



**ARTICLE 19 and the Bahrain Institute for Rights and Democracy (BIRD)  
Joint Submission for the UPR of Bahrain**

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

**4 October 2016**

**Introduction**

1. ARTICLE 19 and the Bahrain Institute for Rights and Democracy (BIRD) welcome the opportunity to contribute to the third cycle of the Universal Periodic Review (UPR) of Bahrain. This submission focuses on compliance with international human rights obligations with respect to freedom of expression, freedom of assembly and freedom of association.
2. The submission addresses:
  - Legal framework for freedom of expression;
  - Restrictions on media;
  - Restrictions on freedom of assembly;
  - Restrictions on freedom of association and the right to participate in public and political life;
  - Harassment of Human Rights Defenders (HRDs), journalists, and political opposition.
3. Little progress has been made in the implementation of recommendations accepted in the last UPR. The situation has further deteriorated. A renewed campaign of repression and harassment against critical voices since June 2016 significantly undermines the enjoyment of civil and political rights.
4. Despite stating in its midterm report that Bahrain is “keen on cooperating with Special Procedures mandate holders”, none have been allowed to enter the country since 2006.<sup>1</sup> Seven procedures, on torture, expression, assembly and association, human rights defenders, extreme poverty, migrants, and arbitrary detention, have outstanding visit requests since 2011.
5. The right to freedom of expression is guaranteed under Article 23 of Bahrain’s Constitution (2002). However, it contains overly broad restrictions that do not correspond with the exhaustive list of legitimate aims outlined in Article 19(3) of the ICCPR, stating that “everyone has the right to express his opinion... provided that the fundamental beliefs of Islamic doctrine are not infringed, the unity of the people is not prejudiced, and discord or sectarianism is not aroused.” The constitutional framework therefore illegitimately permits laws that grant excessive discretion to the authorities to suppress expression.
6. In its 2014 mid-term report, Bahrain stated that it had introduced a number of legislative reforms in order to ensure “that any restrictions on civil and political rights are necessary, minimal and comply with ICCPR

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<sup>1</sup> Bahrain’s 2014 midterm report, recommendation 115.60, p. 33.

standards.”<sup>2</sup> However, rather than undertaking comprehensive reforms to ensure the compliance with the ICCPR, only minor amendments were made to Articles in the Penal Code related to broadcasting false news and publishing false documents (Articles 168-9). Despite commitments during the last UPR to reform, problematic laws remain in force and have been amended since to increase restrictions.

#### 7. **ARTICLE 19 and BIRD recommend:**

- Comprehensive, transparent and time bound review to reform all legislation affecting the right to freedom of expression, with the full and effective participation of all stakeholders including civil society, in order to bring laws into compliance with the ICCPR.
- Accept all outstanding visit requests of special procedures, and to cooperate fully with special procedures to ensure the visits take place.

#### **Restrictions on media**

8. The print media consists of five major Arabic-language daily newspapers. Of these, four are strongly pro-government and are owned by figures associated with the government. The exception is *Al-Wasat*, established 2002 during a period of reforms in the early 2000s, which takes a critical editorial line and is financially independent of the state. It has been subject to repeated state harassment. In the current climate, it is virtually impossible for other independent newspapers to establish or enter the market.
9. Media regulation is not conducted by bodies independent of the government, and does not distinguish between different types of media. The Ministry of Information Affairs (MIA) regulates the media, and there is an overlap in staff members between this Ministry, the Ministry of Interior (MOI), and the National Security Agency. The current Minister of Information Affairs, Ali Al-Rumaihi, previously worked in the MOI.
10. The MIA and the MOI actively monitor and censor the media, with close supervision over print, online, and broadcast sectors. If they disagree with a news report, journalists and editors are contacted to either remove the article or change its content, restricting the freedom of journalists to practice investigative journalism or challenge government policy. Journalists self-censor, avoiding offending the government aware that critical reports will be censored or there will be legal repercussions. Journalists have reported retaliations under the Penal Code where they have not reported favourably on the government:
  - In August 2015, ***Al-Wasat*** newspaper was closed for two days, allegedly because the paper had not used the term “martyrs” in a report on Bahraini military casualties in Yemen.
  - In February 2015, ***Al-Arab TV*** was suspended indefinitely, just hours after its launch. The suspension followed the broadcast of a live interview with Khalil Marzooq, Deputy Secretary-General of the largest political opposition society *Al-Wefaq*, regarding the January 2015 MOI decision to revoke 72 persons of their citizenship.
11. The Press Law (Decree 47/2002) has not been brought into compliance with international human rights obligations, as had been recommended during the previous UPR. In its midterm report, Bahrain claimed that a draft media law was in the “final stages of debate”, however the draft was never published. In May 2016, the MIA announced that a new draft media law was under development. This has not been published and there are no plans to ensure public participation in its development.
12. Articles 68-71 of the Press Law (Decree 47/2002) criminalise a range of expression, including criticism of the King, the regime, Islam and other Arab and Muslim countries. These laws overlap with articles of the

