



WINDOW-DRESSING OR PIONEERS OF CHANGE?

AN ASSESSMENT OF BAHRAIN'S HUMAN RIGHTS OVERSIGHT BODIES

AMNESTY
INTERNATIONAL



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Cover photo: A Bahraini anti-government protester masked against tear gas shows shotgun shells to journalists during clashes between protesters throwing stones and riot police firing tear gas and shotguns in Bilad al-Qadeem, Bahrain, 16 January 2015

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1. EXECUTIVE SUMMARY

Bahrain today remains marked by the consequences of the government's ruthless suppression of mass pro-reform demonstrations in February and March 2011, when security forces killed at least 30 peaceful protesters and detained and tortured dozens of others with impunity. The government's actions, at the height of the uprising, provoked an international outcry. In response, King Hamad bin Isa Al Khalifa established in June 2011 the Bahrain Independent Commission of Inquiry (BICI), which was composed of international jurists and human rights specialists and proceeded to investigate and report on unlawful killings, torture and other human rights violations by the security forces. The King accepted the BICI's findings, issued on 23 November 2011, and committed the government to full implementation of its recommendations, earning wide international praise.

The BICI's 26 recommendations called for further investigations into the violations committed by the security forces during the 2011 uprising, for those suspected of being responsible to be brought to justice, and for legal and institutional reforms to prevent future violations. In response, the government amended some laws, including Bahrain's Penal Code, whose definition of torture was changed to match that in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and in 2012 and 2013 created new human rights mechanisms mandated to investigate alleged human rights violations by state agents, and ensure accountability. These included the Ombudsman of the Ministry of Interior, a separate Ombudsman within the National Security Agency (NSA), the Special Investigations Unit (SIU) within the Public Prosecution Office (PPO) and the Prisoners and Detainees Rights Commission (PDRC). In 2014 the government also overhauled the largely ineffective National Institution for Human Rights (NIHR) established in 2009. The creation of these new institutions raised high hopes that the culture of impunity that has prevailed in Bahrain for many years, facilitating human rights violations by the security forces, would be brought to an end.

The government points to these reforms as evidence that it has embraced reform, implemented the BICI recommendations, and is committed to upholding human rights. However, many Bahraini human rights defenders argue that ongoing violations reveal the reforms to be mere window-dressing and the country's Shi'a community, who comprise a large majority of the population, accuse the government of continued discrimination.

Throughout the period since 2011, Amnesty International has documented serious human rights violations, including torture and other ill-treatment and excessive use of force by security forces with little accountability. The government has continued to severely restrict the rights to freedom of expression, association and peaceful assembly, to imprison critics and opponents as prisoners of conscience, that is merely for peacefully expressing their right to freedom of expression, and to impose arbitrary travel bans on critics and strip them of their Bahraini citizenship. Bahrain's judiciary continues to lack independence and its courts continue to sentence defendants to death or long prison terms after unfair trials.

Five years after the King accepted the BICI recommendations, and despite the creation of new institutions, a culture of impunity still prevails. Although the authorities have brought criminal prosecutions against at least 93 members of the security forces for alleged involvement in perpetrating unlawful killings, injuries, torture and other ill-treatment since November 2011, only a minority have been convicted, mostly receiving sentences that failed to reflect the gravity of the crime. Most of those prosecuted were low-ranking personnel. No senior officers or officials have faced prosecution for the serious human rights violations committed during the suppression of the 2011 uprising, despite the BICI's call for further investigations and criminal prosecution of those suspected of being responsible.

The two key institutions that the government created to investigate alleged human rights violations and ensure accountability – the Ombudsman of the Ministry of Interior and the SIU, both established in 2012 – have been fully operational for over three years. This is a relatively short amount of time, but is sufficient to enable an assessment of their impact and effectiveness, while acknowledging that the institutions are only two parts in a bigger picture and that the larger onus is on the authorities themselves to address the prevailing culture of impunity by taking measures such as facilitating greater independence for the judiciary. This report seeks to make such an assessment, based on key principles and standards to which human rights institutions should adhere – independence, impartiality and neutrality, confidentiality, speed of response and thoroughness, transparency and success in building public confidence, and overall effectiveness.

The Ombudsman and the SIU both have wide, legally backed mandates, and are empowered and resourced to conduct prompt and effective investigations into alleged human rights violations by state agents, acting in response to complaints or at their own volition. Their mandates require them to be independent and transparent, and to uphold confidentiality. The Ombudsman can refer cases to the SIU, which is mandated and empowered to investigate and refer cases to court and to challenge court verdicts and sentences before courts of appeal.

The Ombudsman's office has been generally effective in referring complaints of torture and other serious human rights violations to the SIU for investigation and has succeeded in making itself and its procedures accessible to complainants. It has acted transparently by reporting publicly on its work and on some of its inspection visits to prisons and other detention facilities. It claims that its receipt of an increased number of complaints in its second year of operation reflected growing public confidence in its work.

However, the Ombudsman's office has been slow and ineffective in addressing some issues, including prisoners' access to medical care and identifying where detainees at risk of torture and other ill-treatment are held. Some families and victims complain that the Ombudsman's office has failed to inform them of the progress and outcome of its investigations, fuelling distrust.

In addition, various factors have called the Ombudsman's independence into question, including the sourcing of its budget from the Ministry of Interior, its lack of criticism of ongoing human rights violations and its failure to address evident breaches of confidentiality that have seen both a prisoner face reprisals and a confidential Ombudsman report to the Ministry of Interior used by Bahraini diplomats in Brussels to mislead European parliamentarians concerned by reports of the torture of **Mohamed Ramadhan Issa Ali Hussain** while in detention in Bahrain. Similarly, the Ombudsman failed to accurately report to the UK government that the office of the Ombudsman had received a complaint from his wife and from an international NGO regarding his torture, only initiating an investigation into his allegations over two years after the initial complaint.

The SIU has achieved some progress towards accountability: it has referred 44 cases, involving some 93 members of the security forces, for trial on criminal charges. However, its investigations into more than 150 other cases of alleged torture or other ill-treatment, deaths in custody and allegedly unlawful killings since 2011 have not resulted in prosecutions. It has sometimes failed to conduct prompt investigations and speedily obtain medical evidence and testimonies. It has often failed to keep alleged victims and their families informed of the progress of its investigations or notify them of the outcome, including clarifying why it has closed investigations or failed to conclude them. Its independence and impartiality have also been called into question, partly due to its continued location within the premises of the PPO, as has its commitment to ensuring confidentiality.

Some victims have been failed by both the Ombudsman and the SIU. They include **Ali Isa al-Tajer**, whose brother submitted complaints to the Ombudsman and the SIU following his arrest in November 2015 seeking help in locating his whereabouts in detention and expressing concern that he was at risk of torture and other ill-treatment. The Ombudsman's office responded only three months later, saying that it had referred the case to the SIU. The SIU conducted a forensic medical examination but it occurred a month after they received his brother's complaint and Ali al-Tajer was taken from Dry Dock Prison to only one of three consultant examinations recommended by the SIU forensic doctor. The Ombudsman failed to promptly establish Ali al-Tajer's place of detention and ensure his safety during a period when he alleges that security forces interrogated him under torture in several locations, and the SIU failed to arrange a sufficiently prompt medical examination to secure possible evidence of torture and other ill-treatment, and according to the Ombudsman's office, later dismissed his case.

The Ombudsman's and the SIU have both received significant international support, including skills training and capacity building assistance, from the UK government and others. Like the Bahraini government, the UK government has portrayed the two bodies as model institutions that are capable of independently

investigating alleged human rights violations and ensuring accountability, including by delivering justice for victims. The Bahraini government has repeatedly pointed to the existence of the Ombudsman and the SIU to deflect international criticism of continued human rights violations and assert its commitment to human rights and accountability.

In reality, the creation of the Ombudsman and the SIU does not appear to date to have significantly deterred human rights violations. The security forces have continued to use torture and other unlawful methods, and have been able to do so with a large degree of impunity, and most victims of human rights violations still receive neither justice nor redress. Much needs to be done by both institutions, therefore, if they are to gain the trust of victims and their families, and the lawyers, human rights defenders and others who represent victims. As well, the Bahraini government needs to do much more to facilitate the work of the Ombudsman and the SIU, promote the independence of the judiciary and courts, and review or repeal laws and policies that unduly restrict human rights and facilitate torture and other serious human rights violations.

This report is based on over 90 interviews that Amnesty International has conducted with victims of human rights violations, their families and lawyers, human rights defenders and others, as well as information obtained through meetings and correspondence with the Bahraini government, the Ombudsman's office, the SIU and other bodies. Amnesty International wrote to the Ombudsman concerning more than 20 cases and to the SIU concerning more than 50 cases between August 2013 and September 2016. The Ombudsman's office responded on 16 cases and the SIU on 24.

Amnesty International sent memorandums containing several dozen questions to both institutions in August 2016 in order to request clarifications and comments in response to concerns identified during the research for this report. The SIU did not respond to the request. The Ombudsman's office replied to say that it was generally happy to engage with Amnesty International but that responding to the memorandum it was sent would be too onerous. However, when Amnesty International offered it the chance to discuss the issues raised in other ways, it refused to do so.

Amnesty International has monitored the work of the Ombudsman and the SIU since their inception, recognizing their potential as institutions that can and should effect much-needed change – if they and the Bahraini government to which they report genuinely have the political will to allow it. To this end, Amnesty International urges the two institutions to carry out investigations into all human rights violations within their remit and adhere strictly to the principles of independence, adequacy, promptness, effectiveness and transparency at all times.

Amnesty International urges the Bahraini government to ensure accountability for all human rights violations, including by holding those with superior responsibility to account. It also calls on the UK government to ensure the evaluation of its technical assistance programme for Bahrain contains measurable benchmarks which align with the key principles of independence, promptness, transparency and effectiveness outlined in this report and to publish its evaluation.

2. METHODOLOGY

This report draws on the findings of Amnesty International's continuous monitoring of, and research into, human rights developments in Bahrain over recent years, notably from the beginning of 2013 up to September 2016. During this period, Amnesty International conducted over 500 interviews with individual victims of human rights violations, family members, lawyers, human rights defenders, and other civil society activists. Some interviews were conducted in person, notably during Amnesty International field visits to Bahrain in January 2013, May 2014 and January 2015; other interviews were conducted by telephone, video call and email.

The report also draws on information provided by the office of the Ombudsman of the Ministry of Interior and the SIU, including in meetings and through correspondence, as well as their published reports and statements. Amnesty International wrote to the Ombudsman on more than 30 occasions between August 2013 and September 2016 to seek information on more than 20 individual cases and to seek clarifications on the Ombudsman's processes and policies. The Ombudsman's office responded to questions regarding 16 of the more than 20 cases raised, sometimes in detail, and also proactively contacted Amnesty International on two occasions in response to Urgent Action appeals issued by the organization. Amnesty International obtained further information in meetings with the Ombudsman and members of his staff in January 2013, May 2014 and January 2015 in Bahrain, and in November 2014 in London. During its visits to Bahrain in January 2013, May 2014 and January 2015, Amnesty International met with, and obtained information from, the head and staff of the SIU. Amnesty International also wrote to the SIU about more than 50 individual cases between August 2013 and September 2016; the SIU responded and provided details of its investigations in 24 of these cases.

During the writing of this report, Amnesty International sent memorandums containing several dozen questions to both the Ombudsman and the SIU on 5 August 2016. These requested clarifications of aspects of the two institutions' processes, mandate and policies, updated information on the progress of their investigations into certain cases and further clarification of others, and invited the Ombudsman and SIU to respond to concerns identified during the research for this report, allowing them more than a month to do so. Amnesty International received no reply from the SIU, despite sending a reminder letter on 26 September 2016. The Ombudsman's office responded on 28 August, describing Amnesty International's request as "19 pages of questions in one communication" and commenting that the Ombudsman found it difficult to see "how the manner of this current approach for information and related timescale reflects a respectful and sincere wish to produce an independent, fair investigation report". The Ombudsman's office added that it would "gladly assist" if Amnesty International requested information on individual cases or the Ombudsman's procedures that was not included in the Ombudsman's annual reports or previously provided. Amnesty International replied on 5 September suggesting a discussion by teleconference to allow the Ombudsman's office to clarify what information it believed it had already provided and then follow up in writing to answer questions that remained outstanding. However, the Ombudsman's office responded on 7 September that this "compromise" would be "no less demanding"; it said it remained ready to respond to "realistic requests for information", but to date has provided no answer to any of the clarifications Amnesty International asked in its memorandum of August 2016.

Amnesty International has sought several times, without success, to visit Bahrain since it last did so in January 2015. In April 2015, following the publication of an Amnesty International report on Bahrain, the Ministry of Foreign Affairs said that a proposed visit by the organization's Secretary General would be "unrewarding at such a time". Most recently, on 8 September 2016 the government rejected dates for a proposed Amnesty International visit to discuss the issues detailed in this report as not "suitable at this time".

