



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



RAFTO

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Kingdom of Bahrain

Submission by the Bahrain Center for Human Rights (BCHR) and RAFTO Foundation for Human Rights

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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 small desks in exile are maintained in Denmark and France, to coordinate our international advocacy and research programs. For more than 20 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 several awards for its efforts to promote democracy and human rights in Bahrain.

The Rafto Foundation for Human Rights is a Norwegian non-profit, non-partisan organization dedicated to the global promotion of human rights. The organization was established in 1987, in memory of Professor Thorolf Rafto and his work to promote human rights. Every year, the Rafto Foundation awards individuals and/or organizations for their tireless efforts to promote human rights despite challenging conditions. Upon receiving the Rafto Prize, the Rafto laureates continue to get support from the Rafto Foundation. The Foundation also supports networks of human rights defenders and women human rights defenders, and challenges authorities and the business community to comply with their human rights responsibility.

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I. Introduction

1. This submission focuses on some of the broader issues underscored in UN High Commissioner for Human Rights Zeid Ra'ad Al Houssein's letter to His Excellency the Foreign Affairs Minister Khalid bin Ahmed Al Khalifa following the third cycle of the Government of Bahrain (GoB)'s Universal Periodic Review (UPR) in 2017.¹ Specifically, it looks at amendments of the Bahraini Citizenship Act to grant citizenship to the children of Bahraini women married to non-Bahraini men, statelessness, development of a national human rights action plan, strengthening of Bahrain's national mechanisms for reporting and follow-up of human rights abuses, and one of Bahrain's voluntary pledges: to reform its press and electronic media laws. We find that these issues, highlighted in the High Commissioner's letter and otherwise, have not been meaningfully implemented.

II. High Commissioner's Priorities

A. Right to nationality

2. In the High Commissioner's letter to Bahrain's Foreign Affairs Minister, he highlighted the need to amend the Bahraini Citizenship Act to allow Bahraini women married to non-Bahrainis to pass their citizenship to their children, citing concerns of children becoming stateless and compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

a. Amendments to the Bahraini Citizenship Act

3. In the previous cycle of Bahrain's UPR, the state has received at least 18 recommendations calling on the state to eliminate/end all discrimination against women. These recommendations were supported by the Bahraini government, yet the government has not implemented them as they have not taken the appropriate measures to ensure equality towards women's rights.

4. The legislation governing issues of Bahraini nationality are codified in the Bahraini Citizenship Act 1963. Amended in 1981, it states that individuals are eligible to be regarded as a Bahraini national by descent or birth. Bahraini nationality is transmitted through the male line. It is extremely difficult for Bahraini women to pass their Bahraini citizenship to their children, foreign born spouses, and stateless spouses. In 2002, Bahrain ratified CEDAW, of which Article 9 provides for women to pass their citizenship to their children. However, the GoB has so far only extended this provision in extremely limited circumstances through exceptional royal decrees.

5. The slow implementation of CEDAW and the failure to implement a law allowing women to pass on their Bahraini citizenship that was previously approved by the Bahraini cabinet in 2014 only demonstrates the extreme reluctance of Bahraini authorities to permit women to transmit their Bahraini citizenship to their children, despite the fact that Bahrain voluntarily pledged to do so in 2017.

a. Arbitrary revocation of nationality

6. Other than children outside the scope of the Bahraini Citizenship Act, a number of Bahrainis risk become stateless due to their activism. The GoB has used its powers to revoke nationality as a way to silence opposition groups, effectively taking away their rights to speak about national issues and participate in elections or civil society more generally. Several prisoners of conscience were stripped of their nationality and deported just shortly after they served their sentencing, rendering them stateless and vulnerable to the consequences of statelessness generally—e.g., ability to be employed, own land, travel, or just to live in Bahrain.

7. At one point in 2018, the GoB revoked in total almost 1000 nationalities. In 2020, the Committee to Protect Journalists said this practice was used to suppress freedom of expression and press as many targets of this practice were journalists and bloggers. The World Alliance for Citizen Participation

stated that Bahrain has been at the forefront of states using this practice.

8. Particularly concerning about the GoB's arbitrary revocation of nationality is the lack of due process or fair trials for those involved. In 2018, a mass trial resulted in over 100 citizens' nationalities revoked and over 50 of them received life sentences. By international legal standards, it is difficult for fair trial processes to take place under mass trials, where this many people are simultaneously sentenced. In some cases, such as that of Masaud Jahromi, the defendants are not informed of the proceedings against them and are left to find out that their nationalities were revoked over text messages and in the media.