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<sup>2</sup> Bahrain’s 2014 midterm report, recommendation 115.21, p.12.

Penal Code, with the Penal Code's punishments taking precedence. There is no justification under Article 19(3) of the ICCPR for a separate regime of criminal liability for the media; they duplicate laws of general application that may be used to specifically intimidate media. Moreover, laws to protect heads of state from criticism, or religions or beliefs *per se* from criticism, do not comply with the requirements of Article 19(3) ICCPR and should be repealed.<sup>3</sup>

13. Article 88 of the Press Law restricts all foreign correspondents from working without an annually-renewed license issued by the MIA, which can be refused for those reporting critically on government policy. It is against international freedom of expression standards to require licenses for journalists, as such systems often lead to political interference in the media.<sup>4</sup>
  - In July 2016, the MIA brought a civil case against **Nazeeha Saeed**, media freedoms activist and correspondent for France24 and Radio Monte Carlo Doualiya, for working illegally as a foreign correspondent. Saeed's annual license had expired at the end of March 2016. She applied for renewal immediately and was rejected, but continued to report. Further, in May 2011, Saeed was tortured in police custody and forced to sign a confession which she had not read.<sup>5</sup>
14. On 14 July 2016, the MIA issued Ministerial Decision 68/2016, Article 5 of which prohibits live streaming and the publication of videos longer than 120 seconds. The decree also requires online news outlets to obtain an annual license from the MIA, under which they must disclose the names of journalists responsible for video content, putting individual journalists at further risk of prosecution or harassment by the state over video content. International standards are clear that online media should not be subject to specific or heightened content regulations, including of video content.
15. **ARTICLE 19 and BIRD recommend:**
  - Repeal the Press Law (Decree 47/2002) and Decree 68/2016 on live streaming and publication of videos;
  - Cease the practice of forced closure or suspension of media outlets, and end license requirements for individual journalists;
  - Develop and enact the draft media law with full and effective participation of all concerned stakeholders, including to establish independent regulatory bodies for the media in compliance with international human rights law.

### **Freedom of peaceful assembly**

16. Freedom of peaceful assembly has been more severely limited since 2011, and legislative restrictions have increased since the last UPR. Assemblies remain extensively controlled and subject to criminal penalties under Articles 178 and 180 of the Penal Code, Law 18/1973 on Public Meetings, Processions and Gatherings and its amendments under Law 32/2006 and Law 22/2013.
17. Restrictions on assembly are broadly defined, are neither necessary nor proportionate to a legitimate aim, and are therefore open to abuse. Given the serious problems with the laws governing assembly, small improvements introduced in Law 32/2006, including an amendment giving organisers the right to dispute a prohibition of their assembly, are not enough. Improvements are far outweighed by increased restrictions: Law 32/2006 introduces harsher penalties than under the 1973 law, with the punishment for organisers who carry out a prohibited or un-notified assembly increased from three months' imprisonment and/or a

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<sup>3</sup> Human Rights Committee, General Comment No. 34, 12 September 2011, CCPR/C/GC/34, at paras. 38, 48 and 30.