The report does, however, include information that Amnesty International obtained in meetings and correspondence with a range of Bahraini authorities, including the Minister of Interior, the Public Prosecutor, the Head Commissioner of the NIHR, the Chairman of the PDRC and the Inspector General of the NSA Ombudsman, as well as published reports and statements of the NIHR and PDRC and statements of other government officials published in local media, on social media sites such as Twitter, and on government ministry websites.

The report also draws on information provided in meetings with, or public statements of, the UK's Foreign and Commonwealth Office (FCO) and embassy in Bahrain; the US State Department and the US embassy in Bahrain; the Office of the UN High Commissioner for Human Rights (OHCHR); the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the European Union's European External Action Service (EEAS); and the European Parliament.

Other public information sources used in the preparation of this report include media reports and reports and statements of Bahraini and international human rights NGOs.

3. BACKGROUND

3.1 2011 UPRISING AND THE BAHRAIN INDEPENDENT COMMISSION OF INQUIRY

In February 2011, as the uprisings in the Middle East swept aside long-standing authoritarian regimes in Tunisia and Egypt, and threatened others elsewhere, tens of thousands of Bahrainis took to the streets of Manama, the capital, to peacefully protest against the government and demand reform. The government's brutal response to this uprising saw peaceful protesters beaten, shot, and killed, a period of martial law, and opposition activists, teachers, doctors, journalists, lawyers and human rights defenders detained, tortured and imprisoned after grossly unfair trials, provoking an outcry at home and internationally.



Demonstration at Pearl Roundabout, Manama, 22 February 2011 © Amnesty International

King Hamad responded to the international outcry by establishing the BICI to investigate alleged human rights violations, setting it a tight timetable to complete its task. In November 2011, the BICI submitted its report to the King, who publicly committed the government to accepting its findings and implementing its recommendations, a step seen widely as historic and commendable. The BICI concluded that the security forces had committed torture and other ill-treatment and unlawful killings, and that Bahrain's courts failed to deliver fair trials. It called for further investigations to be conducted to ensure that those suspected to be responsible for the human rights violations were held accountable and for the introduction of legal and institutional reforms to halt violations and abuses and prevent their repetition. In particular, the BICI

recommended the creation of an independent Ombudsman within the Ministry of Interior to investigate complaints and another independent investigative body empowered to initiate legal and disciplinary action against those accused of human rights violations, paving the way for the creation of the SIU within the PPO.

3.2 INSTITUTIONAL AND LEGAL REFORMS POST-BICI

3.2.1 LEGAL REFORMS

The government has enacted several legal reforms in response to the BICI's recommendations. One amended the Penal Code so that it defines torture in the same terms as Article 1 of the UN Convention against Torture; another introduced a Code of Conduct for police officers that prohibits them using torture and other ill-treatment. The government also enacted a new prison law to regulate the treatment of prisoners and detainees.¹ On paper, these reforms constitute significant improvements. In practice, however, their impact has been far less due to the failure of the authorities to ensure their application and enforcement, as evidenced by the security forces' continued torture and other ill-treatment of detainees and use of excessive force against protesters, sometimes causing deaths or serious injuries, without accountability.



Bahrain's Prime Minister (left), King (centre) and Crown Prince (right) during the launch ceremony of the BICI report © Amnesty International

Other recent legal changes have facilitated human rights violations. In December 2014, the government amended Bahrain's anti-terrorism law to allow the security forces to detain suspects incommunicado for up to 28 days, placing them at increased risk of torture and other human rights violations and abuses.²

3.2.2 INSTITUTIONAL REFORMS

The government also made institutional reforms in response to the BICI recommendations, establishing an Ombudsman's office within the Ministry of Interior and a similar but separate Ombudsman's office within the NSA. The government also created the SIU in response to the BICI's call for the creation of a "national independent and impartial mechanism to determine the accountability of those in government who have committed unlawful or negligent acts", and reformed the NIHR, and created the PDRC. The creation of these new institutions represented a high-water mark in Bahrain's reform programme and raised hopes that the authorities were committed to upholding human rights and ensuring that those members of the security

¹ Amnesty International, *Behind the rhetoric: Human rights abuses in Bahrain continue unabated* (Index: MDE 11/1396/2015), April 2015, pp. 19-21 (Amnesty International, *Behind the rhetoric*).

² Amnesty International, *Behind the rhetoric*, pp. 41-42.

forces and others suspected of ordering and committing human rights violations and abuses would be held to account. The Ombudsman of the Ministry of Interior and the SIU are described in detail in the following chapters.

National Security Agency Ombudsman

The government established the NSA Ombudsman in February 2012, mandating it to receive and examine complaints of human rights violations by NSA officers and refer relevant cases to other authorities, in coordination with the PPO, when they require disciplinary or other measures. To date, the NSA Ombudsman has not published any reports or information about NSA investigations, findings or recommendations; such lack of transparency makes it impossible to assess the role and effectiveness of the NSA Ombudsman. The Inspector General who heads the office of the NSA Ombudsman must be nominated and recommended by the head of the NSA and approved by the Prime Minister, and the Ombudsman's budget is allocated from the overall NSA budget, putting the independence and impartiality of the NSA Ombudsman into question.³

National Institution for Human Rights

The NIHR's mandate was amended in 2012 but the NIHR remained ineffective until its mandate was amended again in 2014 to bring it into conformity with the Principles relating to the Status of National Institutions (Paris Principles),⁴ giving it a broad mandate to protect, uphold, develop and promote human rights. This includes reviewing draft and existing human rights-related laws and monitoring and investigating complaints concerning human rights violations.⁵

The NIHR has published two annual reports. The 2013/2014 report contained recommendations addressed to the government, including a call for the authorities to lift their ban on all protests in Manama. The 2014/2015 report did not include additional recommendations but urged the authorities to "urgently" implement its previous recommendations.⁶

The NIHR's independence and impartiality have been questioned by local and international NGOs,⁷ particularly due to its failure to speak out against the detention and imprisonment of critics and opponents of the government merely for peacefully exercising their right to freedom of expression; Amnesty International considers such individuals to be prisoners of conscience. The NIHR has openly criticized international NGO reports critical of human rights violations in Bahrain⁸ and remained silent when one of its commissioners posted tweets against the right to freedom of expression and advocated the death penalty,⁹ breaching the NIHR's Code of Conduct.¹⁰

In May 2016, the International Coordinating Committee of National Institutions gave the NIHR a "B" status rating on the grounds that it complies only partially with the Paris Principles.¹¹

Prisoners and Detainees Rights Commission

The government established the PDRC in September 2013 to safeguard detainees and prisoners against mistreatment, including by carrying out unannounced inspection visits to prisons and other places of detention. It is mandated to interview detainees and to notify the relevant authorities and make recommendations if it uncovers cases of torture and other ill-treatment.¹²

The PDRC's mandate requires it to report on every visit that it conducts to a detention centre, prison or other location and make recommendations to the relevant authorities. By September 2016, the PDRC had published reports on 10 of its inspection visits and a 2014/2015 annual report (published in May 2016). The reports provide useful but limited recommendations – for example, noting a need for additional surveillance cameras in Criminal Investigation Directorate (CID) interview rooms while apparently failing to assess the usage of already installed cameras.¹³

3 Amnesty International, *Behind the rhetoric*, p. 15.

4 The Paris Principles are the recognized international standards for the establishment and operation of national human rights institutions.

5 Amnesty International, *Behind the rhetoric*, pp. 15-16.

6 NIHR, *Annual report of the National Institution for Human Rights 2013 – Kingdom of Bahrain*, and; *Second annual report of the National Institution for Human Rights 2014 – Kingdom of Bahrain*, both available at: www.nihr.org.bh/EN/eLibrary?type=4 (accessed 12 October 2016).

7 See for example: www.adhrb.org/2015/12/ngos-state-that-bahrains-nihr-fails-to-address-root-causes-of-violations/ (accessed 12 October 2016).

8 For example, the NIHR criticized a Human Rights Watch report of November 2015.

9 See twitter.com/alshaer_khalid/status/725681065143230464 (accessed 12 October 2016).

10 Code of Conduct issued under the Council of Commissioners' Resolution No.13 of 2016, 29 March 2016.

11 For further details on the status ratings, see <http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Pages/default.aspx>

12 Amnesty International, *Behind the rhetoric*, p. 16.

13 For further details, see PDRC report www.pdrc.bh/mcms-store/pdf/c0c77248-5000-4f98-832d-d3ac3c60b1ae_Investigation%20-%206.pdf (accessed 12 October 2016).

The PDRC report of its visit to Jaw Prison in November 2015, eight months after disturbances and clashes between prisoners and security forces, which was published in May 2016, failed to include any reference to prisoners' abuse allegations or PDRC interviews with prisoners.¹⁴ The report simply restated what the PDRC said it had been told by official bodies including the Public Prosecution, the SIU and the Ministry of Interior Ombudsman.

The Twitter account of one PDRC commissioner whose name is listed in the May 2016 annual report includes tweets ostensibly posted by him that refer to Shi'a Muslims in derogatory terms¹⁵ and an anti-Semitic tweet.¹⁶

3.3 HUMAN RIGHTS VIOLATIONS SINCE 2011

The past five years have seen continued human rights violations by Bahraini security forces amid a general lack of accountability. They have also seen a number of bomb attacks by armed groups, including some that have killed or injured police officers and civilians.¹⁷ A group calling itself Saraya al-Ashtar claimed responsibility for some bombings, including a March 2014 attack in al-Daih village that killed three police officers. The government said the attack was carried out by members of a "terrorist" group trained in Iran "with official backing"¹⁸ and accuses the Iranian government of fomenting violent opposition, which the Iranian government denies.¹⁹

Amnesty International has documented arbitrary arrests and detentions and torture and other ill-treatment of detainees, particularly while held incommunicado and subjected to interrogation by the CID, when detainees allege they are forced to sign "confessions" for use as evidence against them or to implicate others at trial. Documented methods include beatings, forcing detainees to remain standing for long periods, sleep deprivation and keeping detainees naked.²⁰

Bahrain's judiciary continues to lack independence and to convict and sentence defendants – including critics, activists and human rights defenders as well as defendants facing terrorism or security-related charges – after unfair trials, including in death penalty cases. Courts have convicted scores of defendants on the basis of pre-trial "confessions" although defendants alleged that interrogators tortured them to force them to incriminate themselves.²¹

The authorities have severely restricted the right to peaceful assembly, retaining an indefinite ban on all public demonstrations in Manama while using the security forces to disperse unauthorized protests, mostly in Shi'a villages, sometimes using excessive force, including with tear gas and shotgun pellets.²² They have impermissibly restricted the right to freedom of expression, including by imprisoning critics and human rights defenders as prisoners of conscience.²³ They have also banned human rights defenders and other critics from travelling abroad²⁴ and arbitrarily stripped over 320 people, including human rights defenders, of their Bahraini citizenship, rendering the majority of them stateless. Six have been forcibly expelled.²⁵

Since 2015, the authorities have intensified their crackdown on the main political opposition, arresting and imprisoning Sheikh Ali Salman, leader of the predominantly Shi'a Al-Wafaq National Islamic Society (AI-

14 For further details, see PDRC report pdrc.bh/mcms-store/pdf/75846ed3-8c59-4daf-a7b6-c4111f45a6b9_Jau-English-Final.pdf (accessed 12 October 2016).

15 twitter.com/butalalbhr/status/625052967914246144 (accessed 12 October 2016).

16 Original tweet was deleted, previously accessible here: twitter.com/butalalbhr/status/624348231481233408 See p. 6 of BIRD report with screenshot of tweet birdbh.org/wp-content/uploads/2015/09/PDRC_Fundamentally-Flawed1.pdf (accessed 12 October 2016).

17 According to the Ministry of Interior, 14 policemen were killed and 2,887 were injured between 2011 and March 2015. Since March 2015, four more policemen have been killed. See: Amnesty International, *Amnesty International report 2015/16: The state of the world's human rights* (Index: POL 10/2552/2016), 2016.

18 See www.policemc.gov.bh/en/news/ministry/31793 (accessed 12 October 2016).

19 For example, Iran denied links to a bombing in July 2016: PRESSTV, "Iran dismisses Bahrain's terror claim over June bomb blast", 13 July 2016, available at www.presstv.com/Detail/2016/07/13/475021/Iran-Bahrain-Bahram-Qassemi-bomb-blast-Manama-al-Khalifah

20 Amnesty International, *Behind the rhetoric*, pp. 46-51.

21 Amnesty International, *Behind the rhetoric*, pp. 47-48.

22 Amnesty International, *Behind the rhetoric*, pp. 22-28.

23 See, for example, Amnesty International, *Bahrain: Respect human rights of prisoners and release prisoners of conscience* (Index: MDE 11/1247/2015), March 2015, available at www.amnesty.org/en/documents/mde11/1247/2015/en/

24 Amnesty International, *Bahrain: End heightened crackdown on peaceful critics* (Index: MDE 11/4749/2016), September 2016, available at www.amnesty.org/en/documents/mde11/4749/2016/en/ (Amnesty International, *Bahrain: End heightened crackdown on peaceful critics*).