9. The Bahrain Citizenship Act contains broad language in its amendments that allow the state to crush forms of dissent and activism instead of the national security issues it is meant to counter. For example, the Citizenship Law states that nationality can be revoked if one causes a damage to the interests of the Kingdom and if he committed a disloyal act against the Kingdom. This was seen in February 2015, when over 72 individuals' citizenships were revoked. Among charges of terrorism, individuals were charged with defaming brotherly countries, defaming the image of the regime, and spreading false news to hinder the rules of the constitution. More specifically, as many as 50 of these individuals were human rights defenders, political activists, journalists, academics, and religious scholars; only 20 of the defendants were truly linked to extremist groups.

10. By grouping human rights and political activists with alleged extremists, the GoB blurs the lines between criminal acts and exercising one's freedom of expression. Combined with other tools to silence dissent, such as torture and arbitrary detention, the GoB is intentionally sending a message by tarnishing the image of activists seeking redress.

11. Although the King of Bahrain has restored the nationalities of around 500 individuals in 2019, it is unclear if their sentences were reduced or if they were compensated for their losses during their stateless periods. More importantly, 400 more individuals, primarily consisting of human rights defenders and activists, remain stateless due to the GoB's arbitrary revocation of their nationalities.

12. To address the issues of arbitrary revocation of nationality and women's inability to pass their citizenship to their children, we urge the GoB to:

- Amend the Bahrain Citizenship Act to allow Bahraini women married to non-Bahrainis to pass their citizenship onto their children as they voluntarily pledged in 2017
- Continue reinstating the nationalities of individuals who had theirs arbitrarily revoked
- Further reform excessively broad nationality and terrorism laws that create statelessness
- Create a system by which the government can collect information and track the remaining cases of statelessness in Bahrain and the profiles of these various stateless groups.

B. National Human Rights Action Plan

13. During Bahrain's examination under the third UPR cycle, the government received at least 12 recommendations on the effectiveness and independence of institutions meant to investigate allegations of mistreatment and torture. Among other recommendations, the government committed to "strengthen the independence and effectiveness of the national human rights institution in accordance with the Paris Principles" and "promptly carry out an in-depth investigation into all allegations of torture and ill-treatment." All these recommendations were supported; however, the government has failed to operationalize many of these recommendations.

14. These recommendations led to the establishment of several governmental human rights bodies and amending the mandates of others, including the Special Investigation Unit (SIU), the Prisoners and Detainees Rights Commission (PDRC), the Office of the Ombudsman at the Ministry of the Interior (MOI Ombudsman), and the National Institution for Human Rights (NIHR). Although the

establishment of these bodies was notable progress in addressing human rights violations and impunity, the overall human rights situation has not improved, especially with regard to torture and ill-treatment in detention centers. Human rights violations related to freedom of expression and assembly have increased in recent years, and harassment of activists and human rights defenders continues. Most importantly, the “culture of impunity” that these bodies were supposed to address is still pervasive.

15. The SIU was established in 2012 specifically to hold government officials accountable for crimes of torture and ill-treatment. However, it has failed to practice independence and effectiveness, particularly in determining “superior responsibility.” The average rate for case referrals to criminal courts was 7.72 percent of the total complaints received by the SIU during the last five years, most of which ended with acquittals and light sentences. Moreover, most prosecutions have been of low-ranking officers. The majority of the SIU staff are seconded from the Public Prosecution Office (PPO), under which it functions. The SIU association with the PPO adversely affects its integrity and public trust in it, particularly in light of its disregard for torture allegations and 7 prosecutions of prisoners of conscience. Moreover, the SIU does not comply with many of the Istanbul Protocol provisions, with which it is supposed to be in line.

16. The PDRC was established in 2013 to monitor places of incarceration. It functions as a National Preventive Mechanism (NPM) and is empowered to verify the conditions and treatment of inmates. The PDRC’s independence and effectiveness have been called into question with a lack of transparency in appointing its members, its financial dependency on the MOI Ombudsman, and lack of clear judgment in its reports. It failed to demonstrate rigor, seriousness, and persistence in addressing pressing issues in detention facilities, especially the ill-treatment of political prisoners.