<sup>4</sup> 2003 JOINT DECLARATION, *op. cit.*

<sup>5</sup> Human Rights Watch, *Criminalizing Dissent, Entrenching Impunity*, 2014, <https://www.hrw.org/report/2014/05/28/criminalizing-dissent-entrenching-impunity/persistent-failures-bahraini-justice>.

100 dinar fine (Article 13, Law 18/1973) to six months' imprisonment and/or a 100 dinar fine (Article 13, Law 32/2006).

18. Legislation that restricts freedom of peaceful assembly is broadly defined, allowing the criminalisation of peaceful assemblies and arbitrary application of the law. Article 178 of the Penal Code criminalises gatherings of more than five people with the *intention* to commit a crime or infringe public order, without defining public order nor clarifying how the intention of those assembling will be ascertained.
19. Article 8, Law 18/1973 gives the Director-General of the police broad discretionary powers to determine that a gathering is to be considered a public assembly, and therefore requires official notification. The size of the gathering and its public or private location do not need to be considered.
20. Despite minor amendments introduced with Law 32/2006, outlining some circumstances where a gathering may be considered a private assembly (Article 8(1-3)), the law still allows the prohibition of a broad range of assemblies.
21. Bahrain claims to adhere to the “internationally accepted rule of prior notification to relevant authorities (not prior permission).”<sup>6</sup> However, in practice, the notification system works as a system of authorisation. Any assembly that has not been notified can be prohibited (Article 4, Law 18/1973). Assemblies that do comply with the notification requirements can also be prohibited on multiple vague grounds which could cover almost any circumstance, where the objective of the assembly could cause the infringement of public security, public morals or “any other circumstances related to the time and the place, or any other dangerous reason” (Article 4, Law 18/1978). Furthermore, if the notification does not meet any of the restrictive requirements outlined in the law, the notification is considered invalid (Article 3c of 32/2006) and the assembly therefore unlawful if it goes ahead.
22. Where notice is accepted, Articles 5 and 11 of Law 32/2006 allow the imposition of additional blanket restrictions on their time and location. Notified assemblies can only take place in designated public areas and from sunrise to sunset, except by special written permission from the Director-General of the police.
23. In July 2013, Bahrain adopted Law 22/2013, imposing a blanket ban on all protests in the capital, Manama, with the exception of sit-ins in front of state organs if written permission is provided.
24. Article 180 of the Penal Code employs broad undefined terms and gives discretionary powers to the police to disperse assemblies, allowing any police officer to order the dispersal of a group of five or more people gathering with the *intention* of rioting, leaving the determination of the intentions at the discretion of any police officer. Anyone who remains in place after a dispersal order is liable for imprisonment, however Article 180 leaves the duration of imprisonment undefined. A permitted public assembly can also be dissolved if speech during the assembly differs from the notified purpose of the assembly (Article 7, Law 18/1973), if the assembly interferes with public security or infringes on the right of free movement in the streets or public squares (Article 12, Law 18/1973).
25. The combination of discretionary powers, broad definitions, restrictive notification requirements and criminal penalties for participating in an un-notified, incorrectly notified or prohibited assembly (Article 13, Law 32/2006), even where the assembly remains peaceful, allow for arbitrary application of the law and for any gathering to be criminalised. There are no provisions to ensure the protection of rights in the context of assemblies.

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<sup>6</sup> Bahrain's midterm report rec. 115.26, p. 14.

