



**Submission to the United Nations Universal Periodic Review  
25<sup>th</sup> Session of the Working Group of the UPR Human Rights  
Council**

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## 1. Global Legal Action Network (GLAN)

- 1.1 Established in 2015, Global Legal Action Network (GLAN) is an independent, non-profit organisation committed to the mobilisation of public international law through legal action addressing transnational human rights concerns.<sup>1</sup>
- 1.2 In the period covered by the Review, GLAN personnel have been in direct and frequent contact with Bahraini civil society organisations and medical professionals, the Irish government and relevant public bodies.

## 2. Executive Summary

- 2.1 This submission focuses on Ireland's obligations under Article 2, in conjunction with Article 7, of the International Covenant on Civil and Political Rights ('the Covenant'). In particular, GLAN submits that the unconditional accreditation, in December 2014, of the Royal College of Surgeons in Ireland – Medical University Bahrain ('RCSI-MUB') by the Irish Medical Council ('the Medical Council') places the Irish State in breach of international law, having regard to the occurrence of serious human rights violations, including torture, within the training hospitals used by RCSI-MUB. Irish accreditation also implies the recognition as lawful of the acts of torture in violation of the obligation under customary international law of non-recognition of violations of *jus cogens* norms.

## 3. Background and Framework

### Royal College of Surgeons

- 3.1 The Royal College of Surgeons in Ireland ('RCSI') is an independent health sciences institution that operates the largest medical school in Ireland. In October 2004, the RCSI established a medical university in Bahrain, the RCSI-MUB, as a constituent college of the RCSI. As such, the RCSI-MUB awards to its students degrees of Bachelor of Medicine and Bachelor of Surgery of the National University of Ireland and Licentiate of the RCSI and Royal College of Physicians in Ireland.<sup>2</sup>
- 3.2 The RCSI-MUB relies on the public hospital system of Bahrain for the education, training and professional development of its students. Clinical tuition is provided to students of the RCSI-MUB in the King Hamad University ('KHU') Hospital, the Salmaniya Medical Complex ('SMC') and the Bahrain Defence Forces ('BDF') Hospital.<sup>3</sup> This submission will focus on events at these three hospitals. The KHU Hospital was established by Royal Decree, which provides that it is to be 'affiliated with the Bahrain Defence Forces' and is, in addition, 'supervised' by a Lieutenant General in

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<sup>1</sup> GLAN has taken over human rights legal work commenced by Ceartas (Irish Lawyers for Human Rights). For more information, please see <http://www.ceartaslaw.org/>

<sup>2</sup> Royal College of Surgeons in Ireland – Medical University Bahrain ('RCSI-MUB'), 'MB Bch BAO (Medicine)', (2015) available from [www.rcsi-mub.com/index.jsp?p=103&n=145](http://www.rcsi-mub.com/index.jsp?p=103&n=145); RCSI-MUB, 'Admissions Frequently Asked Questions' (2015) available from [www.rcsi-mub.com/index.jsp?p=103&n=1034](http://www.rcsi-mub.com/index.jsp?p=103&n=1034)

<sup>3</sup> RCSI-MUB, 'About RCSI Bahrain' (2015) available from <http://www.rcsi-mub.com/index.jsp?p=100&n=105>

the BDF in conjunction with its General Command.<sup>4</sup> The BDF Hospital is headed by a Major General in the BDF.<sup>5</sup>

