted individuals in Bani Jamra. He was transported to Budaiya police station to be released.

On 10 April 2016 at 6:00 AM, an hour and a half after he was released, his family received a phone call from Budaiya police station summoning him again to the police station. He went back to the police station accompanied by his family, where he was once again arrested, and his family was told that they would be updated. After a few hours, his family received a phone call from him saying that he was held in the General Directorate of Criminal Investigation (CID). On 13 April 2016, his family received a phone call from him saying that he is in the Dry Dock Detention Center, ward 1. At the CID, Abbas claimed he was beaten, kicked and punched by security forces. In addition to this, he stated he was forced to stand for long periods of time, and subjected to electric shocks to his genitals. Based on his family's testimony, he signed confessions while being blindfolded. Charges brought against him were related to illegal gathering on 14 February.

On 7 June 2016, Abbas was released without dropping the charges against him. His trial is still ongoing.

### **Case no. 4. Q.A. (20 years old)**

Q.A. was arrested from a house in Hamad Town on 18 April 2016, along with the house owner. Security forces did not present an arrest warrant at the time of arrest. Q.A. claims that he was taken to Jau Prison where he was interrogated about the Karbabad incident, and about wanted people from Karbabad.

Q.A. told BCHR after his release that security forces subjected him to beatings during interrogation. He said they hit him on his head with flip-flops and with their hands, and subjected him to sexual assault. He claimed the interrogators grabbed his penis, and forced him to strip off his clothes. According to his testimony, he was beaten kicked on his genitals while naked.

The interrogation continued throughout six days. Then he was detained in a prison cell in Jau Prison, as per his testimony. He said that he had been taken to the CID on a daily basis, forced to stand for twelve hours, and then taken back to Jau Prison.

*Based on testimonies received by BCHR, some detainees report that they were taken to a new unofficial building at Jau Prison for further interrogation during their detention.*

On 2 May 2016, Q.A was released without being notified of the charges against him. As a result of the torture he was subjected to during his detention, Q.A now suffers from pain in his head and ear drums. His tooth was also broken as a result of the beatings to his face.

#### **Case no. 5. A.A. (17 years old)**

A.A. is a student in the eleventh grade. On 21 April 2016, at 3:00 AM, in Karbabad, masked security forces in civilian clothing raided the house of A.A. They did not present a search warrant nor an arrest warrant. They searched the house thoroughly, and besieged the house, trapping his grandparents in a room there. Following that, security forces arrested A.A.

On 2 May 2016, A.A. was released without being notified of the charges against him. After his release, A.A. told BCHR that when the security forces raided his house, he asked them for the search warrant. They responded by saying that he has no right to ask them about anything. Then they took him inside the police car, immediately lowered his head, blindfolded him, and allegedly started punching him.

He added that he was put in a very small room at the CID. Every now and then, someone would come and ask him about his name, and when he responded, they would slap and punch him. They also forced him to stand for long periods of time. A.A. stated that he was then transferred to a building at Jau Prison, where he was told that he was at the CID.

The officer threatened him by saying: "Did you hear of this name [i.e. CID] before? This is the place that you are standing in right now. It is the place that Fakhrawi<sup>18</sup> died in. Do you want the same to happen to you?"

He claimed he was beaten by the security man, including on his genitals. The security man also put two devices on A.A.'s body, and told him that they are electric shock devices. He told A.A. that if he did not talk, he would electrocute him.

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<sup>18</sup> Karim Fakhrawi died under custody in April 2011. He is one of the founders and board members of Al-Wasat, a Bahraini independent daily newspaper. He was also a book publisher, the owner of one of Bahrain's biggest bookstores, and a member of Al Wefaq, Bahrain's chief opposition party. More information available at <http://www.bahrainrights.org/en/node/3937>.

When A.A. refused to confess the charges, he was beaten by another man, who was referred to as “*Al-Jallad*”, meaning “the torturer.” He kicked A.A. hard on his genitals, while another person beat him with a flip-flop all over his body.