26. Duraz village has been subjected to a physical and internet blockade since 20 June 2016, when peaceful protests began against an MOI order for the citizenship revocation of prominent cleric Sheikh Isa Qasim. Authorities have attempted to limit participation in the assembly by threatening protesters and restricting access to the village. Security forces closed most entrances to Duraz and control traffic flow through checkpoints. It can take an hour to enter, and only residents with Duraz addresses on their official IDs are allowed entry. As well as disrupting potential protests, the blockade has disrupted day-to-day life and commerce. The three main internet service providers restrict Internet access in Duraz every evening, between approximately 7 P.M. and 1 A.M., since the beginning of the sit-in. This raises concerns that the government is attempting to frustrate the organising of protests and restrict the free flow of information. The ISPs attribute the continuing blackouts to technical problems.
- **Dr Taha Al-Derazi** and **Sheikh Maytham Al-Salman** were interrogated for 12 hours on 14 August 2016 and charged the next day with “illegal assembly” for their participation in the un-notified sit-in protest in Duraz.
  - **Sheikh Ali Humaidan, Sheikh Muneer Al-Matooq, Sheikh Ali Al-Hamali, Sayed Yaseen Al-Musawi, Sheikh Emad Al-Shoala** and **Sheikh Aziz Al-Khadran** have been convicted of “illegal assembly” for their participation in the Duraz sit-in and sentenced to one year’s imprisonment in August and September 2016. **Sheikh Majeed Al-Mesha’al**, head of the dissolved Ulema Council, received two years’ imprisonment. These cases indicate the targeting of Shia clerics who participate in protests.
27. On almost every point, the legal framework for managing peaceful assemblies does not comply with the recent joint guidance of the UN special rapporteurs on freedom of peaceful assembly and of association and on arbitrary or summary executions.<sup>7</sup>
28. In practice, a broad range of laws are used to prevent the peaceful expression of political opposition through protests, including the Penal Code, the legislation governing assemblies and anti-terrorism laws. HRDs and activists, civil society, Shi’a religious figures and journalists continue to be targeted, arbitrarily detained and, in extreme cases, subjected to torture for participating in “illegal assemblies”.
- **Ahmed Al-Fardan**, photojournalist, was arrested on 26 December 2013 at his home in Abu Saiba, held in custody for 14 days and accused of participating in an “illegal assembly” two weeks earlier. Al-Fardan told officers that he attended protests in a professional capacity as a journalist. After being tortured he was forced to confess and was sentenced in 2015 to three months’ imprisonment. On 3 February 2016, the Court of Appeals upheld his sentence.
  - **Sayed Ahmed Al-Mousawi**, photojournalist, was arrested without a warrant on 10 February 2014 after he covered a series of demonstrations in early 2014, and was allegedly tortured while in detention. On 23 November 2015 he was charged under the anti-terrorism law for allegedly giving SIM cards to “terrorist” demonstrators. He was sentenced to 10 years’ imprisonment and had his citizenship revoked.
29. **ARTICLE 19 and BIRD recommend:**
- Repeal Laws 18/1973, 32/2006 and 22/2013, and Articles 178 and 180 of the Penal Code;
  - Develop a new law to protect and promote the right to peaceful assembly in accordance with the ICCPR, with full and effective public participation, and with a national action plan for its implementation in line with the UN Special Rapporteurs’ Practical Recommendations for the Proper Management of Assemblies;

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<sup>7</sup> Practical Recommendations for the Management of Assemblies, A/HRC/31/66, March 2016; available at: <http://freeassembly.net/reports/managing-assemblies/>.

- Unconditionally release and quash the convictions of those arrested and detained for exercising their freedom of peaceful assembly rights, including Ahmed Al-Fardan, Sayed Ahmed Al-Mousawi and all other persons prosecuted for protesting in Duraz.