### **Irish Medical Council ('the Medical Council')**

- 3.3 The Medical Council is an Irish public body established by statute with the object of 'protecting the public by promoting and better ensuring high standards of professional conduct and professional education, training and competence among registered medical practitioners'.<sup>6</sup> Under Section 88 of the Medical Practitioners Act, 2007 ('the 2007 Act'), the Medical Council is entrusted with the function of accrediting both programmes of medical education leading to the award of, inter alia, degrees of the kind mentioned above and the institutions which deliver them.
- 3.4 The standards applied by the Medical Council in exercising its function are set out in '*Medical Council Rules in Respect of the Duties of the Council in Relation to Medical Education and Training*' ('Medical Council Rules'). They provide that a programme of education should comply with the Medical Council's '*Eight Domains of Good Professional Practice*', the first of which states that 'patient safety and quality of patient care should be at the core of the health service delivery a doctor provides'.<sup>7</sup>
- 3.5 The Medical Council Rules also state that programmes of education and the bodies that deliver them 'must comply with the basic requirements of the '*World Federation for Medical Education Global Standards to Quality Improvements in Medical Education: European Specifications 2007*' ('WFME Standards'). The WFME Standards include Standard 6.2, which provides that '[t]he medical school must ensure adequate clinical experience and the necessary resources'.<sup>8</sup> In addition, Standard 8.5 provides '[t]he medical school must have a constructive interaction with the health and health related sectors of society and government'.<sup>9</sup>
- 3.6 Finally, the Medical Council Rules state that a 'programme must comply with the requirements in Article 24 of the EU Directive 2005/36/EC for programmes of basic medical education'.<sup>10</sup> Article 24 states, inter alia,

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<sup>4</sup> King Hamad University ('KHU') Hospital, 'About KHUH' (2015) available from <http://www.khuh.org.bh/main/AboutKHUH/Highlights/>

<sup>5</sup> Bahrain Defence Forces (BDF) Hospital, 'Our Leadership' (2015) available from <https://www.bdfmedical.org/en/index.php/organization-of-bdfrms/organization-of-royal-medical-services/our-leadership>

<sup>6</sup> See Section 6 of the Medical Practitioners Act, 1978 and Section 6 of the Medical Practitioners Act, 2007.

<sup>7</sup> 'Medical Council Rules in Respect of the Duties of Council in Relation to Medical Education and Training (Section 88 of the Medical Practitioners Act 2007)', S.I. No. 588/2012, (2012) ('Medical Council Rules').

<sup>8</sup> Emphasis added.

<sup>9</sup> World Federation for Medical Education ('WFME'), 'World Federation for Medical Education Global Standards to Quality Improvements in Medical Education: European Specifications' (2007) available from <http://wfme.org/standards/european-specifications/21-european-specifications-english/file>

<sup>10</sup> Medical Council Rules, p. 2.

that participants in programmes of basic medical education must acquire 'suitable clinical experience in hospitals under appropriate supervision'.<sup>11</sup>

- 3.7 Under Section 88 of the 2007 Act, the grant of approval by the Medical Council may be made either with or without conditions. For example, an Irish university was recently granted approval subject to the condition that 'the issue of the unsatisfactory education and training facilities' at the training hospital used by the university was resolved.<sup>12</sup> The issue in question was the refusal by certain consultant doctors working at that hospital to teach the students of the university in question.

#### **4. Torture and other human rights abuses in the training hospitals associated with the RCSI-MUB**

- 4.1 In the Spring of 2011, Bahrain experienced a sustained period of unrest, which involved mass protests that called for democratic reform and the end to human rights abuses perpetrated by the ruling Sunni Al Khalifa family. In response, the government of Bahrain commenced a military crackdown against the protests, which involved the torture and killing of protestors and detainees, amongst other human rights abuses.<sup>13</sup>
- 4.2 Many of these abuses took place in the RCSI-MUB's training hospitals.<sup>14</sup> Physicians for Human Rights reported that 'egregious abuses against patients including torture, beating, verbal abuse, humiliation and threats of rape and killing' occurred in the SMC.<sup>15</sup> Similarly, in the BDF Hospital, it was reported that patients were commonly beaten in custody due to their involvement in protests.<sup>16</sup>
- 4.3 Medics were also targeted extensively by the Bahraini authorities. Many medics were tortured, prosecuted and imprisoned for their involvement in peaceful protests, for treating injured protesters and for speaking to the media.<sup>17</sup> For example, Dr. Ali al-Ekri, who trained in the RCSI in Dublin was first arrested performing an operation in an SMC theatre.<sup>18</sup> While in

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<sup>11</sup> Emphasis added. Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications', L 255/22 OJEU (2005). Article 24 refers to basic medical training for doctors of medicine.