25 Amnesty International, *Bahrain: Alarming deportations of those stripped of their nationality* (Index: MDE 11/3505/2016), 23 February 2016, available at www.amnesty.org/en/documents/mde11/3505/2016/en/

Wefaq),²⁶ ordering its dissolution in July 2016,²⁷ and revoked the citizenship of the association's spiritual leader and arraigning him on money laundering charges.²⁸

The government has also targeted the opposition National Democratic Action Society (Waad),²⁹ imprisoning its former leader from 2011 to 2015 and again from July 2015 to July 2016,³⁰ and jailing the leader of another opposition group for five years for publicly criticizing Saudi Arabian air strikes in Yemen.³¹

3.4 PERPETUATING IMPUNITY

Bahrain already had a long-established culture of impunity before the 2011 uprising. The BICI recognized this and sought to address the concerns by urging the authorities to conduct further investigations into the violations that the security forces had committed during the protests so that they would lead to criminal prosecutions of those responsible, however senior. Yet, today most members of the security forces who are suspected of perpetrating human rights violations still face neither criminal prosecution nor disciplinary sanctions, and most victims receive no effective remedy or redress. According to the SIU, the authorities have brought criminal prosecutions against 93 members of the security forces accused of involvement in unlawful killings, injuries, torture and other ill-treatment of detainees and deaths in custody. The SIU has clarified that the courts have convicted 15 of them and acquitted 40 others, often on grounds of lack of evidence.³² The conclusion of the cases of the remaining 38 members of the security forces either remained pending or had not been clarified by the SIU by the end of September 2016. Most of those prosecuted were low-ranking personnel and no senior officers or high-level officials have faced prosecution on account of their "command or superior responsibility" for human rights violations by the security forces. Where courts have convicted members of the security forces, they have generally imposed penalties that failed to reflect the gravity of the crime, such as fines or only brief periods of imprisonment. When heavier prison sentences have been imposed at trial, these have usually been significantly reduced or overturned on appeal. For example, a police officer sentenced to seven years' imprisonment for killing protester **Hani Abdelaziz Abdullah Jumaa** had his sentence cut to six months by an appeal court that concluded he had "acted in self-defence".³³ To date, only one member of the security forces convicted of causing the death of a protester or detainee has received a prison sentence in excess of six years following appeal.³⁴

The failure to bring successful prosecutions means that victims have been denied justice. For example, those suspected to be responsible for the death of **Zakariya Rasheed Hassan al-Asheri**, 40, at Dry Dock Prison in April 2011 following a violent assault by police officers have so far escaped justice. In March 2013, a court acquitted five police officers for lack of evidence, two of whom were accused of beating the deceased and another detainee with a hose, and three others with failing to report the crime. Since their acquittal, no other officers have been charged with causing Zakariya al-Asheri's death.³⁵

26 See Amnesty International, "Bahrain: Opposition leader jailed for nine years over peaceful speeches", 30 May 2016, available at www.amnesty.org/en/press-releases/2016/05/bahrain-opposition-leader-jailed-for-nine-years-over-peaceful-speeches/

27 Amnesty International, *Bahrain ramps up assault on human rights by dissolving leading political group* (Index: MDE 11/4484/2016), July 2016, available at www.amnesty.org/en/documents/mde11/4484/2016/en/

28 Amnesty International, *Bahrain: End heightened crackdown on peaceful critics*.

29 Amnesty International, *Behind the rhetoric*, p. 40.

30 Amnesty International, *Bahrain: Further information: Freed prisoner of conscience back in court: Ebrahim Sharif* (Index MDE 11/4547/2016), 27 July 2016, available at www.amnesty.org/en/documents/mde11/4547/2016/en/

31 Amnesty International, *Bahrain: Further information: Political activist's verdict set for 26 October* (Index: MDE 11/4843/2016), 15 September 2016, available at www.amnesty.org/en/documents/mde11/4830/2016/en/

32 Many of the more recent cases of members of the security forces brought to trial have yet to reach a verdict.

33 Amnesty International, *Behind the rhetoric*, p. 66.

34 See the case of Ali al-Saqer in section 5.4.

35 Amnesty International, *Behind the rhetoric*, pp. 62-63.

3.5 POLITICAL AND JUDICIAL OBSTACLES TO ACCOUNTABILITY

“These laws cannot be applied to you”

Prime Minister of Bahrain

Overcoming an entrenched culture of impunity requires an independent and impartial judicial system that upholds standards of due process and delivers fair trials, and a system of law that prescribes penalties that are appropriate to the crimes that are committed but do not include the death penalty or other forms of cruel, inhuman and degrading treatment or punishment. As well, it requires executive authorities that are genuinely committed to upholding human rights and ensuring accountability and that have the political will to ensure it. In Bahrain, however, the judiciary still lacks independence and impartiality, as the courts' lenient response to security forces violations reflects,³⁶ and some statements and actions of senior officials have put in question the government's commitment to ensuring accountability.

In July 2013, for example, Bahrain's Prime Minister was reported to have told a gathering of senior police and other officials that he considered them above the law, saying “These laws cannot be applied to you... Whoever applies these laws against you is applying them against us” before thanking a police officer accused but acquitted of torturing detainees for his “patience” and “good work”.³⁷ In July 2015, the authorities released another officer imprisoned in connection with the death of protester **Ali Abdulhadi Mushaima**³⁸ under a royal pardon.³⁹

Indeed, rather than genuinely addressing the systemic cause of impunity in Bahrain stemming from the lack of political will and of an independent and impartial judiciary, the Bahraini government has chosen to prioritize promoting a superficial image of reform and accountability – using the creation of the Ombudsman and SIU as examples – at the international level to dampen criticism of its human rights record. The Bahraini government has engaged heavily with the UN, its human rights mechanisms and special procedures. By contrast, however, the government has not been receptive to visit requests, inquiries and investigations by UN Special Rapporteurs, notably the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, whose planned visits to Bahrain have been blocked by the authorities.⁴⁰ Restrictions also continue to be imposed on international NGOs' access to Bahrain.

36 By contrast, the courts have imposed lengthy prison sentences on critics and opposition political leaders and activists, and on teenagers accused of rioting and burning tyres in protest, jailing some for up to 10 years after trials that failed to comply with international standards of fair trial.

37 See bahrainwatch.org/blog/2013/07/10/bahrains-prime-minister-tells-loyalists-that-they-are-above-the-law/ (accessed 12 October 2016) Video on YouTube www.youtube.com/watch?gl=GB&client=mv-google&hl=en&feature=plcp&v=YVundvyyNS8&nomobile=1 (accessed 12 October 2016).

38 Amnesty International, *Bahrain: Two die as protests are violently repressed – Ali Abdulhadi Mushaima, Fadhel Ali Matrook* (Index: MDE 11/004/2011), 15 February 2011, available at www.amnesty.org/en/documents/mde11/004/2011/en/

39 One officer who was sentenced to seven years for killing Ali Mushaima had his sentence reduced to three years and then received a royal pardon in May 2015.

40 Amnesty International, “Cancelled UN visit shows Bahrain 'not serious' about human rights”, 24 April 2013, available at www.amnesty.org/en/latest/news/2013/04/cancelled-un-visit-shows-bahrain-not-serious-about-human-rights/

4. OMBUDSMAN OF THE MINISTRY OF INTERIOR

4.1 MANDATE



The office of the Ombudsman of the Ministry of Interior © Amnesty International

The Bahraini government created the office of Ombudsman of the Ministry of Interior under Decree 27 of 2012 in February 2012 in accordance with BICI recommendations 1717 and 1722. The Ombudsman is mandated to receive and examine complaints about alleged abuses by police and other officials under Ministry of Interior authority and refer them to the SIU or other authorities for further investigation and possible prosecution or disciplinary action. Since a 2013 amendment, the Ombudsman's office can open investigations without receiving a complaint if it learns of alleged violations or misconduct by Ministry of Interior officials⁴¹ and enter and inspect prisons, police stations and other places of detention without warning. Detaining authorities must also immediately inform the Ombudsman's office of any death in custody. The head of the Ombudsman's office (hereafter the Ombudsman) has the title of

Secretary General and, along with his/her deputy, must be "distinguished with independence, impartiality and integrity".⁴² Both roles are appointed for renewable five-year terms at the recommendation of the Minister of Interior and with the Prime Minister's approval, and may be dismissed on the same basis if they are deemed not to be carrying out the functions of their office. The Ombudsman must appoint a "sufficient number of suitably qualified staff", including staff seconded from the Ministry of Interior to resource its four directorates: Complaints, Monitoring of Rehabilitation and Detention Centres, International Co-operation and Development, and Human and Financial Resources.⁴³ The Ministry of Interior's Directorate of Audit and International Investigations, over which the Ombudsman has oversight authority, receives and considers complaints of alleged misconduct by Interior Ministry officials, referring on to the Ombudsman any concern related to torture and other ill-treatment⁴⁴ and then recording the outcome. The Ombudsman has "sole authority" to decide how his/her office uses its budget, allocated from the budget of the Ministry of Interior, and the level of expenditure it requires to function.

41 Decree 35 of 2013, amending Decree 27.

42 Nawaf Al-Mouawda was appointed in July 2013 as the Ombudsman, a position he still held in September 2016.

43 See www.ombudsman.bh/en/administrative-structure/ (accessed 12 October 2016).

44 Meeting with Amnesty International on 27 January 2015, Bahrain.

The Ombudsman's office opens investigations either in response to complaints received from alleged victims or others or at its own volition. Its website includes a downloadable official complaint form in several languages so that complaints can be submitted electronically, by mail or other means to the Ombudsman or to the Ministry of Interior's Internal Investigations Directorate. The Ombudsman allocates a unique reference number to each complaint,⁴⁵ registering it in the records of the Ministry of Interior, where the Internal Investigations Directorate decides whether to refer it to the Ombudsman or another Ministry of Interior department. Once it has concluded investigating a complaint,⁴⁶ the Ombudsman's office "updates" the complainant and the suspected perpetrator about its investigation and the outcome,⁴⁷ following which a complainant has 60 days to appeal the Ombudsman's decision to a "competent court."⁴⁸

The Ombudsman's office may open an investigation in response to media or other reports, without receiving a complaint, and can invite an alleged victim, if it can identify them, to file a formal complaint.⁴⁹

After concluding an investigation, the Ombudsman refers "criminal" cases involving torture and other ill-treatment or deaths in custody to the SIU for further investigation and possible prosecution if "the evidence appears to substantiate the allegations". Under a memorandum of understanding (MOU) agreed between the Ombudsman and the SIU in July 2013, the Ombudsman's office refers to the SIU all complaints and related evidence and documentation if they are within its jurisdiction but can continue to investigate such complaints on administrative or disciplinary grounds "unless criminal responsibility is closely linked... and cannot be addressed separately". The SIU must inform the Ombudsman when its investigations concern Ministry of Interior employees so that the Ombudsman can take action if the investigation finds "administrative or systematic irregularities" that would "adversely affect public confidence". The SIU must also tell the Ombudsman if the Ministry of Interior transfers or suspends any officials being investigated and the Ombudsman's office can take whatever action "it deems appropriate" if the Ministry hinders SIU decisions. The SIU can inform the Ombudsman of the findings of its investigations and the Ombudsman's office can access SIU information as long as it "does not interfere with the sound conduct" of an investigation.

If the Ombudsman's office decides that a case constitutes "misconduct," rather than a crime, it refers it to a "security court"⁵⁰ while it refers any case of abuse "serious enough to merit... suspension" to the culpable official's superior for action. Where the Ombudsman receives "requests for assistance" – for example, from families seeking to ascertain detainees' whereabouts or prisoners seeking access to medical treatment, his office seeks to resolve them directly with the relevant detaining, prison or other authorities.⁵¹

If the Ombudsman decides after investigating that no violations were committed, the case is closed but the Ombudsman may reopen a complaint and investigate it on "misconduct" grounds if, for example, a Ministry of Interior official is accused of a crime such as torture but acquitted at trial.⁵²

4.2 INDEPENDENCE AND IMPARTIALITY

To be effective, the Ombudsman must be – and be seen to be – independent and impartial but various factors have called this into question. First, the Ombudsman's budget derives from the Ministry of Interior, to which the police and prisons service report, although the Ombudsman says he directly controls his office's own budget subject only to financial audit by the National Audit Court.⁵³ Second, prior to his appointment, the current Ombudsman headed Bahrain's PPO, including in 2011 when many opposition leaders and activists were detained, tortured and imprisoned after grossly unfair trials. This has created a perception in some quarters of closeness to the government and association with its policies that runs counter to notions of independence and impartiality. The loosely defined grounds on which the Minister of Interior can remove the Ombudsman from office also give cause for concern.

45 Letter from Ombudsman to Amnesty International, 10 December 2014.

46 Meeting with Amnesty International on 27 January 2015, Bahrain.

47 See www.ombudsman.bh/en/about/ (accessed 12 October 2016).

48 Letter from Ombudsman to Amnesty International, 17 November 2013.

49 Letter from Ombudsman to Amnesty International, 17 November 2013.

50 Amnesty International has been unable to obtain details of the jurisdiction, composition and sentencing powers of these "security courts" and whether they sit in open or closed session.