17. In July 2013, the MOI Ombudsman became operational. It was created to ensure that the MOI personnel abide by the legal procedures and hold violators accountable. It is also mandated to receive, review, and examine complaints against members of the Public Security Forces. The MOI Ombudsman’s independence is also questionable, as the MOI supervises it and appoints its employees. As for its effectiveness, the MOI Ombudsman practiced reluctance and disregard for well-documented violations committed by MOI personnel, demonstrated by the number of cases referred by the MOI Ombudsman for possible criminal prosecution and the fact that only one investigation was launched on its initiative in the last five years.

18. The NIHR mandate was amended in 2012 and 2013 to bring it in line with the Paris Principles. It has a broad mandate to protect and promote human rights in Bahrain. Nonetheless, over the past five years, the NIHR has failed to comment or act upon serious human rights violations, including allegations of torture, the executions that followed unfair trials, prosecution of human rights defenders, and the general criminalization of dissent. On more than one occasion, the NIHR advocated for the government by justifying its abuses. It has been selective in addressing human rights violations. Overall, the NIHR has demonstrated a lack of independence and effectiveness in addressing the most pressing human rights issues in Bahrain.

19. We believe in order to address these issues, the government of Bahrain has to:

- Ensure redress for human rights violations victims and an end to the “culture of impunity”
- Ensure the complete independence of the Special Investigation Unit (SIU) from the Public Prosecution Office by amending its statutory status and adopting a transparent mechanism for appointing impartial staff
- Adopting greater transparency in clarifying the outcomes of complaints received by the SIU and the follow-up procedures taken, as well as justifying its decisions regarding complaints
- Ratify the Optional Protocol to the Convention against Torture (OPCAT)
- Ensure the independence and effectiveness of the Prisoners and Detainees Rights Commission by modifying it into a National Preventive Mechanism within the meaning of the OPCAT and

which functions under the Subcommittee on Prevention of Torture (SPT) oversight

- Ensure the independence of the Office of the Ombudsman at the Ministry of the Interior (MOI Ombudsman) by ending the Ministry of Interior's oversight of its work and the appointment and dismissal of its employees
- Adopt a transparent and merit-based mechanism for the MOI Ombudsman staff appointment for limited terms that involves a public call
- Ensure the MOI Ombudsman reports are more detailed and transparent in terms of the reasons for dismissing complaints and detailed results of its investigations
- Establish a clear mechanism for the screening, selection, and appointment process of the National Institution for Human Rights (NIHR) Council of Commissioners
- Ensure the NIHR independence and responsiveness in carrying out its mandate
- Establish a transparent follow-up mechanism for the recommendations of these institutions, ensuring that responsibility for failure to address the violations committed is determined
- Allow a periodic impartial review of their work by an autonomous body
- Issue an invitation to the United Nations Special Rapporteur on torture to conduct a country visit.

C. National Mechanism for Reporting and Follow-Up

20. The establishment of the SIU, the PDRC, and the MOI Ombudsman, besides amending the mandate of the NIHR, seemed propitious in improving the human rights scene in Bahrain. Unfortunately, their work has yet to achieve tangible results. In addition to problems with the structure of human rights mechanisms, there is a lack of rigor, courage, and seriousness in addressing violations and holding perpetrators accountable. The real problem is the lack of independence of these bodies and their staff. The lack of transparency in appointment mechanisms is shared between the four bodies, as none of them involves real and active participation by the civil society or even parliament, and if any, it is unclear. These bodies are formed by the government and report to it, which renders their ability to challenge the government security apparatuses unlikely.

21. Moreover, none of them adopted clear follow-up procedures, whether for complaints or implementing their recommendations by concerned governmental bodies, negatively impacting their effectiveness. The small number of individuals who have been brought to justice in the past five years, the failure to uphold the principle of superior responsibility, and the reluctance to address certain human rights violations indicate that these bodies, in their current state, are neither independent nor effective. They have not been designed to genuinely guarantee effectiveness and independence in addressing human rights violations. Three out of four of them are associated with the MOI.

22. The opinion presented by the UN Committee Against Torture concerning these bodies reflects well their state: "The Committee is concerned that [Bahraini national human rights bodies] are not independent, that their mandates are unclear and overlap, and that they are not effective given that complaints ultimately pass through the Ministry of the Interior. It is also concerned that their activities have had little or no effect, and that the authorities provided negligible information regarding the outcome of their activities. The Committee is further concerned about the loopholes in the existing complaints mechanisms whereby prison inmates have to submit complaints regarding torture or ill-treatment through prison wardens, the prison Director or Deputy Director, which does not guarantee that the complaints will be submitted to the competent authorities."