<sup>12</sup> Medical Council, 'Final Report of the Accreditation Visit to Monitor Conditions: University of Limerick Graduate Entry Programme' (2012) available at <https://www.medicalcouncil.ie/Education/Career-Stage-Undergraduate/Quality-Assurance/UL-2012-FINAL-REPORT-on-GEP-Monitoring-Visit-April-2012.pdf>

<sup>13</sup> Amnesty International 'Bahrain: Flawed reforms: Bahrain fails to achieve justice for protesters' (2012) available from <http://www.amnesty.org/en/library/info/MDE11/014/2012/en>. See also, US Department of State, '2011 Country Reports on Human Rights Practices: Bahrain' (2012) available from <http://www.state.gov/j/drl/rls/hrrpt/2011/nea/186421.htm>

<sup>14</sup> See Physicians for Human Rights ('PPHR'), 'Do No Harm: A Call for Bahrain to End Systematic Attacks on Doctors and Patients' (2011), available from [https://s3.amazonaws.com/PHR\\_Reports/bahrain-do-no-harm-2011.pdf](https://s3.amazonaws.com/PHR_Reports/bahrain-do-no-harm-2011.pdf)

<sup>15</sup> PPHR, 'Do No Harm', p. 21.

<sup>16</sup> PPHR, 'Do No Harm', p. 19.

<sup>17</sup> Human Rights Watch, 'No Justice in Bahrain – Unfair Trials in Military and Civilian Courts' (2012), p. 20. See also, Human Rights First, 'Stories from Bahrain's Crackdown: Dr. Fatima Haji, Internal Medicine and Rheumatology Specialist' (2014) available from <http://www.humanrightsfirst.org/blog/stories-bahrain-s-crackdown-dr-fatima-haji-internal-medicine-and-rheumatology-specialist>

<sup>18</sup> Dr. Al-Ekri is currently listed as a prisoner of conscience by Amnesty International. Amnesty

custody he was severely tortured and endured, along with other arrested medics, further mistreatment at the BDF Hospital where he was taken as a result of the abuse to which he was subjected.<sup>19</sup> He was then convicted on charges including the forming of an organisation to overthrow the Bahraini government which resulted in him being sentenced to five years in prison,<sup>20</sup> a sentence which he continues to serve.<sup>21</sup>

- 4.4 Following considerable international pressure, the Bahraini government established the Bahrain Independent Commission of Inquiry ('BICI') to investigate and report on these events. The BICI report confirmed claims that security services beat prisoners while they were treated at both the BDF Hospital and the SMC. For instance, the BICI documented that one detainee was arrested at the SMC and beaten by police, and then transferred to the BDF Hospital where he was blindfolded, handcuffed and experienced 'many beatings at BDF'.<sup>22</sup> The BICI also found that 'security services executed unlawful arrests on SMC premises, and attacked and mistreated some individuals including medical personnel'.<sup>23</sup>
- 4.5 Despite the findings both of the BICI and of NGOs in relation to torture within the RCSI-MUB training hospitals, Professor Jim Finucane, the former head of Medicine at RCSI-MUB, expressed to the Joint Parliamentary [Oireachtas] Committee on Education and Social Protection that '[i]t is inconceivable that individuals were tortured within the precincts of these hospitals' between 2008 and 2013, and that he 'cannot believe there is any basis for that very serious allegation'.<sup>24</sup>
- 4.6 The BICI made several recommendations relating both to the holding accountable of those, at all levels of the chain of command, responsible for torture<sup>25</sup> and to ensuring the prevention of future instances of torture.<sup>26</sup> Notwithstanding claims by the Bahraini authorities as early as March 2012 that these recommendations had been successfully implemented,<sup>27</sup> the abuses have continued.