51 Letter from Ombudsman to Amnesty International, May 2014, and meeting with Amnesty International on 27 January 2015, Bahrain.

52 Letter from Ombudsman to Amnesty International, May 2014 and meeting with Amnesty International on 27 January 2015, Bahrain.

53 Letter from Ombudsman to Amnesty International, May 2014.

Moreover, to date the Ombudsman has failed to publicly criticize new allegations of human rights violations, such as the detention of human rights defender Nabeel Rajab and other critics. Nor does the Ombudsman's office appear to have reacted to the government's use of a confidential report that the Ombudsman submitted to the Ministry of Interior which was then used to lobby and mislead Members of the European Parliament (MEPs) as they prepared to discuss a resolution criticizing Bahrain (see below). On the other hand, the Ombudsman has actively participated in UN discussions about human rights in Bahrain and in promoting internationally an impression that his office's work, together with that of the SIU, provides Bahrain with an effective, independent system for addressing human rights violations and ensuring accountability.

4.3 CONFIDENTIALITY

The Ombudsman is mandated to maintain confidentiality in order to safeguard complainants from reprisals and his office generally appears to do so. In at least two cases, however, complainants or people close to them have faced reprisals, presumably due to breaches of confidentiality by the Ombudsman's office, with serious adverse consequences. After the family of "Ahmed",⁵⁴ a Jaw Prison inmate, submitted a complaint to the Ombudsman alleging that officers had tortured and otherwise ill-treated him during the March 2015 violence at the prison, they found "Ahmed" in a disturbed state when they next visited him; he said prison guards had subjected him to further beating in reprisal for the complaint. The family informed the Ombudsman's office and asked it to close its investigation into their complaint. Amnesty International sought clarification from the Ombudsman as to his office's procedures in the event that complainants suffer reprisals and what measures it takes to ensure confidentiality but received no response.



Mohamed Ramadhan Issa Ali Hussain © Private

The case of **Mohamed Ramadhan Issa Ali Hussain**, who was arrested in February 2014 and subsequently convicted and sentenced to death together with **Hussain Ali Moosa** for perpetrating a bomb attack in al-Deir village that killed a police officer, also raises serious questions of confidentiality. When he had access to a lawyer, Mohamed Ramadhan said that he had been detained incommunicado and tortured by CID interrogators, who had beaten and electric-shocked him while trying unsuccessfully to force him to sign a "confession." His co-defendant Hussain Moosa also alleged CID torture and said he had been forced to sign a "confession" that implicated Mohamed Ramadhan. Both accused said they had reported their torture to Public Prosecutors, who dismissed their allegations. The trial court accepted Hussain Moosa's "confession" and used it to convict the two defendants, whose death sentences have since been confirmed by the High Criminal Court of Appeal and the Court of Cassation.

In January 2016, a confidential report from the Ombudsman's office to the Ministry of Interior on its investigation into complaints by Mohamed Ramadhan's family was circulated by Bahraini diplomats in Brussels to MEPs in advance of a debate on a parliamentary resolution expressing concern about Mohamed Ramadhan's alleged torture. The diplomats told MEPs that the Ombudsman had received no allegations of torture and other ill-treatment from Mohamed Ramadhan's family, apparently to discredit reports of his torture.

The Ombudsman's report referred only to four complaints that it had received between February 2014 and January 2015 concerning procedures used to arrest Mohamed Ramadhan and his lack of access to medical care, which the Ombudsman said he had investigated and resolved. Yet, Mohamed Ramadhan's wife said

⁵⁴ Real name withheld to protect his security.

she had complained to the Ombudsman⁵⁵ about his enforced disappearance for one month, during which he was allowed only one brief opportunity to communicate with her, and torture by CID interrogators, without receiving a response. The Ombudsman's report also made no reference to complaints alleging torture that Mohamed Ramadhan's and Hussain Moosa's lawyers had submitted on their behalf to the SIU. Nor did it mention a complaint that Americans for Democracy & Human Rights in Bahrain (ADHRB), a US-based group, had submitted to the Ombudsman on 17 July 2014 which said CID officers had tortured Mohamed Ramadhan for four days, although the Ombudsman had acknowledged its receipt of that complaint to ADHRB in December 2014.⁵⁶

In April 2016, a UK government minister told UK MPs that the British embassy in Bahrain had been informed by the Ombudsman that he had received several complaints concerning Mohamed Ramadhan but "no allegations of mistreatment or torture."⁵⁷ This, clearly, was incorrect and misleading. As well, it appears that the Ombudsman breached its own confidentiality requirements by passing information about complaints related to Mohamed Ramadhan without his or his family's consent.

It remains unclear how Bahraini diplomats in Brussels were given access to a confidential report from the Ombudsman to the Ministry of Interior and why the report made no mention of any complaints of torture of Mohamed Ramadhan. In August 2016, Amnesty International requested clarification from the Ombudsman regarding these matters and what steps the Ombudsman had taken to investigate the evident confidentiality breach but received no response.

4.4 EFFECTIVENESS

The Ombudsman's office appears generally to have fulfilled its mandate to investigate alleged human rights violations, make recommendations and refer relevant cases to the SIU or other authorities while also taking steps to increase its accessibility, improve its procedures and enhance transparency. It also claims to have resolved various issues related to the treatment of prisoners and detainees. More negatively, the Ombudsman's office has failed to conduct effective investigations into some torture allegations and allegations of inadequate medical care and in one case failed to open an investigation before the allegations became a public issue. A further weakness is that while the Ombudsman's office may make recommendations, it cannot compel other authorities to implement them.

The Ombudsman's office promptly investigated the November 2014 death of Jaw Prison inmate **Hassan Majeed al-Shaikh**, and referred the case to the SIU, which subsequently charged three officers of the Ministry of Interior's Anti-Narcotics Department with torturing detainees and causing the death of Hassan al-Shaikh.⁵⁸ The SIU also charged the prison director and two prison officers with allowing the torture of inmates in their custody. All six defendants were initially convicted at trial, receiving prison sentences ranging from one to five years;⁵⁹ however, an appeal court overturned the prison officers' convictions and reduced the sentences of the Anti-Narcotics officers from five to two years.⁶⁰

Some of the recommendations contained in the Ombudsman's first annual report – that detainees aged 15 to 18 years should be held separately from adult detainees at Jaw and Dry Dock prisons; that new facilities should be constructed to ease overcrowding at Jaw Prison; and that surveillance cameras should be installed in prisons, police stations and other detention facilities – have been implemented, at least partially, by the Ministry of Interior.⁶¹ The Ministry has also barred police and security officials from gaining access to prison inmates without prior PPO authorization, implementing a recommendation that the Ombudsman made following the death of Hassan al-Shaikh.⁶²

55 Mohamed Ramadhan's wife told Amnesty International that she requested a copy of her complaint but the Ombudsman did not provide her with a copy.

56 Communication from Ombudsman to ADHRB, 22 December 2014.

57 See www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-04-11/33305/ (accessed 12 October 2016).

58 Amnesty International, *Behind the rhetoric*, pp. 70-71.

59 See www.instagram.com/p/3oD3kuCrM0/ (accessed 12 October 2016).

60 DT News, "Three Bahrain police officers acquitted of prisoner death", 28 March 2016, available at www.newsofbahrain.com/viewNews.php?ppld=17514&TYPE=Posts&pid=21&MNU=2&SUB

61 According to the Ombudsman, his other implemented recommendations are: police vehicles having a unique ID number prominently displayed, and officers having ID numbers on their uniform.

62 Ministerial Order No. 217 of 2014.



The Ombudsman's office has assisted in some cases by informing families where detainees are held, interceding with prison authorities to restore communication between detainees and their families, and by securing detainees' access to medication and medical care, and has trained prison and other staff responsible for the care of detainees.

The Ombudsman's office improved access to its complaints mechanism by establishing an office in Jaw Prison in 2014, installing complaints boxes in police stations, prisons and other

Ministry of Interior facilities, by making its complaint form available in several languages on its website, and by simplifying the process by which NGOs can submit complaints. As well, a complaint tracking system and "serious incident investigation policy" have been established in an effort to ensure "early" investigations in all "serious incident" cases involving an apparent crime.⁶³

Despite these positive developments and the Ombudsman's ability to be effective on paper, detainees continue to allege torture and other ill-treatment, particularly during interrogation by CID officers, and prisoners continue to complain of overcrowding and problems in accessing prescribed medication and medical treatment.

In spite of the Ombudsman's accessibility, in several cases received by Amnesty International, the Ombudsman's office has not taken effective or prompt action to improve the prisoners' treatment.⁶⁴ At least six victims and family members have told Amnesty International that they received no response after they submitted complaints to the Ombudsman, and local human rights defenders say they have received similar reports from others, including prisoners who complained to the Ombudsman about ill-treatment or inadequate medical care without response. In some of these cases, Amnesty International learnt later that the Ombudsman's office did take action at some point even if this was not communicated to the family, but that, in at least two cases, it failed to investigate allegations of torture and other ill-treatment.

In one case, as reported above, the Ombudsman's office failed to investigate the alleged torture of Mohamed Ramadhan despite receiving complaints from his family and a US-based NGO and informed the UK government, incorrectly, in April 2016 that it had received "no allegations of mistreatment or torture" in relation to Mohamed Ramadhan.⁶⁵ Three months later, the Ombudsman's office confirmed to the UK government that it had received an NGO complaint concerning Mohamed Ramadhan to which a statement about his alleged torture was attached,⁶⁶ and committed to undertake "a full, independent investigation",⁶⁷ subsequently interviewing Mohamed Ramadhan's wife and lawyer. At the end of September, the family were still waiting to receive details of the Ombudsman's investigation and its outcome on the matter.

In a second case, that of **Khalil al-Halwachi**, although the Ombudsman's office said it was investigating a complaint submitted in January 2016 by his daughter that two prison officers had insulted and verbally abused him when searching his cell at Dry Dock Prison, no investigator visited him to follow up on the

63 The Ombudsman of the Ministry of Interior, *Second annual report 2014-2015*, June 2015, p. 8, available at www.ombudsman.bh/en/periodic-public-reports/reports/annual-report-2014-2015 (Ombudsman of the Ministry of Interior, *Second annual report*).

64 See also the case of Mahdi Abu Dheeb in section 4.5.

65 See www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-04-11/33305/ (accessed 12 October 2016).

66 The Ombudsman stated that the family's complaints did not include allegations of torture and as it was "already in direct contact with Mr. Ramad[h]an's wife, they focused on the family complaints [rather than allegations brought to their attention by ADHRB]". The Ombudsman statement, seen by Amnesty International, was attached to letter from the FCO to Reprieve on 14 July 2016.

67 See www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-07-04/41676/ (accessed 12 October 2016).

allegations and Khalil al-Halwachi was himself sentenced in April 2016 to one month in prison on a charge of “insulting” prison guards.

4.5 PROMPTNESS AND ADEQUACY

The Ombudsman has the powers and resources to adequately and promptly investigate and to enter places of detention without notice. Yet, the Ombudsman’s mandate does not give his office a time-bound requirement to respond to the complainant, stating vaguely that it should be “as soon as possible”. Amnesty International is aware of at least 10 cases in which his office failed to act promptly in response to families’ concerns that detainees were held in unknown locations and at risk of torture or were being denied access to much-needed medical care. Some of them later alleged they were subjected to torture and other ill-treatment. In these cases, the Ombudsman either responded with a very long delay to the relatives who submitted the complaint, responded only after the detainee was later allowed to call their relatives, or responded but ill-treatment or inadequate medical access continued.

In five cases, the Ombudsman failed to promptly visit prisoners alleging torture and other ill-treatment or to conduct direct investigations at the CID and other detention facilities to locate detainees who were held incommunicado and without access to their families or lawyers, conditions that facilitate torture and other abuses.⁶⁸ For example, although Amnesty International alerted the Ombudsman to concerns that human rights defender **Hussain Jawad** was at risk of torture by CID officers within 24 hours of his arrest on 16 February 2015, no-one from the Ombudsman’s office saw him until he was taken to Dry Dock Prison on 22 February.⁶⁹ Hussain Jawad told Amnesty International that the investigator did not clarify that he was from the Ombudsman’s office and he was therefore afraid to tell the investigator that he had been tortured. Hussain Jawad alleges that CID officers tortured and otherwise ill-treated him to sign a “confession”.

Amnesty International also contacted the Ombudsman in April 2015 on behalf of the family of Jaw Prison inmate **Ahmad Hassan Ali Mshaima**, from whom they had received no word since the 10 March disturbances at the prison. The family had heard that he might have been taken to hospital and were concerned for his safety. Despite the apparent urgency of the case, Amnesty International received no response from the Ombudsman until the day after it issued a public appeal concerning allegations that Ahmad Mshaima had been assaulted again by prison guards on 3 May.⁷⁰ Initially, the Ombudsman said his office would investigate if Ahmad Mshaima’s family made a formal complaint but, when pressed further, said it had begun an investigation and that an investigator would interview Ahmad Mshaima. Amnesty International has requested details of the Ombudsman’s investigation and findings but received no response.



