

**Americans for Democracy & Human Rights in Bahrain (ADHRB) and Bahrain Center for Human Rights (BCHR)**

*For consideration at the 27<sup>th</sup> session of the UN working group in April-May 2017*

**22 September 2016**

1. ADHRB and BCHR welcome the opportunity to contribute to the third cycle of the Universal Periodic Review (UPR) of Bahrain. This submission focuses on Bahrain's compliance with its second-cycle recommendations to increase judicial independence and fairness, ensure the protection of due process, and release political prisoners.
2. ADHRB is a non-profit, nongovernmental organization that fosters awareness of and support for democracy and human rights in Bahrain and the Middle East. Among other advocacy programs, ADHRB uses its United Nations (UN) complaint program to work with victims of human rights violations on the ground in the region to document evidence of abuses and submit this evidence to the UN Special Procedures. ADHRB produces reports based on such documentation and on its regional activist network. ADHRB has repeatedly requested permission to formally visit Bahrain in order to consult with official human rights bodies, such as the National Institute for Human Rights (NIHR), but has been so far denied access. As yet, the Government of Bahrain has declined to cooperate with ADHRB on any level.
3. BCHR is a non-profit, nongovernmental 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, BCHR is still functioning after gaining wide local and international support for its struggle to promote human rights in Bahrain. BCHR aims to encourage and support individuals and groups to be proactive in the protection of their own and others' rights; to struggle to promote democracy and human rights in accordance with international norms; to document and report on human rights violations in Bahrain; and to use this documentation for advocacy to influence international policies according to the Universal Declaration of Human Rights.

**Introduction**

4. In its second UPR cycle, the Government of Bahrain fully supported recommendations **115.106 (Slovakia), 115.108 (Germany), 115.115 (Belgium), 111.119 (Ireland), 115.123 (Mauritania), and 115.130 (Netherlands)** concerning the right to due process as well as the independence of the judicial system.<sup>i</sup>
5. The government also fully supported a related set of recommendations, **115.91 (Slovakia), 115.98 (United States of America), 115.100 (Czech Republic), 115.101 (Germany), 115.114 (Austria), 115.116 (Germany), 115.117 (Poland), 115.118 (Ireland), 115.119 (Ireland), 115.122 (Norway), 115.125 (United Kingdom), 115.126 (Australia), and 115.159 (Switzerland)**, concerning the review of convictions against peaceful protestors and the release of political prisoners.<sup>ii</sup>

6. In the four years since, Bahraini authorities have failed to implement that vast majority of these recommendations. The judiciary continues to lack proper independence, the public prosecution has accrued excessive authority, and the criminal justice system as a whole remains reliant on torture and coerced confessions. As a consequence, the government has not only failed to release thousands of political prisoners during the period under review, it has also imprisoned even more individuals for exercising their rights to free expression, assembly, and association.
7. This submission examines the structure of Bahrain's criminal justice system with a particular focus on the judiciary and the public prosecution, highlighting cases of new political prisoners and providing new information on those that have remained incarcerated since the previous UPR cycle. The submission is divided into the following sections:
  - A. Legal Framework and Formal Judicial Structure
  - B. Due Process Violations and Lack of Judicial Independence
  - C. Military Courts and Review of Convictions
  - D. Political Prisoners and Prisoners of Conscience
  - E. Recommendations