### **Restrictions on freedom of association and the right to participate in public and political life**

30. In the last UPR, Bahrain accepted four recommendations related to freedom of association.<sup>8</sup> However, freedom of association and the right to participate in public and political life are still severely restricted.
31. The Law on Political Societies (Law 26/2005) created the legal basis for the existence of political societies, which function similarly to political parties. The law prohibits societies which contradict *Sharia* law or Bahrain's system of government. Amendments to Article 5, Law 26/2005 in June 2016, which forbids religious leaders from being members of political societies, disproportionately affects and appears to target the largest opposition society, *Al-Wefaq*, which has a number of prominent Shi'a religious figures as leaders and members.
32. Alongside new restrictive legislative amendments, opposition political societies and their leaders face closure and imprisonment, in contravention of Articles 22 and 25 of the ICCPR.
- On 14 June 2016, *Al-Wefaq* – whose candidates won over 60% of the vote in 2010 elections – was arbitrarily suspended by the Ministry of Justice and then dissolved on 17 July by the High Civil Court. An appeal against the dissolution was rejected on 22 September 2016. The court proceedings were marked by a lack of due process, with the defense team prevented access to the society's headquarters prior to the hearing. A group of UN experts, including the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on freedom of peaceful assembly and of association, condemned the decision to dissolve *Al-Wefaq*.<sup>9</sup> *Al-Wefaq* was accused of expressing "solidarity with suspects convicted of instigating hatred of the political regime," "calling for a coup d'état and demeaning the judiciary and executive bodies," and calling for "demonstrations and sit-ins that could lead to sectarian strife in the country", citing examples of peaceful expression criticising the government. They were also accused of allegedly supporting violence in a series of Twitter posts in 2015, but the court presented no credible reasoning on how the statements incited violence. *Al-Wefaq's* official statements on their website condemn the use of violence and call for the continuation of their peaceful political struggle.<sup>10</sup>
  - Leading *Al-Wefaq* figures are now in prison or under prosecution in separate cases, but all related to accusations of inciting hatred, promoting sectarianism or encouraging the overthrow of the regime. In May 2016, an appeal court increased the sentence of **Sheikh Ali Salman**, Secretary-General of *Al-Wefaq*, from four to nine years.

### **33. ARTICLE 19 and BIRD recommend:**

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<sup>8</sup> 115.24 Align the national legislation on freedom of expression, association and assembly with country's international HR obligations (Slovakia); 115.27 Amend any article of its Penal Code that can be used to prosecute individuals for the exercise of the rights to freedom of expression, peaceful assembly or association, and bring its laws into line with international standards established by the International Covenant for Civil and Political Rights (Ireland); 115.99 Reinstate all employees and students dismissed following the events of February and March 2011 whose political activities were consistent with the right to freedom of peaceful assembly and of association, and amend Law 21/1989 and Law 32/2006 on public gathering to bring their provisions into compliance with article 21 and 22 of ICCPR, and develop an enabling legal environment for civil society to flourish (Canada); 115.140 That the necessary measures are implemented to guarantee freedoms of expression, association and peaceful assembly (Japan).

<sup>9</sup> Bahrain authorities must end 'systematic harassment' of Shia population - UN rights experts, 16 August 2016,

<http://www.un.org/apps/news/story.asp?NewsID=54690>.

<sup>10</sup> *Al-Wefaq, Al-Wefaq: Violence is Unaccepted, Alien to the Popular Movement*, 28 July 2015,

<http://alwefaq.net/cms/en/2015/07/28/44797/>.

- Amend Law 26/2005, bringing it into compliance with Articles 22(2) and 25 of the ICCPR, in particular removing restrictions on societies which contradict Sharia law or the system of government and repeal amendments forbidding religious leaders from being members of political societies;
- Reverse the court decision dissolving *Al-Wefaq*, allowing it to be reestablished as a legal political society, and unconditionally release and quash the politically motivated conviction Sheikh Ali Salman and all other prisoners of conscience.

### Harassment of HRDs, political opposition, and Shi'a religious leaders

34. In the last UPR, Bahrain accepted three recommendations related to the harassment of HRDs.<sup>11</sup> However, restrictive laws, many of which do not comply with international human rights law, are still being implemented selectively to harass HRDs, opposition politicians, and religious leaders, thereby silencing all criticism of the government. This harassment has significantly increased in recent months.
35. BIRD has recorded frequent incidents of arrests of HRDs, opposition politicians, and Shi'a religious leaders on unknown charges, cases where the charges appear to be fabricated in order to silence critical individuals, and incidences of arbitrary detention with torture or ill-treatment and harsh prison sentences. Frequently individuals are prosecuted multiple times under different legal provisions and subject to travel bans, amounting to judicial harassment.