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International, 'Dr. Ali Al-Ekri, Prisoner of Conscience' (2015) <https://www.amnesty.ie/content/dr-ali-alekri-consultant-surgeon-prisoner-conscience>

<sup>19</sup> It was also reported that Dr. Ibrahim al-Dimistani, a physician who was imprisoned during the unrest in 2011, suffered mistreatment in the BDF Hospital. See US Bureau of Democracy, Human Rights and Labour, '2014 Country Reports on Human Rights Practices: Bahrain' (2015) available from <http://bahrain.usembassy.gov/policy/human-rights-report.html>

<sup>20</sup> Human Rights Watch, 'Bahrain: Medics Describe Torture in Detention' (October 2015) available from <https://www.hrw.org/news/2011/10/21/bahrain-medics-describe-torture-detention>; See also note 18 above.

<sup>21</sup> PPHR, 'Unbiased Health Care Stifled in Bahrain', (2015) available from

<http://physiciansforhumanrights.org/blog/unbiased-health-care-stifled-in-bahrain.html>

<sup>22</sup> See Bahrain Independent Commission of Inquiry ('BICI'), 'Report of the Bahrain Independent Commission of Inquiry' (2011), Case No. 43, p. 467 available from

<http://www.bici.org.bh/BICIreportEN.pdf>

<sup>23</sup> BICI, Report, para. 847.

<sup>24</sup> 'Former RCSI head denies torture occurred in Bahraini hospitals despite numerous reports', (2014) available from <https://www.youtube.com/watch?v=tf2FTN5-rY>

<sup>25</sup> BICI, Recommendations, paras 1716, 1719, 1722(a) and 1722(b).

<sup>26</sup> BICI, Recommendations, paras 1722(c) and 1722(f).

<sup>27</sup> See the report, published on the 21st March 2012, of Bahrain's 'National Commission', the body established to oversee the implementation of the BICI's recommendations available at [www.biciactions.bh/wps/themes/html/BICI/pdf/report/nv\\_report\\_en\\_1.pdf](http://www.biciactions.bh/wps/themes/html/BICI/pdf/report/nv_report_en_1.pdf); These claims have since continued to be made by the Bahraini government. See, for example, Bahrain News Agency

4.7 Leading human rights groups have continued to report instances of torture.<sup>28</sup> Furthermore, state interference within Bahrain's healthcare system has also continued.<sup>29</sup> For example, Amnesty International reported that in January 2014, 17 year old Sadeq al-Asfoor, after being seriously wounded by police gun-fire was threatened by police while receiving medical treatment at the BDF hospital and coerced into signing a statement which falsely stated that the police officers who shot him and another individual did so 'only after shouting a warning'.<sup>30</sup> Similarly, in February 2014, detainee Jaffar Al Durazi (23) died in the SMC, having been subjected to torture in custody and denied medical assistance.<sup>31</sup>

4.8 Several Bahraini human rights organisations noted in September 2014 that hospitals associated with the RCSI-MUB remained 'militarised' at that time.<sup>32</sup> In this context, they further pointed out that:

*The hundreds of people who continue to be injured while exercising their right to express their opinions through protest are in fear of visiting RCSI-affiliated hospitals. Treating such persons often creates ethical dilemmas for doctors; because such treatments must be reported to authorities at the risk of punishment to the doctor, and medical professionals can feel pressured to refuse to treat injured activists.*

4.9 No senior official has, to date, been held accountable for the torture of medics or any other person in the Bahraini healthcare system.<sup>33</sup> On the contrary, many of those responsible remain in senior positions. The Bahrain Center for Human Rights has listed fourteen senior healthcare figures as being chiefly responsible for the occurrence of human rights abuses, including torture, within Bahrain's hospitals.<sup>34</sup> Among those listed are:

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(BNA), 'Bahrain strides in implementing BICI recommendations spotlighted' (2 March 2014) available from <http://bna.bh/portal/en/news/605915>