They threatened his family, telling him that his parents were in the building, and that his mother would be raped if he did not confess. He broke down and fell on the floor. Security forces continued to kick him.

He was allowed to eat under the condition that he did not lift up his head; and he was not allowed to use the toilet, or drink water.

**Case no. 6. Hasan Al-Tajer (17 years old)**

Hasan Al-Tajer is a student in the eleventh grade. On 21 April 2016, at 6:30 AM, masked security forces raided his house to arrest him, but he was in school. They searched the house without a search warrant, then summoned him immediately at the CID. At 2:00 PM, Al-Tajer went to the CID accompanied by his father, where he was arrested without being informed of the charges. He was later accused of being involved in burning a police car and the murder of a policeman in Karbabad.

His family did not know where he was being held until 11 May 2016, when they got a call from him saying that he was being held at the Dry Dock Prison.

On 12 May 2016, Al-Tajer had the first family visit where he told his family he was being subjected to torture and ill-treatment while held in custody at the CID. He was allegedly handcuffed, blindfolded, and beaten. While blindfolded, he claims he was forced to stand behind the door, and the door was pressed against his body while he was cornered behind it. The beating on his genitals was so severe that he collapsed from the pain. While lying on the floor, security forces started kicking him. According to his family's statement, Al-Tajer was subjected to verbal abuse and insults throughout his entire interrogation. When responding to questions about what his name was, he was admonished not to say "Hassan" but use "donkey," or "dog," instead, or use other slur words. He was also threatened with rape, and told that there were twenty Pakistanis in the next room prepared to rape him.

After four days of being physically and psychologically tortured, Al-Tajer agreed to stamp confession papers while handcuffed, and without reading or being informed of the content of the alleged confession.

Al-Tajer allegedly suffered solitary confinement, while blindfolded and handcuffed. During his confinement, he told his family that he would hear screams and cries of other detainees being tortured. His psychological well-being deteriorated to the extent that he started hallucinating, talking to the walls.

As for food, his family claimed he had only two minutes to eat while blindfolded, suffering beatings on his neck and head during meal time.

He stated he had been stripped naked and had photos taken of him while blindfolded, with both his hands and legs held in cuffs. He was allegedly beaten with wires until his face turned purple. He was also hanged in a brutal way. Once, a viscous substance was put on his body. He feared he would be electrocuted, so he screamed and moved, then they let him go.

In the CID, he was not allowed to shower for five days. Throughout the whole time he spent in the CID, Al-Tajer claimed he was not allowed to sleep, and was beaten whenever he attempted to. He told his family that in all the phone calls that he made to them while he was in the CID, he was blindfolded and handcuffed, and was told what to say during the call. He was threatened with beatings in case he said anything other than the script he was ordered to say.

The security forces punched and stepped on Al-Tajer's back. After telling his interrogators that he was being treated for his back, he was taken to Al-Qalaa Hospital at the ministry of interior headquarter, where they arranged a medical exam, and denied that he had any medical issues. Based on his family's testimony, he was beaten by security forces, while chained to a hospital bed. He was further interrogated and tortured at Jau Prison.

On 26 April 2016, he was brought out for the public prosecution process, in the absence of his lawyer. When Al-Tajer asked for the lawyer, the security officers responded aggressively, cursing and telling him there was no lawyer.

During the public prosecution's interrogation, Al-Tajer declared that he did not do anything wrong, and that his confessions were taken under torture. Security forces took him back to the bus, cursed and threatened to beat and torture him if he did not confess to his alleged charges. On 29 April 2016, at dawn, suspects in the Karbabad case, including Al-Tajer, were taken to the place where the Karbabad incident allegedly took place, to force them to have their photos taken there. Al-Tajer refused to get off the bus, saying that he did not do anything wrong, and that he will not have any photos taken of him in something he did not do, even if he will be beaten as a result of this refusal. According to his statement, the public prosecutor, who interrogated him, was present there.