### Incitement and "hate speech"

36. Article 165 of Bahrain's Penal Code provides for imprisonment for incitement "to hatred or hostility towards the system of government". This provision is not consistent with Article 19(3) or 20(2) of the ICCPR and enables the government to use the criminal law to insulate itself against criticism, rather than protect individuals from incitement to discriminatory violence. This provision has been used selectively to prosecute political opposition and disproportionately affects members of the Shi'a community, Shi'a politicians and community leaders. Despite complaints by members of the Shi'a community that statements which could amount to incitement to violence against Shi'a individuals or political opposition are regularly broadcast on television or expressed by government officials, to our knowledge there have been no investigations or prosecutions of incitement to violence against them.
- **Sheikh Maytham Al-Salman**, internationally known HRD and interfaith activist has been repeatedly targeted by the authorities: in 2011, security forces arrested and subjected him to torture; he was summoned and interrogated in August 2015, January 2016 and March 2016 in relation to his expression. On 6 January 2016 he was charged with "inciting hatred against the regime" and "expressing views on an ongoing trial with the intent to change public opinion."<sup>12</sup> In March he was charged with insulting religious figures, under Article 309 of the Penal Code, for a sermon delivered in November 2015. He was also arrested on 14 August 2016 and charged with illegal assembly for participating in the Duraz sit-in and released from custody the following day. He has been under a travel ban since August 2015.
  - **Ebrahim Sharif**, former Secretary-General of the National Democratic Action Society, *Wa'ad*, was arrested in July 2015 after giving a political speech. In his speech, Sharif reiterated his peaceful calls for reform, an end to discrimination, and for the opposition to continue its peaceful reform movement. Sharif was charged with inciting hatred against the regime and promoting forceful change of the

<sup>11</sup> 115.158 Cease all intimidation or repression against human rights defenders, journalists and Non-Governmental Organisations (Spain); 115.150 Abandon any restriction or obstacle to the work of persons and institutions engaged in the protection and promotion of human rights (Switzerland); 115.1466 That human rights defenders must be protected and allowed to conduct their work without hindrance, intimidation or harassment (Norway).

<sup>12</sup> Analysis of charges against Maytham Al Salman - Global Freedom of Expression: Columbia University, 11 February, 2016, available here: <https://www.article19.org/resources.php/resource/38259/en/bahrain:-analysis-of-charges-against-sheikh-maytham-al-salman>

political system. On 24 February 2016, he was found guilty of the former and acquitted of the latter and sentenced to one year imprisonment. Sharif was released from prison in July 2016. The prosecution is currently appealing to reverse his acquittal.

- **Sheikh Ali Salman**, Secretary-General of Al-Wefaq was arrested on 28 December 2014 and charged with “publicly inciting hatred, inciting civil disobedience of the law, and insulting public institutions”. On 16 June 2015 he was sentenced to four years imprisonment. Defense lawyers were not allowed to present evidence at the trial. On 30 May 2016, he was convicted of promoting forceful change of the political system which doubled his sentence to nine years imprisonment.

### **Criminal defamation and insult**

37. Bahrain accepted recommendations during its last UPR to decriminalise defamation and align legislation with international human rights obligations on freedom of expression.<sup>13</sup> However, it remains a crime to insult the King, flags or symbols of Bahrain (Article 214, Penal Code) or the leaders, representatives, flags and symbols of foreign governments (Article 215, Penal Code), or to offend the National Assembly, the army, courts, or government agencies (Article 216, Penal Code). International freedom of expression standards are clear that such criminal offences are inconsistent with Article 19 ICCPR.

- **Maryam Al-Khawaja**, the Acting President of Bahrain Centre for Human Rights and Co-Director of the Gulf Centre for Human Rights, was sentenced *in absentia* in December 2014 to one year’s imprisonment for assaulting two police officers. Al-Khawaja was previously arrested on 30 August 2014 and charged with insulting the King, entering Bahrain illegally and assaulting two police women. She left the country when she was released on bail and then was sentenced in absentia on 18 September 2014.
- **Zainab Al-Khawaja**, HRD and sister of Maryam Al-Khawaja, was arrested on 14 March 2016, to begin serving a 37-month prison sentence on several charges, including under Article 214 of the Penal Code for insulting Bahrain’s King when she ripped up his photo during a court hearing. She was released two weeks later due to international pressure, although the charges still stand, and was forced into exile after receiving threats. Al-Khawaja has been detained several times since 2011 and has had over 13 cases brought against her, including for “destroying public property” for ripping up a picture of the King at Budaiyah police station and “insulting a public official.”