Mahdi Issa Mahdi Abu Dheeb © Private

In at least five cases, the Ombudsman has been slow to act when approached by families complaining that prisoners at both Jaw and Dry Dock prisons have been denied access to prescribed medication or necessary medical care by prison authorities. For example, although Amnesty International alerted the Ombudsman in February 2016 that Ali al-Tajer was not being taken from Dry Dock Prison to his medical appointments with two consultants at Salmaniya Medical Complex (SMC) and the Ombudsman’s office said it would investigate, Ali al-Tajer had still not been

68 See also the case of Mohammad al-Oraibi in section 5.3.

69 The Ombudsman’s office replied to Amnesty International on 26 February stating that an investigator visited Hussain Jawad when his wife submitted a complaint on 19 February. See section 5.5 for further information on Hussain Jawad’s case.

70 Amnesty International, Bahrain: Ahmad Mshaima tells family of beating (Index: MDE 11/1636/2015), May 2015, available at www.amnesty.org/en/documents/mde11/1636/2015/en/

taken to his SMC appointments by September 2016.⁷¹

While serving a five-year prison term that he completed in April 2016, prisoner of conscience and torture victim **Mahdi Issa Mahdi Abu Dheeb** told his family that authorities at Jaw Prison had prevented him from regularly accessing medication he needed for diabetes, hypertension and other ailments for some months before and following the disturbances at the prison in March 2015, during which time he was made to stand for a prolonged period exacerbating injuries he had formerly sustained through torture. In August 2015, prison authorities also barred him from receiving special shoes from his family that the prison doctor prescribed to make it less painful for him to stand.

Mahdi Abu Dheeb's family complained to the Ombudsman. His office told Amnesty International in September that an investigator from the Ombudsman's office had visited Jaw Prison on 19 August to review the records of Mahdi Abu Dheeb's medical treatment, finding that he had attended 21 prison doctor consultations since March 2015 and two outside hospital appointments, and that he was receiving a range of medication, none of which had been discontinued.

The Ombudsman said that at a follow-up visit on 31 August 2015 Mahdi Abu Dheeb had confirmed to the investigator that he could attend medical appointments and was receiving medication, and that the investigator had cleared with prison authorities the provision of special shoes, which Mahdi Abu Dheeb then received on 3 September.

Despite these assurances, Mahdi Abu Dheeb's family reported that he continued to experience difficulties in accessing his required medication, even when they took supplies to the prison for him. They expressed concern too that he should not be taken to the Bahrain Defence Force (BDF) hospital for treatment as he said he had been tortured and otherwise ill-treated there previously. Mahdi Abu Dheeb had been receiving physiotherapy and medical treatment at the SMC for his pain until October 2012, when he was sent to the BDF hospital for treatment. In December 2015, the Ombudsman responded to a further Amnesty International intervention by outlining the reasons why the Jaw Prison authorities preferred to send prisoners for treatment at the BDF hospital but did not address the family's concern about the continued difficulties that Mahdi Abu Dheeb had experienced in regularly accessing necessary medication. Amnesty International requested updated information from the Ombudsman about his office's investigation into Mahdi Abu Dheeb's case in its letter of August 2016 but received no response.



Khalil al-Halwachi © Private

Detained in Dry Dock Prison since September 2014, **Khalil al-Halwachi**, a founding member of the opposition Islamic Action Society (Amal) group, told his daughter that prison authorities took him to the BDF hospital in May 2015 because he had chest pains but he was kept with his arms handcuffed behind his back for hours and given no food. An X-ray revealed that he had suffered a blood clot in his left hand but he was returned to prison and provided with no medication or treatment. As a result, his daughter submitted two complaints to the Ombudsman, which the Ombudsman's office later told Amnesty International it had resolved.

Khalil al-Halwachi's daughter again complained to the Ombudsman when she learned that he asked Dry Dock

Prison authorities to take him to the SMC after waking with chest pains and an apparently paralysed right arm but was told by prison authorities that he could be taken only to the BDF hospital. He refused because of his previous experiences there and a prison doctor conducted tests but neither Khalil al-Halwachi nor his family were informed of the findings.

In February 2016, the Ombudsman's office told Amnesty International that all allegations related to his medical care had been investigated. It said that Khalil al-Halwachi's medical reports showed his regular attendance of medical appointments in the prison clinic, that he was not suffering from "any serious medical illness", and that it did not receive a complaint from his daughter to the effect that he had not received his

⁷¹ See further case details at end of section 5.

medical test results.⁷² Amnesty International requested updated information from the Ombudsman about his office's investigation into Khalil al-Halwachi's several complaints in its letter of August 2016 but received no response.

4.6 TRANSPARENCY

The Ombudsman's office has published four reports, including three annual reports and one report on his office's visits to inspect one of Bahrain's prisons. However, it has not fully adhered to the principle of transparency given the deficiencies in its reporting and its failure to keep families of victims or the victims or complainants fully informed of the steps taken by the Ombudsman to investigate their allegations.

By September 2016, the Ombudsman had reported publicly on his office's inspection visit to Jaw Prison in 2013, issued a public statement on its visit to Jaw Prison in 2015 following the riot, and issued three annual reports. The first annual report details the number of complaints – 242 – received by the Ombudsman between July 2013 and April 2014, by whom and against which prison or other authority and says what action, in vague terms, the Ombudsman took. The second annual report says the Ombudsman received 908 complaints between May 2014 and April 2015, 319 of which were considered “complaints” with 589 considered “requests for assistance”. The report provides more information than the earlier one, stating the number of cases it referred to the SIU, including one alleged torture case. The third annual report says the Ombudsman received 305 “complaints” and 687 “assistance requests” in the period from May 2015 to April 2016. All three reports are transparent on the number of deaths in custody it investigated each year, and includes specific categories such as torture.

Nonetheless, there are deficiencies in the reporting by the Ombudsman's office. In all three annual reports, the Ombudsman's office categorized complaints in relatively generic terms such as “care of detainees” and did not state whether they concerned allegations of torture and other ill-treatment or other serious violations. It also failed to detail how many of the complaints referred to the SIU related to torture and other ill-treatment and how many had led the Ombudsman to recommend disciplinary action and against which prison or state authority. None of the three annual reports indicate the reasons why a complaint was “not upheld” or how it was “settled”.⁷³ In its second and third annual reports, it distinguishes between “complaints” and “requests for assistance”, which are defined in 14 relatively vague categories, including “accompanying and transporting inmates” and “detainee care arrangements”.⁷⁴ The distinction between “complaints” and “requests for assistance” is unsatisfactory because the terms are not clearly defined⁷⁵ and are used to cover a range of issues including prisoners' access to family visits or health care and allegations of ill-treatment.⁷⁶

Despite being one of its key roles and crucial to the principle of transparency, the Ombudsman's office has also failed to keep complainants informed about its investigations into their complaints, including those referred on to the SIU. At least seven alleged victims of human rights violations and their families have told Amnesty International that they have received little or no information from the Ombudsman since submitting complaints,⁷⁷ including some who were not told by the Ombudsman's office that it had referred their complaint to the SIU. This lack of information gives victims and their families the impression that the Ombudsman is not taking action or is not taking their complaint seriously.

72 Khalil al-Halwachi's daughter told Amnesty International that she did go to the Ombudsman's office to submit a complaint but was told that she should ask her father to request the results himself and therefore did not submit a formal complaint.

73 The categories of action are defined in its first annual report as: Recommendation for action related to Ombudsman, Standards for Prisons and Places of Detention, Referred to criminal and disciplinary investigation committees, Investigation still ongoing, Complaint resolved or not upheld. In its second and third, the categories are: Out of Remit, Settled, Ongoing Investigation.

74 The other 12 categories of “requests for assistance” are: Mother and Child Unit, Assistance Means, Clarification on Legal Rights, Safety, Legality of Detention/Imprisonment, Rehabilitation, Right to Respectful Treatment, Conditions of the Place of Detention, Complaint System, Education, Skills, and Work, Other Needs (Exercise, Reading, Visits, Communication etc.), Health care.

75 According to the Ombudsman, complaints are defined as matters that “require investigation of the application of relevant laws, policies and procedures”, while “requests for assistance” are defined as “a person seeking information about, for example such matters as how to arrange a prison visit or... prison or detention centre medical services”.

76 The Ombudsman of the Ministry of Interior, *Third annual report 2015-2016*, June 2016, pp. 22-23, available at www.ombudsman.bh/en/periodic-public-reports/periodic-public-reports/3rd-annual-report-2015-2016 (Ombudsman of the Ministry of Interior, *Third annual report*).

77 Some of the seven have submitted several different complaints. See also, Ali al-Tajer's case at the end of section 5.



Hussain Hubail © Private

In March 2014, after Amnesty International publicly expressed concern about the health and access to medication of **Hussain Hubail**, a photographer serving a five-year prison term in Jaw Prison, the Ombudsman told the organization that he had opened an investigation and would make the findings available. The Ombudsman repeated this in May 2014 but no further information was forthcoming. Hussain Hubail's family again complained to the Ombudsman's office in December 2014 and October 2015 after learning that he was suffering chest pain and having difficulty breathing. He was receiving treatment in prison but they wished him to be seen by a heart specialist. They told Amnesty International that despite their submission of complaints, the Ombudsman's office had not contacted them. Amnesty International requested updated information from the Ombudsman about his office's investigation into Hussain Hubail's health care in its letter of August 2016 but received no response.

Mohammad Hassan Sudayf, a blogger, told Amnesty International that CID officers tortured him for five days following his arrest in July 2013, subjecting him to electric shocks, sleep deprivation, and other abuses, before transferring him to Dry Dock Prison. He said an investigator from the Ombudsman's office visited him at the prison in August 2013 as it had opened an investigation after Front Line Defenders, an international human rights NGO, had drawn attention to his case, but that he had since received no information from the Ombudsman. In September 2016, more than three years on from his torture, he still had received no information as to the Ombudsman's findings in his case and whether the authorities had taken any steps to bring the officers who are suspected of torturing him to justice. Amnesty International also requested updated information from the Ombudsman about his office's investigation into Mohammad Sudayf's case in its letter of August 2016 but received no response. Additionally, the Ombudsman has not published his office's findings of its inspection visit to the CID, despite being frequently named as a place in which detainees are subject to torture and other ill-treatment. Indeed, the Ombudsman's office has not even disclosed publicly whether it has conducted any inspection of the CID premises.⁷⁸ The Ombudsman also has yet to publish reports on any visit conducted to Dry Dock Prison or to publish in detail the results of his investigation into allegations that prison officers and other security authorities subjected prisoners to torture and other ill-treatment and abuses during and in the months following serious disturbances at Jaw Prison on 10 March 2015.

According to prisoners who were present at Jaw Prison at the time of the disturbances, security officers forced inmates to line up, beat them with batons, slapped and verbally abused them. Prisoners were made to sleep in tents for several weeks during which they were denied any contact with their families, in some cases for over two months, and frequently beaten by guards using batons and sticks.⁷⁹

After the Jaw Prison authorities cut all communication with prisoners, several families mounted a protest outside the Ombudsman's office. In response, the Ombudsman invited them to enter and submit complaints; some did so but say they received no subsequent information from the Ombudsman's office in relation to their complaints. The police arrested those who did not enter for participating in the protest.

Eight days after the 10 March 2015 disturbances, the Ombudsman's office said it had interviewed 124 prisoners, 15 of whom had filed complaints "regarding different issues",⁸⁰ later announcing that it had referred these to the SIU.⁸¹ However, the Ombudsman's second annual report referred only to its receipt of 196 "assistance requests" relating to the Jaw Prison disturbances two months earlier, without detailing their nature, and made no reference to "complaints".⁸² By September 2016, the Ombudsman had still to report publicly on the outcome of the 15 "complaints" that his office had referred to the SIU although the SIU

78 The Ombudsman told Amnesty International in its meeting on 27 January 2015 that his officials had conducted an inspection visit of the CID, on which it would report publicly in 2015.

79 Amnesty International, *Bahrain: Trial of 57 opened amidst allegations of abuse during prison riot* (Index: MDE 11/2163/2015), 27 July 2015, available at www.amnesty.org/en/documents/mde11/2163/2015/en/

80 Ombudsman of the Ministry of Interior, "Independent Ombudsman receives 105 requests for assistance from families, relatives", 18 March 2015, available at www.ombudsman.bh/en/news/latest-news/independent-ombudsman-receives-105-requests-for-assistance-from-families-relatives

81 Letter from Ombudsman to Human Rights Watch, 6 August 2015, published as an appendix in Human Rights Watch, *The blood of people who don't cooperate*, 22 November 2015, available at www.hrw.org/report/2015/11/22/blood-people-who-dont-cooperate/continuing-torture-and-mistreatment-detainees

82 Ombudsman of the Ministry of Interior, *Second annual report*, p. 12.

announced in August 2015 that two officers had been referred to court accused of “insult” and “assault”.⁸³ To Amnesty International’s knowledge, the SIU has yet to disclose further information regarding its investigations and findings in the 15 complaints that the Ombudsman referred.⁸⁴ However, the PPO prosecuted 57 prisoners on charges arising from the 10 March 2015 disturbances, all of whom received 15-year prison terms in January 2016.⁸⁵

4.7 PUBLIC CONFIDENCE

The Ombudsman has pointed to the increase in complaints received by his office, including new complaints from former complainants, as evidence of growing public confidence in his work. However, this is disputed by many Bahraini lawyers, human rights defenders and others, including victims’ families, who continue to question the Ombudsman’s independence, impartiality and effectiveness.