#### **Case no. 7. J.A. (36 years old)**

J.A. was arrested at his house in Hamad Town by security forces on 25 April 2016 at 8:00 PM. The masked forces in civilian clothes, accompanied by riot police, raided his house, initially to arrest a relative of J.A., but they ended up arresting both of them.

J.A. was interrogated about harboring a wanted person. When he denied the accusation, he was interrogated about burning dumpsters in Karrana. According to his testimony, he was forced to sign and stamp on papers without knowing their content.

On 2 May 2016, J.A was released without being notified of the charges against him. After his release, J.A. told his family that he was put in a dark room, blindfolded, handcuffed with his hands behind his back, and was not even allowed to drink water. He was forced to stand for 16 hours straight, beaten on the back of his head, and slapped on his face by more than one security personnel. According to his testimony, he was subjected to torture at Jau Prison; during night time, he would be taken back to Al-Hidd police station.

**Case no. 8. Sayed Ayman Mohsen (16 years) & Sayed Ali Mohsen (21 years)**

Sayed Ayman Mohsen is a student in the eleventh grade. On 25 April 2016 at 2:00 AM, security forces raided his and his brother's house and arrested both of them. They were accused of complicity in the murder of a policeman in Karbabad, hiding suspects and hiding evidence in the case.



On 10 May 2016, their family was allowed to visit them for the first time, for ten minutes, at the CID, in a room full of policemen dressed in civilian clothes. Due to the presence of the security forces in the room, Sayed Ayman Mohsen and Sayed Ali Mohsen were not able to respond when asked by their family if they were beaten. Their family said that the two brothers seemed tired and exhausted. This family visit was videotaped.

On 12 May 2016, their family visited them in the Dry Dock Detention Center, where they were moved the day before. Sayed Ayman Mohsen and Sayed Ali Mohsen told their family that they had been beaten from the moment they were arrested in the police bus until the time of the interrogation. They also said they were forced to sign confessions under torture.



On 26 April 2016, the authorities brought them to the public prosecution without informing their lawyer or their families.

Sayed Ayman Mohsen and Sayed Ali Mohsen claimed that they had been threatened by the security forces during interrogations that if they did not confess to their alleged accusations, their sisters would be raped.

**Case no. 9. Mohamed Buhmaid (23 years old)**

Mohamed Buhmaid, who suffers from hearing impairment and a speech disorder, was arrested from Karzakan village on 10 May 2016 by security forces dressed in civilian clothes. He was taken to the police station at Hamad Town Roundabout 17, but shortly after, he got transferred to the CID. Buhmaid was charged with illegal gathering and conducting an attack on a police car.

As reported by his family, who had long been unable to get information on the reasons behind his arrest, he has been subjected to food deprivation and to torture under interrogation, including being forced to stand for long hours, and being beaten, kicked and slapped each time he would move.

Buhmaid was forced to sign a confession of his alleged accusations while being blindfolded. On 8 June 2016, Buhmaid was released without dropping the charges against him. His trial is still ongoing.

## B. Death Penalties based on Coerced Confessions

### 1. Alleged terror attack in Al-Dair

On 29 December 2014, a Bahraini court sentenced **Mohammed Ramadan** and **Husain Ali Moosa** to death for their supposed involvement in a bomb explosion in Al-Dair on 14 February 2014 that resulted in the death of a policeman.

According to Moosa, government agents hung him from the ceiling for three days and took turns beating him with police batons. They threatened to harm his relatives, on several occasions claiming that they would rape his sisters. Moosa confessed as a result of the torture, but later recanted his confession in front of the public prosecutor. After he recanted, security forces tortured him further.