#### ***A. Legal Framework and Formal Judicial Structure***

8. The Bahraini judicial system is divided into two main branches: the Civil Law Courts and the Sharia Law Courts. Civil Law pertains to all civil, criminal, and commercial cases, as well as issues of personal status or family law for non-Muslim residents. The Supreme Court of Appeal, or Court of Cassation, serves as the final appellate court for the civil law branch. Sharia Law is subdivided into Sunni and Shia branches, and pertains primarily to personal status or family law. The High Sharia Court of Appeal serves as the final appellate court for the Sharia Law branch. According to Article 24 of the 2002 Judicial Authority Law, the king is empowered to appoint all judges via royal order.<sup>iii</sup>
9. The 2002 Constitution additionally vests jurisdiction in various military courts, with the caveat that such jurisdiction "shall be confined to military offences committed by members of the Bahrain Defence Force, the National Guard, and the Security Forces...[and] does not extend to other person except when martial law is declared and within the bounds prescribed by law."<sup>iv</sup> In 2011, Royal Decree No. 18 established a set of military tribunals, the National Safety Courts (NSC), to try civilians for offenses related to the demonstrations. Although these courts no longer operate and were found to violate international due process standards, many of their decisions still stand (see below).
10. In addition to the Civil, Sharia, and military courts, the government also established two other major judicial bodies: the Supreme Judicial Council and the Constitutional Court. The 2002 Constitution created the Supreme Judicial Council "to supervise the smooth running of work in the courts and their supporting organs."<sup>v</sup> Prior to September 2013, the king served as the chairperson of the Council; however, in 2013, he appointed Salem al-Kawari as the chairperson by royal decree. A year earlier in September 2012, the king issued a royal decree amending the Judicial Authority Law "to give the [Council] control of an independent budget and make its judicial authority independent of all other government ministries and departments."<sup>vi</sup> The Supreme Judicial Council is comprised of seven senior judges and the public prosecutor, the latter of which is also appointed by royal order.

11. The Constitutional Court was similarly established to “watch over the constitutionality of laws and statutes.”<sup>vii</sup> According to the 2002 Constitution, “the Government, Consultative Council, the Chamber of Deputies and notable individuals and others [reserve the right to] challenge before the Court the constitutionality of laws and statutes.”<sup>viii</sup> Unlike the Supreme Judicial Council, the king has never served directly on the Constitutional Court. Instead, as established by royal decree in 2012, the Constitutional Court is composed of a chief justice, a deputy chief, and five other justices, all of whom are appointed to five-year terms by the king.

### ***B. Due Process Violations and the Lack of Judicial Independence***

12. Although the Constitution and the Law of Judicial Authority include language that expressly guarantees judicial independence, the actual structure of the criminal justice system – and especially the Public Prosecution Office (PPO) – ensure that the courts operate primarily as an extension of the monarchy’s executive authority. The king appoints all judges and prosecutors and they serve at his pleasure; while the Law of Judicial Authority technically protects these officials from arbitrary removal, Article 34 (g) also allows for their dismissal for “reasons and according to the procedures set forth in the law.”<sup>ix</sup> As the king has the ultimate power to propose constitutional amendments and promulgate or ratify laws, he is both legally and practically empowered to remove these civil servants at will.
13. Furthermore, the king retains the authority to appoint judges, and they are typically members of the royal family. Relatedly, in a trend that mirrors the foreign recruitment of Bahrain’s security forces,<sup>x</sup> many other judges are foreign contractors. The government frequently hires Egyptian judges on two-year renewable contracts, for example, rendering their job security a function of pleasing their employer, rather than issuing sound rulings. According to the official history of the Bahraini judiciary presented by the Ministry of Justice and Islamic Affairs (MoJ), nearly all prominent civil court judges have been members of the royal family or foreign nationals.<sup>xi</sup> The current Minister of Justice, Shaikh Khalid bin Ali bin Abdullah Al Khalifa, is also a member of the royal family. In 2013, Prime Minister Sheikh Khalifa bin Salman al-Khalifa clearly demonstrated how the close relationship between the monarchy, the judiciary, and the security forces continues to enable the “culture of impunity” identified by the Bahrain Independent Commission of Inquiry (BICI) in 2011:<sup>xii</sup> during a filmed meeting with a police officer whom the courts had recently acquitted of torturing medical professionals, the prime minister stated, “These laws cannot be applied to you. No one can touch this bond. Whoever applies these laws against you is applying them against us. We are one body.”<sup>xiii</sup> A Bahraini lawyer has described the judge who acquitted this police officer as “a soft-spoken man [that] represents the interests of the National Security Agency [a government intelligence body associated with the Ministry of Interior (MoI)] in court.”<sup>xiv</sup> This same judge, Ebrahim al-Zayed, has also issued a past prison sentence for human rights defender and BCHR president Nabeel Rajab, and is reported to currently preside over the government’s case against Sheikh Isa Qassim, Bahrain’s leading Shia cleric.
14. In recent years Bahrain’s judiciary has remained deeply linked to the security forces and the PPO, a tripartite relationship which has facilitated the regular prosecution and conviction of individuals for crimes related to free expression, association, and assembly. The judiciary and the PPO both operate under the MoJ, resulting in very little practical separation between judge and prosecutor. Relatedly, until 2002, what is now the PPO was under the direct supervision of the MoI. This structural history has had a particularly detrimental effect on the ability of the judicial system to function impartially. Even after the 2002 constitution separated the prosecutorial function from