23. The full and honest implementation of the recommendations was supposed to pave the way for a new era in Bahrain, where human rights are respected and accountability achieved. Nonetheless, since 2011, the human rights situation has been deteriorating. Ten years on, pro-democracy movement leaders are still behind bars, major opposition political parties outlawed, and the country's only independent newspaper is indefinitely suspended. The GoB's crackdown on free expression is in full force, as well as attempts to intimidate its critics into silence. The government officials responsible for killing dozens of protesters and torturing hundreds have not been held accountable, nor have those who directed the crackdown, as the government human rights bodies have proved ineffective. Most importantly, the grievances that sparked the 2011 uprising remain unaddressed. On the contrary, the GoB has escalated its repression, systematically and thoroughly closing civil and political space.

24. On 27 February 2012, the Attorney General established a special unit named the SIU within the PPO by Resolution No. 8 of 2012. The SIU is mandated to determine the criminal accountability of government officials for crimes of killing or torture or mistreatment of civilians, including those in the chain of command under the principle of superior responsibility. The SIU is supposed to carry out its investigations in line with the Istanbul Principles on investigating and reporting torture. The Attorney General Resolution No. 26 of 2013 guides the activities of the SIU, setting forth its jurisdiction, formation, responsibilities and stipulating the code of conduct of its staff.

25. The SIU has broad powers in relation to holding government officials accountable for crimes of torture and ill-treatment and represents the prosecution in cases referred to criminal courts. It is mandated to summon "any executive branch officer" and to take legal action to impose applicable penalties against any person who fails to appear before it. It has the power to carry out periodic or unannounced inspections of prisons and detention centers and issue precautionary decisions to transfer victims from the place of incarceration to any other detention center. The SIU is also authorized to liaise "with any local and international entity to obtain information or evidence in respect of incidence under investigation." Individuals, civil society organizations, and the media can report incidents of torture and ill-treatment committed by government officials to the SIU. The Attorney General may also refer any case to the SIU for investigation, as may the MoI Ombudsman, according to a memorandum of understanding between the two signed on 1 July 2013.

26. The SIU is part of the PPO hierarchy and functions under the Attorney General's supervision, to whom it reports. It is staffed by individuals seconded by the PPO and the MOI. The creation of the SIU within the PPO was in consultation with international legal experts, who put forward the establishment of "a distinct and independent investigative prosecutorial unit" that would "report to, and come under the overall supervision of the Attorney General."

27. However, the SIU's association with the PPO has raised questions about its impartiality and independence considering the latter's non-observance of international human rights standards. Ceartas - Irish Lawyers for Human Rights produced a report in 2013 examining the role of Bahrain's Attorney General in human rights violations and his suitability as an Executive Committee member of the International Association of Prosecutors. The report highlighted a "pattern of failure on the part of the Attorney General to ensure that due process and fair procedures are applied." It concluded that the PPO is not "capable of investigating matters of torture, nor is it in a position to investigate impartially. In addition, the office has shown patterns of failure in the use of its statutory powers to supervise and investigate state detention facilities, which in turn has fostered a culture of impunity towards torture."

28. The PPO has been involved in human rights violations even before the 2011 uprising. For example, in August 2010, the Bahraini authorities arrested 23 individuals for allegedly being part of a "terrorist network," including Dr. Abduljalil al-Singace, a university professor, activist, and prominent opposition figure. Human Rights Watch documented "systematic procedural and substantive violations of due process by Bahrain's criminal courts in these cases," including denial of access to a lawyer, the right to prepare a legal defense, not allowing counsel to attend interrogations, among other violations. Human Rights Watch noted the PPO's lack of impartiality: "The prosecution's criminal investigation appeared more concerned with obtaining information on the political views of the defendants and their connections to domestic and international organizations than with pursuing a criminal prosecution. Prosecutors questioned some of the 23 defendants regarding their political beliefs and opinions,

including on subjects such as the boycott of Bahraini parliamentary election (...) and constitutional reform. After the outbreak of the uprising, on 22 February 2011, the 23 defendants were released, ending the prosecution. These politically motivated prosecutions have regularly been used to silence dissidents and intimidate government opponents, and the PPO has played a key role in this. It has brought charges against individuals exercising their rights to freedom of expression and assembly, accepted coerced confessions through torture, and condoned allegations of torture and ill treatment.”