According to the Ombudsman’s second annual report, the 375% increase in complaints submitted to his office compared to the previous year is “evidence of the growing trust”. The Ombudsman also asserted that the submission of further complaints by 15% of complainants reflected their satisfaction with the Ombudsman’s response to their initial complaints.⁸⁶ In its third annual report, the number of complaints increased by a further 9%.⁸⁷ The increase of complaints could indicate a growing awareness of the Ombudsman and increased public confidence in particular between its first and second year of operation. For its part, Amnesty International has encouraged victims, their families and lawyers to submit complaints to the Ombudsman since his office began operating.

The Ombudsman has undertaken international outreach, for example by participating in sessions of the UN Human Rights Council in Geneva and meeting with multiple international delegations in Bahrain.⁸⁸ According to the Ombudsman’s annual reports, his office has sought to raise public awareness of, and build confidence in, its role by improving access to its mechanisms and through outreach to Bahraini civil society groups and others. However, Amnesty International understands that the Ombudsman has not reached out to the main human rights NGOs in Bahrain. The European-Bahraini Organisation for Human Rights (EBOHR) and the Bahrain Center for Human Rights (BCHR) have both told Amnesty International that the Ombudsman’s office has not approached them to explain how best to access its services or otherwise engaged with them. They say they have also not received responses to complaints they have submitted.

Partly as a result of this, some human rights defenders and NGOs have come to the conclusion that the Ombudsman’s role is intended primarily to enhance the public image of the Ministry of Interior at home and abroad rather than to expose government and security force abuses and ensure accountability.

In addition, many individuals have told Amnesty International that they have no faith in the Ombudsman and see no point in complaining to his office. Some prisoners have asked their families not to submit complaints to the Ombudsman for fear that this could put them at risk or achieve no positive results. One person told Amnesty International that when representatives of the Ombudsman approached him in prison they failed to convince them that they were from a human rights oversight body and not from the Ministry of Interior itself.⁸⁹

⁸³ On 21 July 2015, Amnesty International wrote to the SIU to seek updates on its investigation but received no answer. The SIU issued a statement on its Instagram account on 6 August 2015 that two officers were referred to court, available at www.instagram.com/p/6CaWsairBs/ (accessed 12 October 2016).

⁸⁴ Neither the SIU nor the Ombudsman responded to Amnesty International’s requests for further information on these 15 cases in its letter of 5 August 2016.

⁸⁵ Bahrain News Agency, “15 years for 57 defendants in Jaw prison rioting”, 25 January 2016, available at www.bna.bh/portal/en/news/707816

⁸⁶ Ombudsman of the Ministry of Interior, *Second annual report*, p. 5.

⁸⁷ Ombudsman of the Ministry of Interior, *Third annual report*, p. 4.

⁸⁸ Bahrain News Agency, “Ombudsman General-Secretariat under the spotlight in Geneva”, 12 June 2016, available at www.bna.bh/portal/en/news/622081

⁸⁹ Amnesty International, *Bahrain: Further information: Activist tortured to ‘confess’ released on bail: Hussain Jawad* (Index MDE 11/1736/2015), 29 May 2015, available at www.amnesty.org/en/documents/mde11/1736/2015/en/

5. SPECIAL INVESTIGATIONS UNIT

5.1 MANDATE

The Public Prosecutor established the SIU of the PPO in March 2012, by Law 8 of 2012, in response to BICI recommendations 1716 and 1722, mandating it “exclusively” to determine the criminal liability of state officials responsible for illegal acts resulting in killing, torture, injury or abuses, including senior officials “under the standards of superior responsibility”, in 2011 or subsequently. After investigating such alleged acts, the SIU can bring criminal charges against the suspected perpetrator and refer them for trial before the courts or refer the matter to another government authority to impose disciplinary sanctions. The SIU must also ensure that victims receive “fair and adequate compensation”.



Public Prosecution Office where the Special Investigations Unit is located, Manama © Amnesty International

In July 2013, the Public Prosecutor issued Special Directives to the SIU (Resolution No. 26 of 2013) covering its formation, authority and responsibilities and setting out a Code of Conduct for conducting investigations and collecting evidence. These empowered the SIU to summon officials of any rank for questioning and take legal action against officials who refuse to appear for questioning, “obscure, conceal or misrepresent” evidence, or delay or impede SIU investigations or “refuse to enforce” SIU’s decisions. They also empowered the SIU to issue a “precautionary decision” to transfer a detainee considered at risk to a new place of detention and to request the suspension of an official who might otherwise “adversely affect” an SIU investigation.

The head of the SIU⁹⁰ is assisted by seven Public Prosecution investigators, forensic medicine specialists and judicial police, and is advised by an international expert appointed by the Supreme Judicial Council.⁹¹ SIU

staff must be competent, independent, impartial and have integrity, according to the Special Directives. The SIU head is responsible for assigning cases to investigators, reviewing findings and deciding what action, if any, should be taken, including bringing prosecutions and appealing court decisions. He/she may also

90 The current post-holder is Nawaf Abdallah Hamza.

91 BICI Follow-up Unit, *Moving beyond 2011: A special report detailing the Government of Bahrain’s implementation of the recommendations of the Bahrain Independent Commission of Inquiry*, February 2014, p. 32, available at www.bna.bh/pdf/BICI_Implementation_report_ENGLISH.pdf

recommend measures for the prevention of torture, the imposition of travel bans on suspected perpetrators and the lifting of immunity.

The SIU's divisions include one composed of two judicial police officers seconded from the Ministry of Interior who, assisted by four SIU "members", conduct investigations, and a Forensic Medicine and Psychiatric Support division, comprising two forensic doctors and a psychiatrist who conduct examinations of alleged victims. Other divisions compile reports and statistics, manage the SIU's external, including media, relations and co-ordinate between the SIU and Ombudsmen of the Ministry of Interior and the NSA.⁹²

The SIU opens investigations based on complaints from victims, families and lawyers, media reports of alleged abuses and when the Ministry of Interior Ombudsman refers allegations of torture and other ill-treatment and deaths in custody deemed "criminal" or the PPO refers torture and other ill-treatment allegations that detainees have made to prosecutors.⁹³

The SIU Directives require it to investigate allegations of torture and other ill-treatment or unlawful killing even if it is not supported by "serious proof or evidence" and to quickly "carry out inspections and examinations of the victims" and record the findings.

The SIU says that it conducts its investigations in accordance with recognized international standards,⁹⁴ notably the Istanbul Protocol – the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁹⁵

This includes interviewing alleged victims, witnesses and officials and obtaining their testimony; inspecting alleged crimes scenes; and compiling medical and other evidence, including the findings of medical and psychiatric assessments by the SIU's forensic staff as to whether injuries were "real or fake" or caused "methodically". The Directives contain highly detailed instructions on how to collect oral, physical, visual and technical evidence both in cases where the alleged torture and other ill-treatment or killing occurred recently or in the past and how to investigate "superior responsibility".

If the SIU decides "there are no grounds" to consider a case "criminal" it closes its investigation but when a case is referred for trial the SIU acts as the prosecutor, including preparing pleadings and deciding whether to appeal court verdicts. The SIU should then ensure the ruling is enforced by inspecting prisons.

5.2 INDEPENDENCE AND IMPARTIALITY

The SIU's close association with the PPO and Ministry of Interior raises questions about its independence and impartiality, both standards required by its mandate.

Prior to his appointment, the current head of the SIU was a Deputy Attorney General within the PPO. Some of his staff are former PPO officials⁹⁶ or judicial police seconded from, and paid by, the Ministry of Interior.⁹⁷ The SIU also continues to be based within the same building in Manama as the PPO, to where detainees are taken to be questioned by prosecutors after their interrogation by CID or other police. This contributes to a perception that the SIU is too closely linked to the PPO and other authorities and may also pose a risk of re-traumatization if torture victims are called to SIU interviews in the same building to which they were previously taken by their alleged torturers for questioning by prosecutors. In January 2015, the head of the SIU told Amnesty International that the SIU planned to move to new premises, but it had not done so by September 2016.⁹⁸

In 15 cases reported to Amnesty International, the alleged victims, their families or lawyers have questioned the impartiality of SIU investigators.⁹⁹ For example, when an SIU investigator questioned **Rayhana al-**

92 Meeting with Amnesty International on 4 May 2014, Bahrain.

93 Amnesty International has, however, documented multiple cases where the PPO dismissed allegations of torture and did not refer the case to the SIU. See Amnesty International, *Behind the rhetoric*, pp. 47-56.

94 Written response from SIU on 4 October 2013.

95 The Istanbul Protocol provide international standards and guidelines for investigations of allegations of torture and other ill-treatment, including documentation and collection of evidence.

96 Five out of eight of his staff were former PPO officials in 2014, according to United States Department of State, *Bahrain 2014 human rights report*, available at www.state.gov/documents/organization/236806.pdf (accessed 12 October 2016).

97 The SIU did not respond to Amnesty International's request for updated information in its letter of 5 August 2016 on the number of judicial police who are seconded from the Ministry of Interior and whether the SIU's forensic doctors are seconded from the Ministry of Health and on the number of SIU staff who were former PPO officials.

98 Meeting with Amnesty International on 28 January 2015, Bahrain.

99 See also the cases of Mohamed al-Oraibi and Nazeera Saeed later in this section.

Mousawi in May 2016 after the *Bahrain Mirror* newspaper¹⁰⁰ reported on her alleged torture three years earlier, the investigator appeared more intent on discovering the name of the journalist who wrote the newspaper story than to obtain details of her torture, according to Rayhana al-Mousawi's lawyer. She had previously disclosed her alleged torture during her January 2014 trial on terrorism-related charges but was convicted and sentenced to a 10-year prison term without any investigation of her allegations by the court. She was released under pardon after her sentence was reduced to eight years on appeal.¹⁰¹

The SIU told Amnesty International in October 2013 that it first questioned Rayhana al-Mousawi after social media postings said that police had forced her to strip naked. At interview, she alleged that police had beaten, threatened and shouted at her to make her "confess" and said that women police officers had made her remove her clothes in a bathroom.¹⁰² Following the *Bahrain Mirror* report, the SIU proposed that Rayhana al-Mousawi undergo a forensic medical examination but she declined because of the unlikelihood that it would find evidence of her alleged torture. According to the Bahrain News Agency (BNA), the SIU said a forensic medical doctor and psychologist had examined Rayhana al-Mousawi in 2013, but did not disclose the findings¹⁰³ – which, according to her lawyer, the SIU has never made available to Rayhana al-Mousawi.

5.3 CONFIDENTIALITY

The SIU is bound by the Special Directives, as well as the Istanbul Protocol, to protect victims and witnesses from "any possible harm" and to assure them that they and their families will not be exposed to harm on account of their testimony. Yet, in at least three cases alleged torture victims have complained that they were subjected to reprisals or re-traumatization after the Ombudsman or PPO referred complaints to the SIU. The impact of these allegations on the victims is grave.



In the first case, CID officers allegedly threatened to re-arrest the complainant unless he withdrew his torture allegation. In the second, a SIU investigator is said to have summoned the alleged victims and pressed him and his father to withdraw their complaint. In the third, a SIU investigator took the complainant to an identification parade in the same room where she says she was tortured and confronted her with one of her suspected torturers, causing her to become re-traumatized. The SIU Directives do not regulate the conduct of those in the identification parade,¹⁰⁴ although they do require investigators to protect victims from harm.



Mohamed Badr al-Sheikh © Private

Mohamed Badr al-Sheikh told Amnesty International that, following his arrest on 1 February 2014, CID officers tortured him over five days to force him to "confess" to membership of the Lebanese armed group Hezbollah. He said officers stripped him naked, blindfolded and handcuffed him, forced a shoe into his mouth and beat him, restrained him in the "scorpion" position, and subjected him to electric shocks. He said officers also insulted and humiliated him, threatened to rape him and threatened to detain his sister. After five days at the CID, he was taken before a Public Prosecutor who failed to take any action when he reported his torture, remarking only "those guys are heavy handed". Mohamed al-Sheikh's father sought the

100 *Bahrain Mirror*, "Rayhana Mousawi opens prison files for *Bahrain Mirror*: Emirati officers interrogated me and policewomen sat me naked in front of a camera (1-2)", 5 May 2016, available at bhmirror.myftp.biz/news/30880.html?_sm_au_=iVNP6tH6rRDv7r

101 Amnesty International, *Bahrain: Further information: Grand prix protester released after pardon: Rayhana al-Mousawi* (Index MDE 11/3929/2016), 4 May 2016, available at www.amnesty.org/en/documents/mde11/3929/2016/en/

102 SIU letter to Amnesty International dated 4 October 2013.

103 BNA, "Special investigation Unit clarifies facts", 10 May 2016, available at www.bna.bh/portal/en/news/726753

104 Article 37 stipulates: "The legal lineup shall be made for the victim to identify the accused and ascertain the validity of the descriptions of the accused as given by the victim."

assistance of the Ombudsman, who referred the case to the SIU for investigation on 4 March 2014; SIU investigators then visited Mohamed al-Sheikh, who by then had been moved to Dry Dock Prison, on 7 March 2014. According to Mohamed al-Sheikh, he told the SIU investigators the name of one senior CID officer involved in his torture although he was unable to identify his actual alleged torturer because he had been kept blindfolded.