the Mol and placed it under the authority of the MoJ, for example, most of the PPO's staff remained former employees of the security forces. In April 2013, CEARTAS (Irish Lawyers for Human Rights) submitted a complaint to the International Association of Prosecutors (IAP) that urged the expulsion of the head of the PPO, Attorney General Ali bin Fadhul al-Buainain, after an investigation found that he "has and continues to oversee the prosecution of individuals for expressing their political opinions...[And] engaging in political protest... without adherence to their rights to due process and fair procedures."<sup>xv</sup> CEARTAS concluded that "the office of Public Prosecution is not capable of investigating matters of torture, nor is it in a position to investigate impartially."<sup>xvi</sup> The Attorney General maintains authority over not only the country's standard prosecutors but also the Special Investigative Unit (SIU), a subdivision of the PPO tasked with holding government officials accountable for torture and related abuses. Though the SIU claims independence from both the Mol and the broader PPO, five out of eight of the unit's employees are former Mol personnel, and its Chief Public Prosecutor previously worked in the Mol's Criminal Investigative Directorate (CID) and as Deputy Attorney General, under al-Buainian. The SIU is also physically located in the same building as the PPO.

15. Consequently, although Royal Decree 52 amended the Bahraini criminal code to make the PPO explicitly responsible for investigating allegations of torture and other human rights or due process violations, it has almost entirely failed to hold any perpetrators accountable. On the contrary, prosecutors have continued to work closely with the security forces and are often deeply complicit in their abuses. ADHRB and BCHR have documented numerous cases of prosecutors directly collaborating with Mol security personnel during interrogations of arbitrarily detained and/or tortured detainees. BCHR reported in 2014 that the authorities consistently transfer detainees straight from torture sessions at the CID to the PPO and, although torture increasingly occurs at unofficial or secret facilities, this pattern has continued to be borne out by ADHRB's complaint program. ADHRB and BCHR have found that prosecutors routinely subject detainees to additional interrogation at the PPO in order to pressure them into reaffirming whatever confession or testimony they provided under duress at the CID, often using an identical line of questioning as the security forces. If the detainees raise allegations of torture or deny their coerced testimony, the PPO typically sends them back to the CID for further abuse. Since 2011, in addition to ADHRB and BCHR, a wide array of foreign governments and international NGOs have repeatedly found that the PPO generally fails to investigate cases of torture and relies extensively on coerced testimony.<sup>xvii</sup> Judges, likewise, rarely intervene to prevent the PPO from violating a detainee's due process rights, and routinely accept false confessions and testimony as evidence. Moreover, judges often ignore defendants' allegations of torture or other abuses committed by the Mol or the PPO, and have interrupted their attempts to voice these complaints in court. In just 2015, the judiciary convicted dozens of defendants based almost entirely on coerced confessions.
16. Prosecutors also regularly infringe on the right of the accused to unimpeded legal counsel. The law does not require prosecutors to inform detainees of their right to counsel or legal assistance and, if a detainee does request the presence of a lawyer, prosecutors often inform their counsel that they must arrive immediately or the interrogation will proceed without them. In other cases, prosecutors have threatened to send detainees back to the CID upon request for legal assistance. Furthermore, prosecutors routinely rely on coerced confessions or testimony as grounds for charges and as the primary evidence at trial. They just as routinely ignore allegations of torture and mistreatment from detainees and their lawyers.