Upon arrival to the CID, employees from the Mol reportedly threatened Ramadan with torture if he did not confess to being a traitor. Shortly thereafter, officers began torturing him, violently beating him on his hands, feet, body, neck, and head. Ramadan was reportedly subjected to sustained ill-treatment and torture for more than four days. In order to halt the abuse, he agreed to “confess to anything” and signed a false confession stating that he was involved in the explosion in al-Dair. Ramadan claims he was then informed that the government knew he was not involved in the charges against him, but that his participation in protests and other political activities made him a traitor and therefore he deserved to be sentenced for his crimes. When Ramadan attempted to explain that he had been tortured into confession to a judge, the court remanded him to Riffa Police station for 13 days, where he was reportedly blindfolded, tied up with belts, and tortured once again by security forces, who afterwards placed him in solitary confinement and subjected him to further beatings.<sup>19</sup>

At the time of their initial sentencing, Ramadan’s lawyer, Mohammed al-Tajer, stated, “Although the defendants emphatically claim that their confessions were extracted under torture, Bahrain’s courts failed to consider their claims or even open an investigation. Instead, the Bahraini judicial system utilized its anti-terrorism law to justify the death penalty in a case with no concrete evidence of their guilt, but abundant evidence of ill-treatment, torture, and politically motivated charges.”<sup>20</sup>

BCHR vehemently condemned the death penalty sentences against the Bahraini nationals.<sup>21</sup> On 16 November 2015 Bahrain’s Court of Cassation rejected the final appeal of Mohammed Ramadan and Husain Moosa. Absent a royal pardon, the government may carry out their execution at any time.

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<sup>19</sup> “NGOs Condemn Death Penalty Sentence of Mohammed Ramadan and Husain Ali Moosa”, *BCHR*, 30 December 2014, (available at: <http://www.bahrainrights.org/en/node/7217>).

<sup>20</sup> “Bahraini court upholds death sentence for torture victims”, *BCHR*, 17 November 2015, (available at: <http://www.bahrainrights.org/en/node/7653>).

<sup>21</sup> “NGOs Condemn Death Penalty Sentence of Mohammed Ramadan and Husain Ali Moosa”, *BCHR*, 30 December 2014, (available at: <http://www.bahrainrights.org/en/node/7217>).



## 2. Alleged terror attack in Al-Daih

On 31 May 2016, an appeal court in Bahrain upheld the death sentences for **Sami Mushaima, Abbas Al-Samea, and Ali Al-Singace**; and life sentences for **Ali Al-Samea, Taher Al-Samea, Husain Ahmed, Hasan Sabah, Ahmed Matooq and Redha Mushaima**; and revoked the citizenship of eight of them. The detainees were arrested on 3 March 2014 by security forces in house raids, and they were convicted on 26 February 2015 with allegedly using improvised explosives devices which led to the killing of three police officers.

As reported to BCHR, the security forces subjected the detainees to more than a week of enforced disappearance, during which they were allegedly tortured. Sami Mushaima, who was sentenced to death, claimed that the security forces tortured him to force his confession. They beat him in his genital area, kept him handcuffed at all times, even in his prison cell, forced him to stand for hours, and limited his access to the toilet. Abbas Al-Samea, also sentenced to death, claimed he was subjected to torture as well, including electric shocks, sleep deprivation, and sexual assault. Moreover, the defendants' lawyers were not allowed to access the case files during trials, or to cross-examine the Public Prosecution's witnesses. This is a clear violation of the defendants' legal right to due process. Consequently, the case document that was submitted by the public prosecutor relied entirely on confessions obtained under torture.<sup>22</sup>

Both the SR on torture and the EU expressed concern about Bahrain's use of confessions taken under duress for conviction and the use of death penalty.<sup>23</sup> According to Article 6 of the ICCPR, every individual has the right to life, and no one shall be arbitrarily deprived of this right. Moreover, it specifies that States Parties may not impose a death sentence against individuals if they cannot be guaranteed the right to a fair trial and where other ICCPR rights have been violated.