<sup>28</sup> 'Joint NGO Letter to Permanent Representatives of Member and Observer States of the UN Human Rights Council dated July 16th 2015', available from [www.hrw.org/news/2015/07/16/joint-ngo-letter-human-rights-situation-bahrain](http://www.hrw.org/news/2015/07/16/joint-ngo-letter-human-rights-situation-bahrain). See also, Amnesty International, 'Behind the Rhetoric: Human Rights Abuses in Bahrain Continue Unabated' (2015) available from

[http://www.amnestyusa.org/sites/default/files/bahrain\\_report\\_behind\\_the\\_rhetoric\\_eng\\_final.pdf](http://www.amnestyusa.org/sites/default/files/bahrain_report_behind_the_rhetoric_eng_final.pdf); BCHR, 'Locked Inside a Nightmare: Voices from Bahraini Prisons' (2014) available from

<http://bahrainrights.org/sites/default/files/Prison%20Report%20-%20FINAL%20II.pdf>  
<sup>29</sup> Human Rights Watch, 'Bahrain Joint Letter to King Hamad of Bahrain regarding torture victims' (2014) available from <http://www.hrw.org/news/2014/08/25/bahrain-joint-letter-king-hamad-bahrain-regarding-torture-victims>.

<sup>30</sup> Amnesty International, 'Behind the Rhetoric'.

<sup>31</sup> BCHR, 'Death of Detainee Jaffar AlDurazi after Reports of Torture and Medical Negligence during Detention' (2014) available from <http://www.bahrainrights.org/en/node/6782>. BBC, 'Bahrain accused over detainee's death in hospital' (2014) available from <http://www.bbc.com/news/world-middle-east-26358083>.

<sup>32</sup> BCHR, 'NGOs Call To Ensure Human Rights Standards Factored Into Upcoming Accreditation Of RCSI-Bahrain', (1 Sept 2014) available from <http://www.bahrainrights.org/en/node/7028>

<sup>33</sup> 'Joint NGO Letter to Permanent Representatives of Member and Observer States of the UN Human Rights Council dated July 16th 2015' (2015) available from [www.hrw.org/news/2015/07/16/joint-ngo-letter-human-rights-situation-bahrain](http://www.hrw.org/news/2015/07/16/joint-ngo-letter-human-rights-situation-bahrain).

<sup>34</sup> House of the Oireachtas, 'Accreditation for the Royal College of Surgeons in Ireland Facility in Bahrain: Discussion' (2 April 2014) available from

- Mohammed Amin Al Awadhi, Chief of Medical Staff at Salmaniya Medical Complex;
- Major General Dr. Salman Ateyatallah Al-Khalifa, Head of BDF Hospital administration;
- Lt. Gen. Dr. Mohammed bin Abdullah Al Khalifa, Chair of Supreme Council for Health and Minister of State for Defense Affairs;
- Sadeq al-Shihabi, Minister of Health and Vice Chairman of Supreme Council for Health;
- Waleed Al Manea, CEO of Salmaniya Medical Complex.

Mohammed Amin Al Awadhi has since been appointed Assistant Undersecretary for Training and Planning within the Ministry of Health.<sup>35</sup> He also organises and runs courses for RCSI-MUB students.<sup>36</sup> Major General Dr. Salman Ateyatallah Al-Khalifa remains head of the KHU Hospital.<sup>37</sup> Lt. Gen. Dr. Mohammed bin Abdullah Al Khalifa remains Chair of the Supreme Council for Health<sup>38</sup> and in this capacity exercises a supervisory role over the KHU Hospital. Sadeq al-Shihabi remains Minister for Health.<sup>39</sup> And finally, Waleed Al Manea has been made Assistant Undersecretary for Hospitals.<sup>40</sup>

4.10 The Medical Council conducted a site visit to the RCSI-MUB and its training hospitals on the 13<sup>th</sup> and 14<sup>th</sup> of October 2014.<sup>41</sup> The site visit consisted of interviews with staff and students at the training hospitals of the RCSI-MUB. Immediately prior to the visit, prominent human rights defender Ghada Jamsheer was arrested for tweeting about corruption and ill-management at the KHU Hospital, while a patient at the hospital. The complaint was brought against her by Major General Dr. Salman Ateyatallah Al-Khalifa, head of the KHU Hospital.<sup>42</sup> Ms Jamsheer was imprisoned at the time of the Medical Council's site visit and is an Amnesty International prisoner of conscience.<sup>43</sup>