17. The government has also introduced and later revised broad anti-terror legislation entitled Law 58/2006 Protecting Society from Terrorists Acts to expand the power of the PPO. Under the 2006 legislation and its amendments in 2013 and 2014, the PPO is granted wide discretion regarding the length of detention, for example. The amendments empower the authorities to detain an individual for up to 28 days without charges or investigation and, after this initial pre-trial detention has lapsed, the prosecution has a period of up to three days to interrogate and press official charges against the suspect. When combined with the period of time that the dedicated anti-terror division of the PPO may hold a detainee without trial, a person accused of terrorism may experience up to seven months of pre-trial detention, further violating the rights of detainees to a fair and speedy trial. Moreover, the anti-terror legislation has transferred the power to issue arrest warrants for terror suspects from the judiciary to the PPO. Prosecutors have used this authority to bypass standard procedure and effectively summon individuals at will. In February 2016, for example, the PPO ordered the authorities to bring in Ali Abbas Abu Taki, a six-year-old boy, for interrogation after security forces arrested his 10-year-old brother, Abdullah; Ali revealed to BCHR that the police beat him during the incident.
18. The amendments to the anti-terror legislation have also expanded the judiciary's authority to revoke the citizenship of any individual convicted under its broad and ambiguous definition of terror offenses, which criminalizes many activities related to free expression, assembly, and association. Since 2012, a combination of court rulings and MoI administrative orders have resulted in the denaturalization of at least 330 people. The vast majority of these individuals have been activists, journalists, opposition figures, and other peaceful civil society actors. Most of them are also members of Bahrain's marginalized Shia majority community. Many have been made stateless by the government's decision, and are at risk of deportation. Citing the anti-terror law and Article 10 of the Citizenship Law, which allows for the revocation of citizenship for those who "cause damage to state security," Bahraini courts have made the determination that suspicion of causing "harm to the state" is sufficient grounds for issuing a denaturalization order. This allows for courts to practice wide discretion in issuing citizenship revocation sentences. Individuals who attempt to contest denaturalization orders often have no job and little financial help. In 2012, for example, the government denaturalized human rights lawyer Taimoor Karimi. Without his citizenship, Karimi was not able to legally work in Bahrain and officials confiscated his identification card and prevented him from accessing his bank account. In October 2014, officials ordered Karimi's deportation from the country. Karimi was at risk of deportation for more than a year before courts upheld the decision and deported him to Iraq in June 2016.
19. Together, the PPO and the judiciary have consistently failed to conduct fair trials and guarantee due process rights. Since 2011, the courts have convicted hundreds of citizens on charges relating to free expression and political opinion. Many of those convicted have reported that Bahraini authorities explicitly denied them access to legal assistance, while others reported that their assistance was so impeded as to render it effectively denied. For instance, courts regularly prevent defense attorneys from fully accessing case files, cross-examining witnesses, and calling independent experts to testify. Both judges and prosecutors rarely order investigations into defendant's allegations of torture or allow them to recant coerced confessions. In November 2015, a prosecutor interrupted Ali al-Tajer, the brother of human rights lawyer Mohammed al-Tajer, when he attempted to tell the judge that he was tortured into making a false confession to "joining an illegal terrorist organization." The judge did not object, and the prosecution later rejected medical evidence that demonstrated al-Tajer had been tortured. According to al-Tajer, the prosecutor also threatened him during the trial prior to the arrival of his brother and the rest

of his defense team; the prosecutor additionally threatened to have one of al-Tajer's attorneys removed from court when the attorney told him that he had the right to deny the charges. Al-Tajer remains at the Dry Dock temporary detention facility at time of writing.

