

**NGO Submission
2017 Bahrain Universal Periodic Review**

by

**Freedom House
Bahrain Center for Human Rights
Gulf Center for Human Rights**

Submission Deadline : September 22, 2016

Contact:

Nedal Al-Salman
Public Affairs Officer
Bahrain Center for Human Rights (BCHR)
Email: Nedal@bahrainrights.org

Mahdokht (Dokhi) Fassihian
Senior Program Manager
Middle East and North Africa Programs
Freedom House
Email: Fassihian@FreedomHouse.org
Phone: 1 (202) 747-7077

Khalid Ibrahim
Co-Direcgtor
Gulf Center for Human Rights (GCHR)
Email: Khalid@gc4hr.org
Phone: +967 701 59552

Introduction and Key Concerns

1. The following submission has been prepared by Freedom House in cooperation with the Gulf Center for Human Rights (GCHR) and the Bahrain Center for Human Rights (BCHR) based on research and data collection carried out by these organizations and information received from independent human rights defenders in Bahrain.
2. The report of the Independent Commission of Inquiry (ICI)¹ which was released in November 2011 provided a general overview of the situation of human rights in Bahrain during and following the protests of February and March 2011. The report expressed serious concerns at the human rights abuses and crimes committed by the National Security Agency and the Ministry of Interior in Bahrain. It documented the spread of torture and mistreatment of detainees during arrests or in custody. The extent of this practice according to the report was “evidence of a deliberate practice, which in some cases was aimed at extracting confessions and statements by duress, while in other cases was intended for the purpose of retribution and punishment.” The report warned that the lack of accountability of officials within the security system created a culture of impunity in the country. It condemned the unwillingness of the judiciary and the prosecution to impartially investigate allegations of torture or mistreatment and hold the abusers accountable.
3. In response to the 2002 report of the Working Group of the Universal Periodic (UPR), the Kingdom of Bahrain expressed support for specific recommendations that effectively address the prevention of torture and ill-treatment. Bahrain accepted, among other recommendations, to prohibit torture and other ill-treatment in national legislation and in practice in line with its obligations under the Convention against Torture (CAT), ensuring that all allegations of torture or other ill-treatment are independently, promptly and thoroughly investigated and perpetrators are brought to justice.
3. The main conclusion of this report is that the practice of torture and ill-treatment continues to represent a major human rights concern in Bahrain. Credible information and documentation carried out by domestic and international human rights observers suggest that torture is still a common practice in Bahrain. It is regrettable that the government of Bahrain has not effectively implemented the recommendations delivered by ICI to tackle the endemic phenomenon of torture and mistreatment of persons in custody and during arrests. This report notes that the state of impunity is still dominant in the country.
4. The spread of torture is one aspect of the continuous deterioration of human rights in Bahrain. Institutional and legal reforms adopted by the government since 2012 failed to improve the human rights landscape in the country. Government critics, human rights defenders, and political dissidents continued to face detention and prison sentences for their peaceful exercise of free expression. Amidst a growing culture of impunity, the government has failed to create an environment conducive to national reconciliation. Reports of torture, abuse, sexual assault, the lack of sufficient guarantees of fair trial, and death in detention continued. Reports of reprisals against victims reporting human rights violations and against individuals cooperating with the UN have raised serious concerns. Dozens of prominent human rights defenders have been arbitrarily banned from traveling in June and July.

¹ The Bahrain Independent Commission of Inquiry was established by King Hamad bin Isa Al Khalifa in Royal Order No. 28 of 2011 to investigate and report on the events occurring in Bahrain in February-March 2011, and subsequent consequences arising out of the aforementioned events and to make such recommendations as it may deem appropriate.”

Assessment of Institutional and Legal Framework

5. Bahrain ratified CAT in March 1998. Article 19(d) of the 2002 Constitution of Bahrain prohibits and criminalizes torture by stating that: “No person will be subjected to material or normal torture or inducement or any degrading treatment. The law will lay down the punishment for one who is guilty of it. This will also invalidate any statement or confession proved to have been obtained through torture, inducement, degrading treatment or threat.”