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<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetake/EDJ2014040200013?opendocument>

<sup>35</sup> BNA, 'HM King issues Royal Decree 62/2014' (10 July 2014) available from

<http://www.bna.bh/portal/en/news/625513>

<sup>36</sup> RCSI-MUB, 'RCSI-Bahrain runs Basic Surgical Skills Course' (2013) available from

<http://www.rcsi-mub.com/index.jsp?p=248&n=1033&a=4059>

<sup>37</sup> KHUH, 'About KHUH'(2015) available from

<http://www.khuh.org.bh/main/AboutKHUH/Highlights/>

<sup>38</sup> BNA, 'Supreme Council of Health holds monthly meeting' (1 April 2015) available from

<http://www.bna.bh/portal/en/news/661775>

<sup>39</sup> Bahrain Government, 'Cabinet' (2015) available from <http://bit.ly/1ITNX0u>

<sup>40</sup> Bahrain Ministry of Health, 'MOH Senior Officials' (2015) available from

<http://www.moh.gov.bh/EN/aboutmoh/aboutministry/SeniorOfficials.aspx?print=true>

<sup>41</sup> Medical Council, 'Report on Accreditation Inspection of Royal College of Surgeons in Ireland – Bahrain Medical School', (2014) available from <http://medicalcouncil.ie/Education/Career-Stage-Undergraduate/Quality-Assurance/Medical-School-Accreditation/Report-of-Inspection-Bahrain-Dec-2014.pdf>

<sup>42</sup> Gulf Center for Human Rights, 'Bahrain: Women's rights defender Ghada Jamsheer arrested for tweets' (2014) available from <http://www.gc4hr.org/news/view/749>

<sup>43</sup> Amnesty International, 'Bahrain: Activist Faces Jail for 'Defamation on Twitter': Ghada Jamsheer' (7 November 2014) available from <https://www.amnesty.org/en/documents/mde11/044/2014/en/>

- 4.11 On the 15<sup>th</sup> of December 2014, the Irish Minister for Education and Skills ('the Minister') wrote to the Medical Council in relation to the RCSI-MUB.<sup>44</sup> In its letter it stated: 'The Government has ... always sought to draw a clear distinction between the wider human rights situation and the involvement of Irish institutions in the education and training of the Bahraini medical personnel'.
- 4.12 On the 17<sup>th</sup> of December 2014 the Medical Council approved, without condition, the RCSI-MUB and the programme of medical education delivered by it.<sup>45</sup> The report which forms the basis of this approval makes no reference to the allegations of human rights abuses in training hospitals associated with the RCSI-MUB<sup>46</sup> despite referring (in an appendix) to various documents which contain details of these abuses. Furthermore, according to minutes of the Medical Council's meetings which GLAN has obtained under Ireland's Freedom of Information Act, such documents were circulated among the members of the Medical Council prior to its decision in relation to the RCSI-MUB.

## **5. Breaches by the Medical Council of its Obligations as an Organ of the Irish State under the ICCPR and Customary International Law**

- 5.1 GLAN submits that the decision of the Medical Council to grant unconditional approval to the RCSI-MUB and the programme of education delivered by it
- (a) which entails findings that
- i. RCSI-MUB and the programme of education observe the principle that patient safety is at the core of the health service delivery a doctor provides;
  - ii. the clinical experience provided by the programme is adequate and appropriately supervised; and
  - iii. the medical school has a constructive interaction with the health related sectors of society and government;
- (b) in circumstances where
- i. torture has been committed in the training hospitals in which the RCSI-MUB delivers its programme of education;
  - ii. senior figures, both within the hospitals in which the RCSI-MUB delivers its programme of education and within healthcare related sectors of government, who have been identified as having been chiefly responsible for the abuses which have taken place in these hospitals have remained in senior positions within Bahrain's healthcare administration;

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<sup>44</sup> This communication took place as part of the consultation process required to take place by section 88(2)(a) of the Medical Practitioners Act, 2007 between the Minister and the Medical Council prior to the approval of a medical facility by the latter.