20. Similarly, while the Bahraini judicial system moves very slowly when processing criminal cases against activists and political leaders – particularly when the defendant is already in custody – courts have also consistently provided expedited approval for politically-motivated requests from the MoJ. On 17 July 2016, for example, about one month after the authorities suspended the country's largest political opposition group, Al-Wefaq National Islamic Society, a Bahraini court ordered its official dissolution. The government also liquidated the society's assets, seized its headquarters, and blocked its website. Originally, the court had set 6 October 2016 as the commencement of the case to dissolve Al-Wefaq. However, in response to a request by the MoJ, the court moved the trial forward twice. Al-Wefaq's defense team ultimately withdrew from the court proceedings in protest of the government's acceleration of the process, citing their inability to retrieve necessary documents and properly prepare their defense. By 22 September 2016, Bahrain's second High Civil Court of Appeals had confirmed the lower court's verdict to dissolve Al-Wefaq.

### ***C. Military Courts and Review of Convictions***

21. Exacerbating this general lack of judicial independence, the government has also failed to fully prohibit the use of military courts to try civilians. While the authorities have discontinued the NSC, which had jurisdiction over offenses that occurred between February and March 2011, they have not promulgated a law that explicitly bars the government from establishing similar military tribunals in the future. The 2002 constitution protects civilians from trial by military courts under normal circumstances, but it also empowers the king to unilaterally declare one of two states of emergency – a State of National Safety or Martial Law – during which time he is free to create military courts with jurisdiction over the general public. Moreover, while there are no significant legal restrictions on the king's power to declare a state of emergency and institute military tribunals, in practice he also can simply bypass the constitution and institute them at will. In 2011, the NSC not only violated international standards of fair trial, for example, but also the Bahraini constitutional provisions concerning states of emergency because the king only declared a State of National Safety, which does not permit the courts to abrogate constitutional protections for defendants. The BICI concluded that the NSC illegally operated under the wider authority provided by Martial Law, and that the government arbitrarily suspended rights that should have been protected in a State of National Safety.
22. Additionally, in the aftermath of the 2011 unrest, the government did not guarantee new trials for all civilians convicted by the NSC, as recommended by the BICI and the second UPR cycle. Though some NSC cases did ultimately receive retrials in civilian courts per Royal Decree No. 62/2011, these retrials have also failed to meet international standards of due process and transparency due to many of the problems outlined above. In many cases, the standard courts continued the work of the NSC and declined to throw out evidence obtained through torture or under duress. Civilian courts rarely held completely new trials. In the cases of the "Bahrain 13," a group of prominent activists, human rights defenders, and opposition figures convicted by the NSC in 2011, the civilian courts came to the same conclusions as the NSC, based almost entirely on coerced confessions. The 13 consist of blogger and human rights defender Dr. Abduljalil al-

Singace; BCHR cofounder Abdulhadi al-Khawaja; activist Abdulwahab Hussain; Secretary-General of the al-Haq movement Hassan Mushaima; Shia cleric and opposition leader Sheikh Abdulhadi al-Mukhodher; human rights defender Mohammed Hassan Jawad; activist and religious leader Mohammed Habib al-Miqdad; religious leader Sheikh Mirza al-Mahroos; activist and brother of Abdulhadi al-Khawaja, Salah al-Khawaja; Secretary-General of the Wa'ad opposition society, Ibrahim Sharif; political activist Mohammed Ali Ismael; cleric and member of the Al-Wafaa movement, Sheikh Saeed Al-Noori; and founder of the Al-Wafaa movement Sheikh Abduljalil Al-Miqdad. Many of these individuals, including Dr. Abduljalil al-Singace and BCHR cofounder Abdulhadi al-Khawaja – who is specifically named in second-cycle UPR recommendation **115.126 (Australia)** – received life sentences. Both have exhausted the appeals process and are currently serving their terms in Jau Prison, a facility wherein ADHRB and BCHR have documented extensive torture and ill treatment.<sup>xviii</sup> Another 19 verdicts issued by the NSC in 2011 only faced review by a government panel and were not transferred to standard courts for reconsideration.