29. In 2015, Human Rights Watch reported six cases in which detainees reported their torture at the Criminal Investigation Directorate (CID) to the PPO, and not only did the PPO failed to take any action, but it also ordered the return of two of them to the CID after refusing to make confessions. Only one case of those has resulted in an investigation. The BICI report also indicated that, in some cases, “judicial and prosecutorial personnel may have implicitly condoned” the lack of accountability within the security system in Bahrain. Therefore, the PPO’s oversight over the SIU negatively impacts its credibility. Not only is the independence and impartiality of the SIU in question but also its effectiveness. The GoB has provided several statistics on the SIU’s work since its inception. In February 2014, the BICI Follow-Up Unit reported that the SIU received 150 complaints, 30 of which ended in prosecutions of 51 officers and non-commissioned officers, and that seven cases resulted in findings of guilt involving nine defendants. In January 2015, the SIU provided Amnesty International with other statistics covering the period from its establishment until the end of 2014, in which the SIU had prosecuted 93 members of the security officers on criminal charges in 44 separate cases. Nine of the 44 cases involving 23 members of the security forces were related to death caused by torture or other violence, and 35 cases involving 70 members of the security forces were related to assault, torture, or ill-treatment. By the end of 2014, only 15 officers were convicted in criminal courts.

30. As for the period from January 2015 until December 2020, the SIU received 902 complaints, in which 69 were referred to criminal courts, according to the SIU monthly and quadrimester statements, meaning that the percentage of referrals to the courts during this period is only 7.64 percent. The number of investigations in crimes of torture and ill-treatment conducted by the SIU does not correspond to the enormity of the numbers and cases documented by the BICI and subsequently by local and international organizations. Moreover, the percentage of cases referred to criminal courts has been low compared to the total number of cases investigated, few of which ended in convictions. Most importantly, the SIU has failed to uphold the principle of “superior responsibility” although it has clearly established the existence of a “culture of impunity.” The few prosecutions carried out by the SIU have been of low-ranking officers, and no senior officials have been brought to justice.

31. While the SIU’s ability to address the former has been limited, it has failed completely to address the latter. The creation of the SIU has not served the purpose expressed and it has not been able to end the culture of impunity nor achieve accountability at all levels of responsibility in Bahrain. It has structural and functional deficiencies impeding its ability to take up this role. Therefore, this recommendation is partially implemented.

32. Furthermore, the MoI Ombudsman was established to “ensure compliance with professional standards of policing set forth in the Code of Conduct for the Police, as well as in the administrative regulations governing the performance of civil servants.” It is headed by the Secretary-General followed by his deputy, both of which are appointed by a Decree. Four directorates make up the MoI Ombudsman and report to its head: the Complaints Directorate, the Monitoring of Prisons and Detention Facilities Directorate, the International Co-operation and Development Directorate, and the Human Resources and Finance Directorate. The Royal Decree No. 27 of 2012 created another entity within the MoI, the Directorate of Audit and Internal Investigations, which functions under the supervision of the MoI Ombudsman.

33. The Directorate of Audit and Internal Investigations is empowered to receive, review, and examine complaints against members of the security forces justifying disciplinary proceedings. It is not obliged to refer these complaints to the MoI Ombudsman, except in the event of death or serious mistreatment, acts that seriously impact public confidence in policing, or upon the request of the Secretary-General of the Ombudsman. As for the MoI Ombudsman, in addition to receiving, reviewing, and examining complaints against members of the security forces, it is mandated to conduct

investigations on its initiative into wrongful acts that “leads to a negative impact on the public's confidence in the employees of the Ministry of Interior” and carry out visits to prisons and detention centers to ensure their compliance with the law. After concluding its investigation, it either directs the competent authority in the MoI to bring disciplinary proceedings against violators or refer the case to the SIU if it would justify a criminal prosecution.