Mohamed al-Sheikh told Amnesty International that following his release, pending further investigation of the charges against him, CID officers threatened to re-arrest him unless he withdrew his torture complaint and, when he refused, offered not to press any charges against him, then harassed him with threatening phone calls.

In December 2014, some nine months after Mohamed al-Sheikh's alleged torture, the SIU told Amnesty International that its investigation was still continuing. The SIU said that a forensic medical doctor who examined Mohamed al-Sheikh had found abrasions on his wrist caused by friction but no other injuries, although Mohamed al-Sheikh had complained of pains in his body. In July 2016, Mohamed al-Sheikh told Amnesty International that neither he nor his family had been contacted by the SIU about its investigation, and that, when he sought information in June 2016, the SIU told him only that the investigation remained ongoing.

Mohammad Ali al-Oraibi told Amnesty International that he was manhandled by officers following his arrest on 2 February 2014 and taken to a CID building where he said that officers tortured him for five days until he signed a "confession". He said he was stripped naked, beaten all over his body with a stick, subjected to electric shocks on his genitals, and suspended in the "scorpion" position with his hands and legs tied behind him and used to lift him, causing excruciating pain. According to him, interrogators also sexually abused him by forcing a stick into his anus, mocked him and threatened to detain his wife and sister. He said CID officers threatened him with further torture if he withdrew his "confession" before the PPO.

Mohammad al-Oraibi's family had no news of him for over a week, other than via a very brief phone call the day after his arrest in which he let them know that he was at the CID, and were not able to see him until 11 February, after the authorities moved him to Dry Dock Prison. His father filed a complaint with the Ombudsman after learning of his torture; two weeks later, the Ombudsman visited Mohammad al-Oraibi at the prison and took his statement but, according to information provided to Amnesty International by the SIU in December 2014, the Ombudsman did not refer the complaint to the SIU until 21 May 2014, a month after Mohammad al-Oraibi's release. The SIU said it had questioned Mohammad al-Oraibi about his torture allegations and that a forensic medical doctor who examined him had found no sign of injuries but that the investigation remained live. According to Mohammad al-Oraibi, however, he was summoned to the SIU in October 2014 and told to withdraw his torture complaint, and that the SIU also told his father to withdraw, but they refused. He told Amnesty International in April 2016 that neither the SIU nor the Ombudsman had since contacted them about their respective investigations.



Nazeera Saeed © Private

In another case, that of journalist **Nazeera Saeed**, she told the PPO that security officers at al-Riffa'a police station tortured her with electric shocks, beat, kicked and punched her while interrogating her after her arrest in May 2011.¹⁰⁵ She identified four of the police officers, three women and one man, but only one of those she accused, one of the women police officers, was charged with "torture". On 22 October 2012, a court acquitted the officer, and her acquittal was confirmed by an appeal court in June 2013.

More than a year later, the SIU summoned Nazeera Saeed for questioning about her torture complaint. However, when she went to the SIU on 17 November 2014, she was taken to the room in which she was tortured three years earlier and asked to pick out the policewomen who tortured her from a group of female officers, who were present and laughing in a manner as if to intimidate her. She identified one of those present as one of her torturers and was told by the SIU

105 Amnesty International, *Behind the rhetoric*, pp. 64-65.

investigator that she would be given an opportunity to identify the others, although this did not occur. The SIU did not prosecute the policewoman that Nazeeha Saeed identified in 17 November 2014 and, on 15 November 2015, closed its investigations into her torture complaint on grounds of “lack of evidence”.

Nazeeha Saeed told Amnesty International that she was severely re-traumatized as a result of being taken back into the room where she was tortured and confronted by a group of laughing officers surrounding one of her alleged torturers.

Amnesty International sought clarification from the SIU about the above cases in a letter dated 5 August 2016; however, no SIU response had been received by the end of September 2016.

5.4 EFFECTIVENESS

The SIU has the capability to be an effective mechanism, and it has helped to ensure some accountability by prosecuting 93 members of the security officers on criminal charges in 44 separate cases. However, most prosecutions have been of low-ranking personnel and no senior officers or officials who oversaw the serious violations committed during the crushing of the 2011 uprising have faced prosecution.¹⁰⁶ In addition, a large percentage of cases of alleged torture or other ill-treatment or excessive use of force recorded by Amnesty International during and following the 2011 uprising have not been referred to court by the SIU.

The SIU has the powers, resources and mandate to conduct effective and thorough investigations into allegations of human rights violations and to bring those it finds responsible to trial – including those with superior responsibility, and to appeal against court decisions if it so decides. The head of the SIU signalled to Amnesty International that he could obtain more resources if he wanted to as he could readily appoint additional judicial police if they were required.¹⁰⁷ The powers of the SIU have increased since 2014 when the head of the SIU was given the rank of Attorney General, enabling him to refer criminal prosecutions directly to the courts for trial without first obtaining the PPO’s approval.

Nine of the 44 cases referred for criminal trial by the SIU resulted in 23 members of the security forces facing charges arising from deaths caused by torture or other violence while the 35 others saw 70 members of the security forces face assault and other charges arising from alleged torture and other ill-treatment and, in one case, excessive use of force. Fifteen officers were convicted by the courts. According to the SIU, it lodged appeals in 21 cases against both acquittals and lenient sentences, 18 before the High Criminal Court of Appeal and three before the Court of Cassation.

In two of these cases, the SIU successfully appealed against a lenient sentence and the acquittal of two officers accused of killing two men. In the first, following the deaths of **Ali Issa Ibrahim al-Saqer**, 31, and **Zakariya Rasheed Hassan al-Asheri**, 40, at Dry Dock Prison on 9 April 2011 two police officers were charged with beating them, causing their deaths, and three other officers were prosecuted for failing to report the assaults. After a Military Court of Appeal overturned the acquittal of all five officers by a military court and ordered a trial before a civilian court, the trial court convicted the first two officers, imposing 10-year prison sentences on them for deliberately beating Ali al-Saqer, causing his death, but acquitted the three other officers. All five officers were acquitted of causing the death of Zakariya al-Asheri. An appeal court upheld the two officers’ convictions but cut their sentences from 10 to two years on the grounds that they had committed the crime while on duty to “preserve the security of the society at large”. The SIU then appealed to the Court of Cassation, which quashed the sentences and returned the case to the Court of Appeal, which increased the two police officers’ prison sentences to seven years in January 2016.¹⁰⁸

The second case arose after police shot and killed **Fadhel Abbas Muslim Marhoon**, 19, and seriously injured **Sadeq al-Asfoor**, 17, on 8 January 2014 when pursuing them and another man in Markh village, where they had gone to visit a recently released prisoner. A Ministry of Interior statement issued on 26 January 2014 said that Fadhel Abbas had died of wounds that he received when police shot him “in self-defence” on 8 January. However, when the mother of Fadhel Abbas saw his body on 27 January, she observed what appeared to be three gunshot wounds and other injuries apparently caused by beating. She said that, according to witnesses, he had been shot three times, put into a car by the security forces and then removed from it and beaten. She declined to provide a statement to the SIU or the Ombudsman.¹⁰⁹

¹⁰⁶ In January 2015, the SIU provided Amnesty International with statistics on its investigations since its establishment. The statistics since are collected from SIU’s monthly statements from February 2015 to end of August 2016.

¹⁰⁷ Meeting with Amnesty International on 4 May 2014, Bahrain.

¹⁰⁸ See www.instagram.com/p/BBceckRirEi/ (accessed 12 October 2016).

¹⁰⁹ Amnesty International, *Behind the rhetoric*, pp. 68-69.

More than six months after the shootings, the SIU announced on 27 July 2014 that it had referred a police officer for trial charged with the “premeditated murder” of Fadhel Abbas, “assault” and “violating police regulations”. On 29 April 2015, the Third High Criminal Court acquitted the accused officer of killing Fadhel Abbas but convicted him of using excessive force against Sadeq al-Asfoor, and sentenced him to three months in prison. However, following an SIU appeal the officer was convicted of killing Fadhel Abbas and sentenced to three years’ imprisonment on 31 March 2016.¹¹⁰



The grave of Ali Hussein Neama © Amnesty International

Despite these achievements, over 150 out of nearly 200 cases of alleged torture or other ill-treatment, deaths in custody and allegedly unlawful killings recorded by Amnesty International during and following the 2011 uprising, have not been referred to court by the SIU.¹¹¹ In some cases, the SIU has dismissed allegations of wrongdoing by the officers and concluded police actions constituted “legitimate self-defence”, as in the case of **Ali Hussein Neama**, 16, who died on 28 September 2012 after he was hit with a police shotgun. Although photographic evidence and his death certificate indicated that Ali Neama was shot in the back, the SIU concluded that the officer who shot him acted in self-defence with no criminal intent, because Ali Neama and another child had thrown Molotov cocktails, and should not face prosecution.¹¹²

Only a minority of the 44 SIU-initiated prosecutions have resulted in courts convicting members of the security forces accused of committing crimes. When courts have returned

convictions they have generally imposed lenient penalties that failed to reflect the gravity of the crime. Twenty-one of the 44 cases brought by the SIU¹¹³ ended in acquittals, with 40 officers cleared of charges. Eight officers received prison sentences that ranged from one to 10 years, but three of them were later acquitted on appeal and five had their sentences reduced to between two and seven years. In addition, most SIU appeals, with the exception of two cases, are believed to have been rejected by the courts.¹¹⁴

Moreover, no senior officers or high-level officials who organized and directed the government’s brutal response to the 2011 protests and allowed the security forces to use excessive force, torture and other abusive practices have ever faced prosecution on account of their “command or superior responsibility” and only 16 of those 93 charged held the rank of First or Second Lieutenant or Lieutenant-Colonel, according to the SIU.

The SIU’s effectiveness has also been questioned by victims’ lawyers, who have told Amnesty International that the SIU and other authorities failed to conduct thorough investigations into allegations against the security forces or bring charges that reflected the gravity of their crimes. In particular, lawyers complain that SIU investigators are selective in recording information and take only summary statements from plaintiffs, whose cases then appear weak. This has been denied by the SIU, which has said that they were unable to proceed to prosecution in some cases or could only prosecute on lesser charges because their evidence was weak and witnesses were unwilling to co-operate with their investigations.¹¹⁵

110 See www.instagram.com/p/BDnYX3SCrGp/ (accessed 12 October 2016).

111 Amnesty International has recorded 196 cases of alleged torture or other ill-treatment, deaths in custody and allegedly unlawful killings since the start of the uprising in Bahrain on 14 February 2011 and 30 September 2016, based on its own documentation and statistics published by the BICI and the SIU.

112 Amnesty International, *Behind the rhetoric*, pp. 59-60.

113 Twenty-seven of these cases had been completed by September 2016.

114 The two exceptions are the cases of Ali al-Saqer and Fadhel Abbas.

115 Meetings with Amnesty International on 4 May 2014 and 28 January 2015, Bahrain.

The SIU's effectiveness is also limited by factors outside of its own control. In particular, the lack of an independent and impartial judiciary has translated, for the SIU, into a high proportion of failed prosecutions of police officers and other members of the security forces whom the courts have acquitted on grounds of "lack of evidence" or after accepting defence claims that officers who used lethal fire were acting in legitimate self-defence. And when courts have convicted officers prosecuted by the SIU, they have tended to impose lenient sentences that fail to reflect the gravity of the crime.

Following an investigation by the SIU, one member of the security forces was charged with "deliberately killing" **Salah Abbas Habib Ahmad Moussa**, 37, who died after he was hit "by shotgun pellets in the chest and abdomen, penetrating the heart and left lung"¹¹⁶ on 20 April 2012 as police dispersed protesters on Budaya Road, south-west of Manama. He was found dead the next day but his family were not allowed to see his body for three days. On 9 April 2013, his family and lawyer learnt from media reports that the SIU had charged one police officer who, however, remained at liberty until he stood trial in May 2013 before the High Criminal Court in Manama. He denied the charges and on 24 November 2013, the court acquitted the officer. The court listed several reasons for its decision, concluding that "the investigation had failed to establish the truth of what occurred".¹¹⁷ The SIU appealed against the officer's acquittal, but the appeal was rejected in April 2014.



Family of Salah Abbas Habib Moussa © Private

Since the failure of its appeal, the SIU has taken no further action to investigate the apparently unlawful killing of Salah Abbas Moussa by the security forces and to bring those suspected of being responsible to justice.