#### ***D. Political Prisoners and Prisoners of Conscience***

23. The Government of Bahrain currently holds approximately 4,000 political prisoners and it has continued to incarcerate individuals on charges related solely to free expression, assembly, and association. All of the Bahrain 13 remain in prison on charges dating back to 2011, with the exception of Salah al-Khawaja and Ibrahim Sharif, the head of Wa'ad political society. The authorities rearrested the latter in 2015, however, only three weeks after he was initially released. On 24 February 2016, a court sentenced Sharif to one year in prison on charges of “inciting hatred against the regime” in connection with a political speech he delivered. Sharif completed his prison term and was released for a second time on 11 July 2016, but the PPO is now seeking to extend his sentence for the same charges on appeal, putting him at risk of re-arrest.

24. The following are just several representative cases of political prisoners in Bahrain:

- On 2 May 2013, plain clothes security forces arrested Naji Fateel, a prominent human rights defender and co-founder of the Bahrain Youth Society for Human Rights (BYSHR), and held him incommunicado for three days. Several months later, in September, a court sentenced Fateel to 15 years in prison for establishing “a group for the purpose of disabling the constitution.” He is currently serving his sentence in Jau Prison, where he participated in a hunger strike to protest his detention and the treatment of prisoners. During the March 10 riot at Jau, government forces singled out Fateel for physical beatings, even though he did not take part in the unrest. For several weeks after the March 10 events, Fateel’s family was unable to communicate with him. On one occasion when Fateel’s wife tried to visit him in prison, the guards presented her with a note, not in Fateel’s handwriting, stating that he did not want to see her.
- In March 2015, security forces arrested Fadhel Abbas, former Secretary-General of the Al-Wahdawi or Unitary National Democratic Assemblage political society, for allegedly criticizing the Bahraini government’s decision to join the Saudi Arabia-led military coalition in Yemen. A court sentenced Abbas to five years in prison for “spreading false information could harm the military operations of Bahrain and its allies.” Abbas has an appeal hearing scheduled for 26 October 2016. He is currently held at Jau Prison.