<sup>45</sup> RCSI, 'RCSI Bahrain receives Irish Medical Council accreditation' (2014) available from <http://www.rcsi-mub.com/index.jsp?p=100&n=109&a=4376>

<sup>46</sup> See note 41 above.

- iii. no prosecutions have been brought against any individual for the torture committed in these hospitals;
- iv. these hospitals remained, at the time at which the Medical Council granted its approval, subject to interference by the same military whose personnel operate the KHU and BDF Hospitals and medics continued to be targeted by the Bahraini state;
- v. the Bahraini state continues to resort to the use of torture;

(c) and also having regard to the fact that the Medical Council was aware of reports which contained details of the abuses in question;

amounts to a failure, contrary to Article 2 of the ICCPR, to respect the right protected by Article 7 of the Covenant.

5.2 GLAN notes in this regard the view of the Human Rights Committee that *'[a]ll branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level - national, regional or local - are in a position to engage the responsibility of the State Party'*.<sup>47</sup>

5.3 With regard to jurisdiction, GLAN notes the view of the Human Rights Committee in *López Burgos v. Uruguay* that

*'it would be unconscionable to so interpret the responsibility under Article 2 of the Covenant as to permit a State party to perpetrate violations of the Covenant on the territory of another State, which violations it could not perpetrate on its own territory.'*<sup>48</sup>

5.4 Finally, it is submitted that the decision of the Medical Council to unconditionally accredit RCSI-MUB amounts to a breach of the obligation of 'non-recognition' which arises in relation to violations of *jus cogens* norms including torture.<sup>49</sup> The decision of the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia ('ICTY') in *Prosecutor v Furundžija* is instructive in this regard. In that case it held that '[t]he value of freedom from torture is so great that it becomes imperative to preclude any national legislative act authorising or condoning torture or at any rate capable of bringing about this effect'.<sup>50</sup> It is submitted that the decision of the Medical Council, for the same reasons that it gives rise to a breach of the obligation to respect the right protected by Article 7 of the ICCPR, has the effect of condoning the acts of torture committed in the training hospitals associated with the RCSI-MUB.

<sup>47</sup> *López Burgos v. Uruguay*, UN Doc. A/36/40, 6 June 1979, para. 12.3.

<sup>48</sup> Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004).

<sup>49</sup> See Article 41(2) of the International Law Commission's Draft Articles on the Responsibility of States for Internationally Wrongful Acts

<sup>50</sup> *Prosecutor v. Anto Furundžija* (Trial Judgement), IT-95-17/1-T, International Criminal Tribunal for the Former Yugoslavia (ICTY), 10 December 1998, para. 150.

5.5 It is respectfully submitted that the obligation on State Parties under Article 2 of the ICCPR to respect the prohibition of torture prescribed by Article 7 thereof should be interpreted in a manner consistent with the obligation of non-recognition.

## **6. Recommendations**

6.1 GLAN respectfully suggests that the Human Rights Council and State Parties to the ICCPR should recommend:

- That the Irish government reassess its position that the provision of medical education in Bahraini facilities is separate to the human rights issues associated with these facilities;
- That the Medical Council render the approval of the RCSI-MUB subject to the condition that appropriate measures be taken to ensure that no further human rights violations take place within its training hospitals;
- That the Medical Council withdraw approval if such measures are not complied with;
- That the Government direct the Medical Council<sup>51</sup> not to approve any educational facility where serious human rights abuses have taken place or continue to take place within its training hospitals.

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<sup>51</sup> Pursuant to its power under Section 9 of the Medical Practitioners Act, 2007.