## C. Torture as a Control Enforcement Method

### 1. Jau Prison events

On 10 March 2015, prisoners in Jau Prison protested against the increasingly overcrowded and unsanitary living conditions in the prison. Although only a minority of the inmates participated in the riots, Bahraini authorities punished inmates collectively and with excessive force. According to information received by BCHR, they fired tear gas into enclosed spaces and subjected inmates to torture and ill-treatment. Upon regaining control of the prison, the prison forces continued to physically and mentally torture the inmates. They insulted the prisoners, forced prisoners to perform humiliating acts, and deprived them of food and sleep.

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<sup>22</sup> "NGOs condemn death penalties upheld based on coerced confessions, amid alarming rise of court sentences against political prisoners," *BCHR*, (available at: <http://www.bahrainrights.org/en/node/7854>).

<sup>23</sup> "Bahraini upholds death sentence for torture victim," *BCHR*, (available at: <http://www.bahrainrights.org/en/node/7653>).

The prison forces also restricted prisoners' access to healthcare, medication, sanitation products, and even toilets and showers.<sup>24</sup> Despite the authorities claim that they launched an investigation into the incident, no formal actions have been taken to hold any officers responsible for committing abuses. Instead, on 25 January 2016, the government sentenced 57 inmates to additional 15-year imprisonment terms.<sup>25</sup>

## 2. Alleged escape from Dry Dock Detention Center

On 3 June 2016, the MoI claimed that 17 men held in custody in the Dry Dock Detention Center escaped. In response to this, security forces immediately launched a manhunt, deploying dozens of security service vehicles and personnel on main roads, and setting up checkpoints to search for the detainees. In addition, as per reports received by BCHR, prisoners in the Dry Dock Detention Center claimed to be subjected to various forms of ill-treatment amounting to torture. There were allegations by families of the detainees that prison authorities have forced prisoners to break their ongoing hunger strike, to stand long hours, and to remain blindfolded. Families said that security forces physically beat, kicked, and slapped the prisoners. They even told the prisoners that they deserved the punishment, as they knew about the escape, and did not report it.<sup>26</sup>

These cases support the argument that Bahraini authorities and security forces continue to engage in acts of ill-treatment and torture, and convictions based on coerced confessions, which is in clear breach of Bahrain's legal obligations under both national and international law.

## D. 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 2016<sup>27</sup>, 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”.<sup>28</sup> 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.

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<sup>24</sup> 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](http://bahrainrights.org/sites/default/files/file_attach/Inside-Jau.pdf)).

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

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

<sup>27</sup> 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>).

<sup>28</sup> 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”.<sup>29</sup>

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.<sup>30</sup> 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.<sup>31</sup>

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”.<sup>32</sup> 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.<sup>33</sup>

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<sup>29</sup> Ibid., p 16.

<sup>30</sup> Ibid. p 24.

<sup>31</sup> Ibid. p 30.

<sup>32</sup> 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.”

<sup>33</sup> 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.<sup>34</sup>

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<sup>34</sup> "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.<sup>35</sup>

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 in 2016.

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<sup>35</sup> 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.<sup>36</sup> 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.<sup>37</sup>

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<sup>36</sup> United Nations, *Treaty Series*, Status at 9 June 2016, (available at: [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtsg\\_no=IV-4&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtsg_no=IV-4&chapter=4&lang=en)).

<sup>37</sup> United Nations, *Treaty Series*, Status at 8 June 2016, (available at: [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtsg\\_no=IV-9&chapter=4&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtsg_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.<sup>38</sup>

#### 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.<sup>39</sup> 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 [...]

<sup>38</sup> 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](http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.GC.2.CRP.1.Rev.4_en.pdf)).

<sup>39</sup> 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](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.<sup>40</sup> 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.

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<sup>40</sup> 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](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, 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 114 States Parties.<sup>41</sup> 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.<sup>42</sup> 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.<sup>43</sup>

<sup>41</sup> 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](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-15&chapter=4&lang=en)).

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

<sup>43</sup> 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](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.