- Similarly, the authorities have repeatedly arrested prominent human rights defender and BCHR president Nabeel Rajab since 2011. Most recently, on 13 June 2016, Bahraini security forces surrounded Rajab's home and arrested him on charges related to comments he posted on Twitter the previous year. The tweets discussed torture in Jau Prison and the military intervention led by Saudi Arabia in Yemen. Bahraini authorities had detained Rajab from 2 April 2015 to 13 July 2015 in connection with the same tweets, but did not drop the charges. He now faces an additional charge of spreading "false or malicious news, statements, or rumours" under Article 133 of Bahrain's penal code, which could result in up to 10 years in prison.<sup>xix</sup> Rajab faces another two years imprisonment if convicted of "offending a foreign country [Saudi Arabia]" under Article 215, and another three years if convicted of "offending a statutory body" under Article 21.<sup>xx</sup> After the *New York Times* published a letter written by Rajab in September 2016, the government levied an additional charge of "defaming the state." In total, Rajab could serve as many as 16 years in prison for exercising his right to free expression. Since his most recent arrest, Rajab has been intermittently hospitalized due to deteriorating health conditions. He remains in detention.
- On 14 March 2016, the authorities arrested human rights activist Zainab al-Khawaja along with her 15-month-old son, Abdulhadi, after she was convicted of a number of charges related to free expression and nonviolent dissent. An appeals court upheld a nine-month prison sentence against al-Khawaja in February 2016 for attempting to visit her father, imprisoned human rights defender Abdulhadi al-Khawaja, at Jau Prison in August 2014. Zainab al-Khawaja also had a pending prison sentence of one year and four months for tearing a picture of the king and allegedly insulting a public officer during a peaceful protest. Though the authorities released al-Khawaja with her son on 31 May 2016 – more than two months after Bahrain's foreign minister had announced their impending discharge on humanitarian grounds – she was forced to leave the country for Denmark after Bahraini officials threatened her with re-arrest. Al-Khawaja's sister, Co-Director of the Gulf Center for Human Rights (GCHR) and former acting-president of the BCHR Maryam al-Khawaja, has also been targeted by the government and forced into exile in retaliation for her activism. The al-Khawaja family suspects that the authorities may have timed the latest arrest of Zainab in retaliation against Maryam's recent international advocacy work.
- In May 2016, an appellate court increased the prison sentence against Sheikh Ali Salman, Secretary-General of the now dissolved Al-Wefaq National Islamic Society, from four years to nine years. The court convicted him of "attempting to overthrow the regime," a charge of which he had been previously acquitted. Security forces initially arrested Sheikh Salman on 28 December 2014, just two days after his re-election as Al-Wefaq's Secretary-General. He was arrested after delivering a speech calling for reform of the country's political system. Six months later, on 16 June 2015, the Criminal Court sentenced Sheikh Salman to four years in prison for "publicly inciting hatred, inciting civil disobedience of the law, and insulting public institutions" in his speeches. The judge refused the defense team's request to present supporting evidence, including the recordings of the very speeches for which he was prosecuted. In September 2016, after an activist delivered an oral intervention at the United Nations Human Rights Council on Sheikh Salman's behalf, the authorities summoned him for renewed interrogation; it is unclear if he has yet been



issued additional charges. Sheikh Salman is currently serving out his nine-year prison term.

- Most recently, the authorities rearrested human rights defender and leader of the Women's Petition Committee, Ghada Jamsheer, as she was returning to Bahrain from the United Kingdom on 15 August 2016. The government first arrested Jamsheer in 2014 after officials accused her of defamation for tweets she posted; she was released after spending 10 weeks at Isa Town Detention Center. Twelve hours later, Bahraini forces rearrested Jamsheer and accused her of assaulting a female police officer. Both Jamsheer and her lawyers reject this claim, stating the Bahraini government has yet to produce sufficient evidence. Jamsheer spent the next three months in prison until being released on house arrest in December 2014. In May and June 2015, Bahraini courts handed down a one year suspended sentence for the alleged assault and a one year sentence for the social media comments, respectively. On 21 June 2016, the Second High Criminal Court upheld Jamsheer's one-year sentence on appeal. She is currently detained.

25. The cases listed above represent only a fraction of the recent instances of judicial harassment of individuals for expressing peaceful dissent in Bahrain. Since June 2016, the government has summoned and/or detained more than 60 Shia clerics on charges related to the content of their sermons and their participation in nonviolent demonstrations. The government has charged internationally renowned interfaith leader Sheikh Maytham al-Salman, as well as activist and medic Dr. Taha al-Derazi, with "illegal gathering" for participating in a peaceful sit-in at the village of Diraz, for example. The demonstration was sparked by the government's decision to denaturalize and prosecute Sheikh Isa Qassim, the country's most prominent Shia religious leader, on charges related to the Shia religious practice of collecting and distributing charity, known as *khums*. Sheikh Qassim has also been an outspoken critic of the government and advocate for reform. In a move reminiscent of the suppression of the 2011 pro-democracy movement, Bahraini authorities have also recently arrested demonstrators after pro-government supporters have posted images of them taking part in the sit-in online, such as in the case of Ali Abdullaheem, an official at the state Labour Market Regulatory Authority (LMRA).