6. A package of institutional and legal reforms had been adopted by Bahraini authorities over the past five years in response to the BICI's recommendations. Royal Decree No.52 of 2012 amended the definition of torture under the Criminal Code to match the definition provided in Article 1 of CAT. The amendments criminalized the use of torture for “coercing a confession, punishing a person for an act he/she or any other person had committed or is suspected to have committed, or intimidating or coercing that person or any other person for any reasons whatsoever.” The amendments also expanded the definition of the victim and abolished the previous law's 10 year statute of limitations on the crime of torture. According to these amendments, torture is punishable by life sentence if victims are tortured to death. Article 253 of the Code of Criminal Procedures invalidates any “confession proved to have been obtained through coercion or threat.”

7. The Office of the Ombudsman at the Ministry of Interior and Islamic Affairs and the Special Investigation Unit (SIU) in the Office of the Public Prosecutor were established in 2012. The Ombudsman is tasked with investigating crimes implicating staff at the Ministry of Interior. The SIU is responsible for investigating and prosecuting members of the security services or government officials allegedly involved in the torture of or cruel, inhuman or degrading treatment of detainees. The Prisoners and Detainees Rights Commission (PDRC) was founded in 2013 to investigate the conditions of prisons and detention centers in Bahrain. Furthermore, in 2012 and 2014, the government expanded the functions of the National Institution of Human Rights. The appointment and dismissal procedures in these institutions, however, do not guarantee their independence from the executive.

8. However, these institutional and legal safeguards have failed to prevent or limit the use of torture and ill-treatment by members of the security services. Allegations of torture and ill-treatment have been repeatedly documented in Bahrain. These acts usually occur during arrest, during interrogation and pre-trial detention to mainly extract confessions from persons. Available information indicate that many of the persons who have been detained and interrogated at the Criminal Investigations Directorate (CID) were exposed to a variety of torture and ill-treatment techniques, including severe beatings, electric shock, exposure to extreme cold, forced standing, sexual abuse, and prolonged suspension in painful positions. No examples have been found of an investigation ordered by the public prosecutor or courts into allegations of evidence obtained through torture. There are also examples of torture and mistreatment of prisoners serving their sentences. In some individual cases, prisoners or detainees medical needs have been arbitrarily denied.

9. Evidence since 2012 clearly indicates that when the Public Prosecutor does initiate investigations into allegations of torture, it results in acquittal or light sentences and fails to lead to investigations of high levels officials. Between May 2015 and April 2016, the Office of the Ombudsman received 55 complaints related to allegations of torture which were referred to the SIU. Fifty-three of the 55 complaints are still under investigation – one case is pending in court while another case was dismissed. Among the complaints

received by the SIU since 2013, one torture case was taken up by the judiciary. In April 2013, the government cancelled the scheduled visit of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Bahrain after postponing an earlier visit scheduled for 2012.

10. This failure can be basically attributed to the lack of political will in Bahrain to confront this phenomena. The spread of torture cannot be isolated from the general deterioration of human rights in Bahrain including the criminalization of dissent, increasing restrictions on freedom of expression, assembly and association, the systematic persecution of human rights defenders, and discrimination against Shi'a Muslims in Bahrain.

11. Additionally, the 2014 amendments of the Anti-Terrorism Law by Royal Decree No.68/2014 provides security forces with the power to detain individuals from 10 to a maximum of 28 days. Detainees are usually held in incommunicado detention and become vulnerable to torture to deliver false and forced confessions. The pre-trial detention can be renewed by the public prosecution for up to six months without the possibility for the detainee to challenge his/her detention and renewal.

12. Moreover, the public prosecution and judges have been unwilling to efficiently and impartially investigate allegations of torture or ill-treatment. The independence of the Public Prosecutor's office and judiciary from the executive is still in question in Bahrain.² Moreover, complainants face certain obstacles that prevent them from filing their allegations effectively, and having their cases investigated impartially. For example, while the prosecution requests complainants to take medical exams to verify claims of torture, these exams reportedly occur months after the complaints are filed, by which time, evidence of abuse may no longer be visible. Additionally, victims of torture and their families fear intimidation and retribution if they file complaints. Some victims and their families who filed complaints reported that during interviews with the SIU, investigators often ask questions concerning the source of their information and the persons who encouraged them to file a complaint.

Patterns and Cases of Torture and Ill-treatment

13. Members of the police have tended to use excessive and unjustifiable force while arresting persons especially those who face politically motivated or terrorism-related charges. Torture and ill-treatment continue to be an interrogation method used by security forces to extract confessions especially in political or terrorism related cases.