34. The MoI Ombudsman lacks independence and impartiality to hold MoI personnel accountable and “enforce police professional standards.” While recommendations stipulated the creation of an entity independent of the MoI hierarchical control, the MoI Ombudsman functions under the latter’s supervision and reports to it. Bahrain’s MoI Ombudsman does not even fully comply with the international standards for the work of ombudsman institutions set by the International Ombudsman Institute (IOI), of which it is a voting member. The Secretary-General of the MoI Ombudsman and his deputy are appointed upon the recommendation of the Minister of Interior and the approval of the Prime Minister. Its staff is appointed by the head of the MoI Ombudsman “in accordance with procedures set out by him/her and agreed upon by the Minister of the Interior.” The Directorate of Audit and Internal Investigations’ work is also “determined by a decision of the Minister of Interior.”

35. In other words, the MoI supervises and approves the staffing of the body responsible for holding it accountable. Furthermore, the law vaguely stipulates that the Secretary-General and his/her deputy are removed by Royal Decree at the proposal of the MoI and the approval of the Prime Minister for “failure to perform duties.” There is no provision clarifying the grounds for failure, leaving it to the discretion of the MoI. Neither the appointments and dismissals of the MoI Ombudsman staff are conducted under clear and transparent guidelines and are even carried out under the approval and recommendation of the MoI, whom they are supposed to hold accountable.

36. The MoI Ombudsman’s formation, activities, staffing, and reporting do not involve any public or parliamentary participation, inconsistent with international standards. Its budget is part of the overall MoI budget, which also contributes to its lack of independence. According to the MoI Ombudsman’s annual reports, the office received 2161 complaints between July 2013 and April 2020. Of these, 545 were referred to “relevant bodies” for further investigation. The referrals were as follows:

- seven to the PPO
- 215 to the SIU
- 319 to the security prosecution (an MoI internal entity)
- four to a disciplinary committee (an MoI internal entity).

37. Over these eight years, the MoI Ombudsman initiated 35 investigations into police misconduct (28 between July 2013 and April 2014) and documented 54 deaths in detention. Overall, only 9.94 percent of these complaints were referred to the SIU for a possible criminal prosecution, most of which did not end in criminal courts, as the referral rate by the SIU was very low. The MoI Ombudsman’s annual reports did not explain what steps were taken to follow up on the cases referred to the SIU, how many cases of those ended in prosecution, how and why 1001 complaints were resolved or not upheld, and what happened to complaints under investigation.

38. On more than one occasion, the MoI Ombudsman failed to carry out its mandate and hold MoI personnel accountable, most notably in the aftermath of Jau prison unrest in March 2015. The security forces at Jau prison used excessive and disproportionate force against inmates, firing tear gas and birdshot into prison buildings and indiscriminately beating inmates. After quelling the unrest, the police at Jau prison continued to abuse the prison population for months as a form of collective punishment, using various types of physical and psychological abuse. In response, the MoI Ombudsman interviewed 156 inmates, of whom 15 made formal complaints that were referred to the SIU. It is unknown how many of these complaints resulted in prosecution, but despite the large number of inmates who were tortured and mistreated, the MoI Ombudsman initiated only four investigations that year.

39. Overall, it is unclear how the prison administration was held accountable. On the other hand, 57 inmates were sentenced to additional jail terms of 15 years for “acts of chaos, riots, and rebellion inside (prison) buildings,” including human rights defender Naji Fateel, who did not reportedly participate in the riots. In 2015, Amnesty International reported at least 10 cases where the MoI Ombudsman failed to act promptly on allegations of enforced disappearance from detainees’ families. Some of them later alleged they were subjected to torture and other ill-treatment. In these cases, “the Ombudsman either responded with a very long delay to the relatives who submitted the complaint, responded only after the detainee was later allowed to call their relatives, or responded but ill-treatment or inadequate medical access continued.”

40. In seven other cases, it failed to keep complainants informed about its investigations into their complaints, not adhering to international standards. The MoI Ombudsman has so far demonstrated inability and unwillingness to hold the MoI personnel accountable nor enforce police professional standards, failing to demonstrate independence, impartiality, and effectiveness in carrying out its mandate. The GoB has failed to create an ombudsman institution in accordance with international standards, rendering the recommendations not sincerely implemented.