### ***E. Conclusion and Recommendations***

26. Ultimately, the Bahraini government has entirely failed to increase judicial independence, institute greater protections for due process, or ensure trials are conducted in accordance with international standards. On the contrary, the judiciary and the prosecution have continued to cooperate in order to secure convictions of activists, human rights defenders, and opposition figures on charges related to their free expression. Rather than address previous allegations of torture, politically-motivated charges, and unfair trials, the judiciary remains deeply reliant on coerced confessions and testimony provided under duress. Moreover, the government has failed to preclude the establishment of future military courts to try civilians, and it has additionally failed to appropriately review convictions issued by the NSC. Instead, it has refused to release hundreds of political prisoners and has continued to incarcerate individuals for exercising their rights to free expression and assembly. To address these critical deficiencies and fully implement the second-cycle UPR recommendations concerning judicial independence and due process, the Government of Bahrain should:

- Take measures to guarantee the independence of the judiciary, such as formally limiting the king's *de facto* authority to appoint and remove judges at will;
- Require both judges and prosecutors to initiate investigations into all allegations of torture or coercion, and to suspend relevant trials until said investigations have been properly resolved;
- Mandate that judges reject all confessions or testimony determined to have been obtained through torture or provided under duress;
- Take measures to increase the independence of the SIU, such as separating it from the PPO;
- Repeal the anti-terror legislation to limit the PPO's excessive summoning and detention authority, among other undue powers, as well as to prevent its usage as a means to criminalize acts of free expression;
- Investigate collusion between the PPO, the SIU, the Mol, and the judiciary; in particular, investigate the leadership of these institutions for malfeasance;
- Release immediately all political prisoners and prisoners of conscience;
- Reinstatement of Al-Wafaq National Islamic Society and other wrongfully dissolved political and civil society organizations.

## Endnotes

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- i *Kingdom of Bahrain: Universal Periodic Review Interim Report*, Kingdom of Bahrain, September 2014, <http://www.upr.bh/index.php/progress-report-2014/>
- ii Ibid.
- iii Law of the Judicial Authority, Ministry of Justice and Islamic Affairs, Kingdom of Bahrain, 2002, [http://www.moj.gov.bh/en/Print\\_p6f7c.html?printid=977](http://www.moj.gov.bh/en/Print_p6f7c.html?printid=977)
- iv Constitution of the Kingdom of Bahrain, 14 February 2002, <http://www.wipo.int/wipolex/en/details.jsp?id=7264>
- v Ibid.
- vi *Behind the Rhetoric: Human Rights Abuses in Bahrain Continue Unabated*, Amnesty International, 16 April 2015, <https://www.amnesty.org/en/documents/mde11/1396/2015/en/>
- vii Constitution of the Kingdom of Bahrain, 14 February 2002, <http://www.wipo.int/wipolex/en/details.jsp?id=7264>
- viii Ibid.
- ix Law of the Judicial Authority, Ministry of Justice and Islamic Affairs, Kingdom of Bahrain, 2002, [http://www.moj.gov.bh/en/Print\\_p6f7c.html?printid=977](http://www.moj.gov.bh/en/Print_p6f7c.html?printid=977)
- x For more information, see: *Shattering the Façade: A Report on Bahrain's Implementation of the BICI Recommendations Four Years On*, ADHRB, BCHR, and BIRD, 16 November 2015, <http://www.adhrb.org/2015/11/shattering-the-facade-a-report-on-bahrains-implementation-of-the-bahrain-independent-commission-of-inquiry-bici-four-years-on/>
- xi "History of the Judiciary," Ministry of Justice and Islamic Affairs, Kingdom of Bahrain, 2011, [http://www.moj.gov.bh/en/Print\\_pfaf5.html?printid=642](http://www.moj.gov.bh/en/Print_pfaf5.html?printid=642)
- xii Mahmoud Cherif Bassiouni, Nigel Rodley, Badria al-Awadhi, Phillippe Kirsch, and Mahnoush Arsanjani, *Report of the Bahrain Independent Commission of Inquiry*, Bahrain Independent Commission of Inquiry, <http://www.bici.org.bh/BICIreportEN.pdf>
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