38. Social media users are regularly prosecuted on charges of defamation or incitement on social media. As a result, activists and journalists have reported that they avoid using social media, in fear of incrimination.

- **Ghada Jamsheer**, women’s HRD, was detained upon arrival in Manama on 15 August 2016 after a court of appeal upheld her one-year sentence on 22 June 2016 for assaulting a police officer while in detention in 2014. Jamsheer had been arrested in September 2014 and detained for three months, on allegations of defamation in connection with her comments on Twitter suggesting corruption at King Hamad Hospital (which is run by the ruling family). She was released on 2 December 2014 and then rearrested 12 hours later on new allegations of assaulting a police officer. In addition to approximately twelve criminal cases against her between September 2014 and June 2015, her online blog has been blocked in Bahrain since 2009.
- **Nabeel Rajab**, President of the Bahrain Center for Human Rights, is due to be sentenced on 6 October 2016 for charges of spreading “false or malicious news, statements, or rumours” during wartime, “offending a foreign country” and “offending a public institution” under Articles 133, 215 and 216 of the Penal Code. The charges relate to comments made on Twitter in 2015 documenting allegations of torture at the Central Jau Prison and criticizing the Saudi coalition war in Yemen. He faces up to fifteen

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<sup>13</sup> 115.153 Amend the Penal Code to remove all criminal penalties for alleged libel offences and the press law to bring its provisions into compliance with article 19 of ICCPR (Canada); 115.25 Adopt as soon as possible a legislative framework on freedom of expression, including access to internet, to decriminalize defamation and slander as crimes (Mexico).



years' imprisonment. Rajab has been banned from travel since November 2014. He was most recently detained on 13 June 2016 and charged with "publishing and broadcasting false news that undermines the prestige of the state," in a separate case relating to three televised interviews in 2015 and 2016 in which he discussed the human rights situation and violations committed by security forces.

### **Anti-terrorism legislation and citizenship revocation**

39. The Law on Protecting Society from Terrorist Acts (Law 58/2006, hereinafter "the anti-terrorism law"), as amended, is used to target HRDs and government critics.
40. The definition of terrorism under Article 1 covers a broad range of crimes and motives enabling non-violent acts including legitimate expression to be considered "terrorism". Establishing and using an association for inciting any of the crimes listed in the law is an offence (Article 9) as well as advocacy for terrorism, or holding materials advocating terrorism (Article 12). This potentially captures many forms of legitimate political activity.
41. Amendments in 2014 allow for detention without charge or investigation renewable for 28-day periods for up to six months (Articles 26-27, Decree Law 68/2014). Detained individuals are often denied their right to contact their family and lawyer, and may be interrogated, presented to the prosecution and even go to trial without a lawyer. During long periods of pretrial detention, many suspects and victims of arbitrary arrests are allegedly subjected to ill-treatment, torture and coerced to confess to pre-prepared charges.
42. Citizenship revocation and deportation, frequently resulting in statelessness, are used to suppress dissent and target HRDs. A 2013 amendment to Article 24 of the anti-terrorism law allows persons found guilty under its Articles 5, 9, 12 and 17 to be stripped of citizenship, in addition to imprisonment. A 2014 amendment to Article 10 the 1963 Citizenship Law empowers the Minister of Interior to strip the citizenship of anyone "harming the interest of the state or acting disloyally". This put in legislation a pre-existing practice, giving the MOI the authority to strip the citizenship of anyone deemed a "national security threat". Over 330 individuals have been stripped of nationality in Bahrain. Of those cases, 292 are members of the Shi'a community and include opposition figures, journalists and HRDs. The deprivation of nationality that does not serve a legitimate aim, is disproportionate, arbitrary and therefore prohibited by international law. Deprivation of citizenship that renders the individual stateless is also prohibited by Article 8 of the *Convention on the Reduction of Statelessness* and has been recognised as a norm of customary international law.
  - **Sheikh Isa Qassim**, the spiritual leader of Bahrain's Shi'a population, was rendered stateless on 20 June 2016 after his citizenship was revoked and now faces deportation. Also in June, the state brought charges of "money laundering" against him. The charges relate to the practice of *Khums*, a religious donation which Shia Muslims make to a cleric, who redistributes it to charitable and religious causes. A statement from the Ministry also accused him of inciting violence. Sheikh Qassim is a vocal opponent of the government. In response to the revocation of his citizenship, hundreds of demonstrators began a peaceful sit-in around his home in the village of Duraz, which continues to the date of this submission.
43. Mass citizenship revocation acts as a powerful intimidation tactic, with peaceful advocates and those accused of joining terrorist groups such as ISIL or Al Qaeda included in the same case.
  - On 31 January 2015, the MOI revoked the citizenship of 72 individuals, including HRDs, journalists, doctors, religious figures and political activists, rendering many of them stateless. The names of were published online on the Bahrain News Agency website, and included among the activists approximately 20 persons allegedly affiliated with terrorist group ISIL. The Ministry declared that the