III. Press and electronic media

41. During Bahrain’s third UPR cycle, the GoB also voluntarily pledged to work on “a new law on the press and the electronic media.”ⁱⁱ First of all, the wording of their commitment is vague. However, in reviewing recent trends in Bahrain’s monitoring of and criminalization of dissent online, it is unlikely that new laws, if any, will fall in line with international human rights norms. Specifically, this submission focuses on the GoB’s criminalization of dissent on social media and use of spyware to target human rights defenders and civil society.

a. Social media

42. During the third UPR cycle, Recommendation 114.98 and 114.104 centered on protect freedom of speech online. Both supported by the GoB, they have not been implemented as Bahrain continues to prosecute individuals who voice their opinions online, such as through social media. Most notably, former BCHR President Nabeel Rajab was sentenced in 2018 to five years’ imprisonment solely for his social media posts in 2015 that accused the Bahraini authorities of torture in Jau Prison and criticized Saudi air strikes on Yemeni civilians.

43. Rajab’s prosecution is part of the GoB’s larger crackdown on social media. In May 2019, the GoB directed its security forces to end the “misuse of social media” and “guarantee an end to electronic accounts harmful to society’s security.”ⁱⁱⁱ On the same day, the MOI announced they were pursuing legal action against owners of “social media accounts that tended to encourage sedition and harm civil peace, social fabric and stability,” even naming two activists-in-exile: Sayed Yusuf Al-Muhafdha and Hasan AbdulNabi (Al- Sitri), living in exile in Germany and Australia respectively. What is more concerning is the MOI further warned that “providing false information from within the country and promoting their messages” would result in legal action as well, joining several authoritarian countries around the world who have used misinformation laws to criminalize opposition speech and dissent. Put simply, the MOI’s threat was a blanket statement that could apply to anybody who either communicates with activists in exile or even re-Tweets their content.

44. In the following weeks, the MOI issued more threats against “harmful” online activity, this time threatening to prosecute individuals for simply following “biased” pages.^{iv} The same day, the MOI’s Cyber Security Directorate disseminated texts to Bahraini residents with the same warning. Bahrain’s crackdown on social media was severe enough that it prompted a reply from Twitter’s global public policy team, who said Bahrain’s actions “poses a significant threat to free expression and journalism.”^v

b. Spyware

45. Even prior to Bahrain's third UPR cycle, the GoB has had a well-documented history of exploiting spyware technologies to target civil society, human rights defenders, political opposition groups, and journalists. Most recently in 2021, the GoB was found to have used NSO Group Technologies' notorious Pegasus spyware to spy on civil society members. Pegasus can be installed onto an individual's mobile phone without their knowledge, allowing the malware's operators to remotely extract the phone's contents. BCHR had confirmed with Amnesty International's Security Lab that at least five of its members have had their devices infected with Pegasus.

46. However, none of the third cycle's themes focus on the abuse of spyware or surveillance against civil society. Thus, it is essential that a spyware clause that protects the targeting of innocent civilians, particularly dissidents, is included in any new electronic media laws that Bahrain passes.

IV. Conclusion

47. In reviewing several of the High Commissioner's priorities following Bahrain's third UPR cycle, we find that none of the recommendations we survey here, including those Bahrain had supported or even voluntarily pledged to, have been successfully and meaningfully implemented. In fact, recent events such as the Pegasus revelations have exposed even greater human rights issues within the themes that Bahrain had supported and voluntarily pledged to, particularly within the realm of press and electronic media.

ⁱ *Letter by the High Commissioner to the Foreign Minister*, 29 September 2017, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session27/BH/BahrainHCLetter.pdf>

ⁱⁱ United Nations Human Rights Council, University Periodic Review Working Group, *National Report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1*, A/HRC/WG.6/27/BHR/1 (13 February 2017)

ⁱⁱⁱ Bahrain News Agency, "HM King Lauds Citizens' Participation in Development, Defending National Security," 20 May 2019, <https://www.bna.bh/en/Royalpraiseofcitizensparticipationindevelopmentdefendingnationalsecurity.aspx?cms=q8FmFJgiscL2fwIzON1%2BDpjSGoSYHdEzMyYJjWz8Nwo%3D>; Amnesty International, "Bahrain: General Stifling of Freedom of Expression on Social Media," 3 July 2019, <https://www.amnesty.org/download/Documents/MDE1115642019ENGLISH.pdf>

^{iv} Ministry of Interior (@moi_bahrain), Twitter Post, 30 May 2019, 19:23, https://twitter.com/moi_bahrain/status/1134148380312178689

^v Twitter Public Policy (@Policy), Twitter Post, 6 June 2019, 17:19, <https://twitter.com/Policy/status/1136653785005285376>