14. The case of **Hussein Jarallah Al-Qassab**, (age 37 years) a driver and a father of two is an example of the use of excessive physical force by Bahraini security forces during arrest. During his arrest from his home in Abu Saiba village located in the northern part of Bahrain, he was severely beaten and different parts of his body were kicked until he lost consciousness. His neighbours and relatives witnessed the incident. He was then held incommunicado for 12 days without access to medical services. Al-Qassab was transferred afterwards to the Citadel Hospital and while visiting him in the hospital for the first time since his detention, his family noted bruises and blood spots on his shoulders, back and chest and that he was unable to walk. On 26 February, he was charged with attacking police officers and detained pending trial at the Dry Dock Detention Center where his health deteriorated further. Authorities then transferred him to the hospital after which he was released on medical grounds.

² See Amnesty International (2015) Behind the Rhetoric: Human Rights Abuses in Bahrain Continue Unabated. Available at: <http://bit.ly/2atMMJH>

15. **Ali Ahmed Haroun** (age 20 years) had been charged with illegal gathering and criminal arson in relation to an explosion that occurred in the village of Bani Jamra. Following his arrest in May 2013, Haroun was subjected to forced disappearance and was allegedly tortured at the Dry Dock Detention Center. He was reportedly beaten, forced to stand in stress positions and deprived of food, water and sleep until he signed a coerced confession stating that he had been involved in the explosion in Bani Jamra. Consequently, he was sentenced to life in prison. As a result of his torture and other ill-treatment, Haroun suffers from a permanent injury to his spine, has torn ligaments in his leg and has permanently lost hearing in one of his ears. Haroun escaped custody and fled the country. In May 2014, three members of the Bahraini Interpol beat and severely wounded Haroun while enforcing his extradition from Thailand. They drugged Haroun without the consult of a medical expert to secure his cooperation.

16. The case of **Ahmed Mohammad Saleh Al Arab** (age 23 years) is another example of using torture as an investigative technique. Al-Arab had been arrested in January 2014 and was held in incommunicado detention at the CID for 21 days where he was reportedly tortured. According to his testimony, he was repeatedly beaten and deprived of sleeping. Security forces covered his face with a cloth and water was poured into his mouth to insinuate drowning. He was subjected to continuous verbal abuse and psychological torture including keeping him in the dark for long periods and forcing him to listen to others being tortured. In September, Al-Arab was convicted of attempted murder and possession of explosives and sentenced to life in prison. He was separately charged with illegal gathering, arson and rioting. His lawyer asked the court to investigate allegations of torture against his client but the request was dismissed.

17. **Khalil Ibrahim Al-Saffar** (age 19 years) was reportedly tortured during his detention at the CID. Following his arrest on 15 September 2015, Al-Saffar was stripped of his clothes, beaten on his genitals, beaten with batons and plastic cables on his body parts. He was put inside a small cold room that caused him headaches. Political activist **Mohammed Ibrahim Al Mullah** (age 23 years) was arrested in February 2015 at the Bahrain International Airport and was transferred to the Dry Dock Detention Center where he was reportedly tortured during his interrogation at the CID. According to his testimony to his family following his transfer to the Citadel Hospital, he was severely beaten by batons on his head, back and chest, and electric shocks were given to his genitals.

18. Human rights defender **Hussain Jawad**, president of the European Bahraini Organization for Human Rights was arrested in February 2015 and detained at the CID. His lawyer confirmed that Jawad suffered physical, sexual, verbal and psychological abuse while in detention. Jawad was reportedly prevented from sleeping and using the bathroom, and confined to a narrow cell. He overheard other detainees endure electric shocks, which were used to inflict suffering on them. The human rights defender was forced to confess that he collected money from Bahrain and abroad to aid and abet saboteurs. On 15 December 2015, Jawad was sentenced to two years in prison.

19. On 5 November 2015, **Ali Isa Al-Tajer**, brother of human rights lawyer Mohammed Al-Tajer, was arrested following a raid by the security forces on his family house. During his detention, he was beaten, threatened with electric shocks, forced to strip naked, and sexually assaulted. He was further forced to stand, deprived of sleep for most of the time, and was forced to sign confessional papers. The charges brought against Ali Isa include joining a terrorist organisation to overthrow the government by force and training individuals to use weapons for terrorist purposes.