revocations were the result of a number of alleged “illegal acts”, however due process was not followed as none faced formal charges or brought to court. Among those named in the lists are **Sayed Ahmed Alwadaei**, BIRD’s Director of Advocacy; **Ali Abdulemam**, a member of rights group Bahrain Watch; **Dr. Ali Al-Dairi**, founder of the online news site Bahrain Mirror; journalist **Abbas Busafwan**; university professor **Masoud Jahromi**; former opposition MP **Shaikh Hasan Sultan**; and Shi’a cleric **Sheikh Mohammad Hasan Ali Husain Khojasta**.

## Travel bans

44. Since June 2016, there has been an escalation in travel ban orders, with over 20 incidents documented by BIRD. These bans are imposed on journalists, activists and civil society and curtail their activities. Travel bans are rarely announced unless part of a court order, and those affected usually do not find out until they attempt to travel.

- Twenty-four human rights activists and civil society members were given travel bans between June and August 2016, preventing them from attending the 32<sup>nd</sup> and 33<sup>rd</sup> UN Human Rights Council and other international events. Individuals included Bahrain Center for Human Rights member **Hussain Radhi**, lawyer **Mohammad Al-Tajer**, and campaigner **Ebrahim Al-Demistani**.

## 63. ARTICLE 19 and BIRD recommend:

- Repeal Article 165 of the Penal Code regarding “incitement to hatred against the system of government”, ensuring any new prohibition on advocacy of discrimination hatred constituting incitement to violence adheres to the requirements of Articles 19(3) and 20(2) of the ICCPR, as outlined in the Rabat Plan of Action;
- Decriminalise defamation, including through repealing Articles 214 and 216 of the Penal Code regarding insulting the King of Bahrain, or its flag or the national emblem and offending the National Assembly, the army, courts, or government agencies;
- Drop outstanding charges, quash convictions and unconditionally release all individuals detained in relation to exercising their right to freedom of expression, including Sheikh Maytham Al-Salman, Ebrahim Sharif, Maryam Al-Khawaja, Zainab Al-Khawaja, Ghada Jamsheer, Nabeel Rajab;
- Ensure that allegations of torture in detention of government critics and opposition activists, are investigated fully, hold perpetrators accountable, and provide effective redress for victims, including for Nazeeha Saeed, Sayed Ahmed Al-Mousawi, Ahmed Al-Fardan, and Sheikh Maytham Al-Salman;
- Reform the Anti-terrorism law in line with international human rights law, including by narrowing the definition of terrorism and repealing powers on the revocation of citizenship, and cease this practice, restoring the citizenship of all persons stripped of citizenship for exercising their rights and freedoms, including HRDs, journalists, political activists and religious figures;
- Cease the use of travel bans as a means to restrict freedom of expression, and lift travel bans on Sheikh Maytham Al-Salman, Nabeel Rajab, Husain Radhi, Mohammed Al-Tajer, Ebrahim Al-Demistani and all other persons banned from travel for their human rights activities.