20. Bahraini defendants have been sentenced to death following prosecution and trials that seemed to be based solely on confessions obtained by torture. For example, **Mohammed Ramadan** and **Husain Ali Moosa** were both sentenced to death for their alleged role in an explosion in Dair that killed a policeman in February 2014. Moosa was arrested in February 2014 and was transferred to the CID where he was subjected to suspension and beaten with batons. Officers threatened to fabricate cases against his relatives and rape his sisters. Ramadan was arrested in March 2014 and was also transferred to the CID where he was reportedly subjected to torture and ill-treatment and forced to sign a false confession that he was involved in the explosion in Dair. Both persons retracted their confessions later. However, their petition to the Court of Cassation was rejected in November 2015. According to their lawyer, their claims of being tortured were never investigated. Similarly, credible allegations of torture were reported in the case of **Sami Mushaima** and **Abbas Jamil Al-Samea** who were also sentenced to death in February 2015 in relation to the killings of three policemen. They told their families that they were subjected to torture, which included being given electric shocks, beaten, burnt with cigarettes, deprived of sleep and sexually assaulted. During their first hearing, the court refused to transfer them to a forensic doctor. On 31 May the Bahraini High Court of Appeal upheld the death sentences imposed against them.

21. Prisoners and detainees continue to complain from ill-treatment and poor conditions in prisons and detention centers. In some cases, the harsh treatment of prisoners aimed to inflict serious physiological and psychological sufferings on political activists and human rights defenders. For example, former inmates of **Jau prison** reported that they were subjected to torture and physically assaulted. This included electric shocks; suspension in painful positions, including by their wrists while handcuffed; forced standing; extreme cold; and abuse of a sexual nature. In March 2015, a group of prisoners at Jau Prison protested against the increasing overcrowded and unsanitary living conditions in the prison. Following the protest, prison staff imposed collective punishment on prisoners, subjecting many of them to beatings, humiliating treatment, solitary confinement, and deprivation of food, sleep and medical care. For example prominent human rights defender **Naji Fatil** who is serving a 15 year prison term was repeatedly beaten, insulted, and held incommunicado. Authorities refused to allow his family to visit or contact him. Following these events, the Ombudsman received 15 complaints of torture allegations in Jau prison, but no action was taken by Bahraini authorities to investigate these allegations. In June 2016, a group of detainees at the **Dry Dock Detention Center** were reportedly exposed to various forms of ill-treatment following the escape of 17 other detainees from the center. Detainees were forced by prison officers to stand for long hours and remain blindfolded. They were physically beaten, kicked and slapped.

22. The Prisoners and Detainees Rights Commission (PDRC) expressed concerns at the treatment of prisoners at the Dry Dock Detention Center and Jau Prison following visits conducted by its members in 2014 and 2015 respectively. It, however, did not mention any allegations of torture in its final reports.

Recommendations

23. Freedom House and its partners call upon the UN Human Rights Council to urge the Bahraini authorities to effectively prevent the practice of torture and other cruel, inhuman or degrading treatment or punishment and in doing so to:

(1) Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the First and Second Optional Protocols to the International Covenant on Civil and Political Rights; the International Convention for the Protection of all Persons against Enforced Disappearance;

- (2) Ensure full cooperation with the mandate of the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and invite the mandate holder without delay to officially visit Bahrain;
- (3) Entrench in the standard procedures that every person arrested be given a copy of the arrest warrant and no person should be held incommunicado. In any event, all detention should be subject to effective monitoring by an independent body;
- (4) Detainees should have immediate and regular access to their lawyers and family members;
- (5) Detainees should have access to prompt medical examinations by civil and independent medical staff. The results of those examinations should be automatically available to the courts and to the detainees' family members and lawyers;
- (6) Prosecute effectively all security agents that have allegedly committed torture;
- (7) Investigate properly all alleged cases of mistreatment and torture and establish accountability of those responsible and ensure that the competent authorities, in particular the public prosecutor, investigate all torture allegations promptly and to bring any officials found responsible to justice;
- (8) Embark on a comprehensive legal reform of the judiciary to ensure its full impartiality and independence from the executive authorities;
- (9) Take effective legal and practical measures to ensure that confessions obtained through torture or ill-treatment are inadmissible in court;
- (10) Provide training and capacity building in the area of human rights for police officers and members of the judiciary and prosecution;
- (11) Ensure all human rights defenders in Bahrain are able to carry out their legitimate human rights activities without fear of reprisals and are free of all restrictions including judicial harassment.