A further example of failed accountability, despite the efforts of the SIU, occurred after a

member of the security forces in a tank was filmed shooting a protester in the face at close range while he was participating in a peaceful protest in January 2015, and the film was published on YouTube.¹¹⁸

In January 2015, the Ombudsman told Amnesty International that his office had immediately contacted the SIU and the Ministry of Interior, resulting within 48 hours in the identification, arrest and detention of the officer who had opened fire. He was charged with unlawfully "endangering someone's life" on 26 February 2015. However, on 8 November 2015, the Lower Criminal Court acquitted him on the grounds there was no conclusive evidence confirming the presence of the officer at the time of the incident. Despite the SIU challenging the verdict before the court of appeal, the court of appeal confirmed the acquittal on 16 February 2016.

5.5 PROMPTNESS, ADEQUACY AND TRANSPARENCY

The SIU is required by the Istanbul Protocol and enabled through its mandate and resources to adequately and promptly investigate allegations of human rights violations and, in a number of cases, its investigations have been conducted promptly and adequately. It has also been transparent in its public reporting of its investigations and the cases it has referred to trial or appealed. Yet, in at least seven cases documented by Amnesty International, the SIU failed to adhere to the principles of promptness, adequacy and transparency and failed to abide by the Istanbul Protocol – for example, by not opening an investigation or gathering evidence promptly. The SIU has also failed to keep families of victims or the victims or complainants fully informed of the steps taken by the SIU to investigate their allegations or to detail more transparently why there was such a long delay in concluding its investigation or why it had closed their case.

The SIU has promptly and adequately investigated human rights violations in a number of cases. For example, the SIU took prompt action to charge and refer to court a security officer who was filmed shooting a peaceful protester in the face in January 2015 (see case above). Since its establishment, the SIU has also reported transparently on its investigations by publishing monthly statements on its investigations on its

116 BICI Follow-up Unit, *Follow-up report: November 2012*, November 2012, available at www.biciunit.bh/reports/BICI%20Report-%20English%20-%20Nov%202012.pdf (BICI Follow-up Unit, *Follow-up report*).

117 Amnesty International, *Behind the rhetoric*, p. 64.

118 See www.youtube.com/watch?v=8dYL0bWp39Y (accessed 12 October 2016).

Instagram account.¹¹⁹ The statements include the number of cases investigated by the SIU, the nature of each allegation and the rank of the accused officer, and say whether the SIU referred the alleged victim to a forensic doctor or psychologist and referred the case to court, and report the outcome of trials and appeals brought by the SIU and their outcome.



Ahmad Hassan Ali Mshaima © Private

However, many former detainees, families and lawyers who have submitted torture complaints to the SIU, or whose complaints the Ombudsman referred to the SIU, accuse the SIU of failing to inform them about the conduct and progress of its investigations, including why many of its investigations appear so protracted, of excluding them from the process and of failing to be transparent and provide full details when deciding to close investigations. In at least one case – that of Mahdi Abu Dheeb – the SIU has yet to conclude the investigation it began in 2012;¹²⁰ in other cases, complainants were not informed that the SIU had closed its investigation into their allegations for months or years and then only in response to their inquiries and

without giving clear reasons for the SIU's decision to close the investigation. In several cases, courts convicted and sentenced defendants on the basis of "confessions" that they alleged were coerced through torture and which had been referred for SIU investigations that had not been completed by the time of their trial.

In the case of **Ahmad Hassan Ali Mshaima**, it took the SIU more than two years to take evidence from him. His family submitted a complaint to the Ombudsman and SIU in early 2014 after they learnt that CID officers had beaten, kicked and abused him after arresting him on 28 December 2013, and coerced him into signing documents potentially implicating him in crimes. The SIU did not acknowledge the complaint and appears to have failed to open an investigation. In May 2015, however, following his mistreatment during and following the Jaw Prison disturbances two months earlier, he was visited by the Ombudsman, to whom he complained about both his recent mistreatment and his torture by CID officers following his arrest in 2013, which his family had filed complaints about in 2014.¹²¹ The Ombudsman agreed to raise the matter with the SIU but a further seven months elapsed before a SIU investigator interviewed Ahmad Mshaima about his 2013 torture allegations and his mistreatment following the Jaw Prison disturbances.¹²² He was told that the SIU was investigating his allegations and would contact him further, after which he sent a written statement to the SIU attaching a photograph of the officer who had assaulted him in Jaw Prison, a Jordanian national who he asked should not be allowed to leave Bahrain while the SIU investigation was continuing. However, the officer was allowed to return to Jordan. In September 2016, Ahmad Mshaima was still awaiting the outcome of the SIU and Ombudsman investigations into his alleged torture and other ill-treatment in 2013 and 2015.

The SIU's failure to promptly investigate Ahmad Mshaima's 2013 alleged torture inevitably meant that forensic and other evidence that could have helped substantiate his allegations was lost. Moreover, according to its Directives, by allowing such a lengthy delay to occur the SIU committed a further violation of Ahmad Mshaima's human rights.¹²³

119 The SIU's Instagram account is available at www.instagram.com/siu.bah/ (accessed 12 October 2016).

120 See, for example, Mahdi Abdu Dheeb's case: Amnesty International, *Behind the rhetoric* pp. 67-68.

121 For further details, see section 4.5.

122 SIU interview took place on 13 January 2016.

123 Article 26 states that SIU staff are required to "conscientiously accept" that any failure to conduct serious investigations into such allegations or delays in investigations that exceed a year "constitutes in itself a human rights violation".



Hussain Jawad © Private

Hussain Jawad, Chairman of the EBOHR, told Amnesty International that CID officers blindfolded him, beat and kicked him while he was handcuffed behind his back, denied him toilet facilities and threatened to sexually abuse him following his arrest in February 2015 before taking him before the Public Prosecution. He told the prosecutor that officers had tortured him to “confess” but denied the accusations against him. The prosecutor did not refer his allegations for investigation but ordered his release; however, instead of freeing him, CID officers returned Hussain Jawad to detention, according to him, and subjected him to further torture, forcing him to “confess” to new charges.¹²⁴ Five days

later, they again took Hussain Jawad to the Public Prosecution, where he repeated his “confession” to the prosecutor for fear that he would otherwise be again returned to the CID and tortured. However, he was taken back to the Public Prosecution two days later, when he retracted his “confession”, denied the charges against him and told the prosecutor that he had been tortured. In response, the prosecutor referred him for a medical examination and psychiatric assessment, and a SIU investigator questioned him about his allegations. The SIU also subsequently questioned his wife. Following his release on bail on 19 May 2015, Hussain Jawad learnt that the SIU had closed its investigation on grounds of “lack of evidence”.

In many other cases documented by Amnesty International, the SIU has failed to keep alleged torture victims, their families and lawyers informed about the progress of its investigations, to explain why it has taken the SIU so long to reach a finding and the reasons why it has decided to close investigations. The SIU’s Directives and mandate does not state how complainants can appeal against the SIU’s decision to close their case or how long the SIU should normally take to complete its investigation.

In Hussain Jawad’s case, the SIU’s investigation into his torture allegations lacked transparency as no information was provided to him or his lawyer as to how the SIU reached the decision to dismiss his allegations citing a lack of evidence. According to the Directives to the SIU, the judicial police is responsible for notifying “the parties concerned” of its investigation and the SIU is obliged to “issue a detailed report on each torture allegation” which should be “timely completed... with official copies handed over to the parties concerned”. The details included in the SIU’s report should include the investigation and collection of evidence process, and list all evidence collected and examined. In Hussain Jawad’s case and in other cases such as Nazeeha Saeed’s, the SIU failed to provide the victim with a detailed and transparent report on its investigation and has therefore failed to comply with its own Directives and its lack of transparency gives the appearance that it may have colluded with the government on these cases.

The SIU’s investigations into torture allegations have also been flawed and failed to comply with the Istanbul Protocol and its own Directives with regards to conducting medical examinations promptly so as to preserve forensic evidence of torture.¹²⁵ The Istanbul Protocol provide that “a medical examination should be undertaken regardless of the length of time since the torture, but if it is alleged to have happened within the past six weeks, such an examination should be arranged urgently before acute signs fade”.¹²⁶ However, in the cases of Ahmad Mshaima and Ali al-Tajer,¹²⁷ this examination did not take place as soon as the torture allegation was brought to the SIU’s attention. A report issued in 2012 by Bahrain’s own BICI Follow-up Unit, a “group of experts” mandated to track the implementation of the BICI recommendations, reporting to the

124 Amnesty International, *Behind the rhetoric*, p. 35.

125 Article 9 states that the SIU shall carry out inspections and examinations of the victims of those crimes quickly, and record anything which can serve to uncover the truth.

126 The Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), 1999, Article 104.

127 See end of section 5 for details of Ali al-Tajer’s case.

Minister of Justice,¹²⁸ indicated that the SIU only made referrals for medical examination when a detainee had visible physical injuries.¹²⁹

In all the above cases, Amnesty International requested updated information from the SIU on its investigations, including the reason why they were not conducted promptly and transparently in its letter of August 2016 but received no response.

5.6 PUBLIC CONFIDENCE

“Complaining to the SIU is a waste of time”

Mohamed al-Tajer, human rights lawyer and brother of Ali al-Tajer

The extent to which the SIU has gained public confidence remains in question and heavily disputed. Local NGOs, human rights defenders, lawyers, detainees, victims of human rights violations and their families and political activists have told Amnesty International that they have not seen any improvements the SIU has brought to Bahrainis' access to justice for human rights violations. Twelve of the 13 opposition activists arrested in 2011 refused to have their allegations of torture investigated by the SIU or the PPO because they do not consider them to be independent bodies able to investigate their allegations impartially.¹³⁰ Some human rights lawyers and defenders go so far as to tell Amnesty International that complaining to the SIU is a “waste of time”.

128 See <http://www.biciunit.bh/en/>

129 BICI Follow-up Unit, *Follow-up report*.

130 Amnesty International, *'Freedom has a price': Two years after Bahrain's uprising* (Index: MDE 11/005/2013).

ALI ISA AL-TAJER: REPEATEDLY FAILED BY THE OMBUDSMAN AND THE SIU

In some cases, victims of torture and other ill-treatment are repeatedly failed by the human rights institutions from the beginning of their arrest, right through to pre-trial detention and prison. One alleged victim of torture was failed both by the Ombudsman's office, which failed to urgently find out where police were detaining him and ensure his safety in custody, and by the SIU, which failed to promptly investigate his alleged torture and to ensure his prompt examination by a forensic medical doctor and by other specialist doctors to whom a forensic doctor later referred him.¹³¹



Ali Isa al-Tajer © Private

Officers arrested **Ali Isa al-Tajer** at his home in al-Dair village on 5 November 2015. They said they were taking him to the CID. Shortly afterwards he called his family and said he was at the CID, but they became suspicious as the call came from al-Qalaa, suggesting he was held by the NSA.¹³² They received three further brief weekly calls from him, also from al-Qalaa. He told them that he would soon be released but on 30 November he was taken before the Public Prosecution for questioning. He told the prosecutor that officers had tortured him in detention until he signed a "confession". The prosecutor said that the allegations would be handled by the SIU but charged Ali al-Tajer with "joining an illegal terrorist organization to overthrow the government by force" and "training individuals on the use of weapons for terrorist purposes", which he denied.¹³³

Meanwhile, Ali al-Tajer's brother Mohamed al-Tajer, who is also one of his lawyers, complained to the Ombudsman, SIU, NIHR and Public Prosecution on 12 November 2015 that the authorities were concealing where he was held and that he could be at risk of torture. He submitted the same complaint in person to the Ombudsman on 17 November as he had received no response. Amnesty International also contacted the Ombudsman; in response, the Ombudsman said only that the case was "under investigation". For reasons that remain unclear, the Ombudsman did not visit Ali al-Tajer and confirm his place of detention and safety during the 25 days that he was held for interrogation. Nor did the Ombudsman respond to the intervention from Mohamed al-Tajer for three months, and even then gave no details of its investigation and findings. It also took the Ombudsman three months to respond in brief detail to Amnesty International's repeated inquiries.¹³⁴

When Ali al-Tajer gained access to his lawyers on 30 November,¹³⁵ he told them that he had been detained incommunicado for 25 days during which he was mostly kept naked and repeatedly beaten, threatened with electric shocks and subjected to other torture while held at different locations including the NSA.

Although Ali al-Tajer complained to the prosecutor about his torture on 30 November, he says that he was taken to the SIU, where he was examined by a forensic doctor, only one month later, and more than six weeks after his brother first alerted the SIU to his case. The SIU forensic doctor referred him for examinations by ear, nose and throat, urology and orthopaedic specialists at the SMC. According to the SIU, when it first questioned Ali al-Tajer on 7 December he said that officers had "beaten, threatened and stripped" him to force a "confession" leaving him with pains in "his head, ears, testicles, back and knees" but the SIU forensic doctor who examined him did not find "any injury that might indicate any criminal violence or resistance" but recommended tests by a urologist and other specialists.

Ali al-Tajer was taken from Dry Dock Prison to the SMC to see the ear, nose and throat specialist but he was not taken there for six other scheduled appointments with the other specialists. He told his family that the prison authorities told him that the SIU cancelled the appointments because they wanted him to be taken to the BDF hospital, and that his hands and feet would be shackled. He says he refused and asked to be taken to the SMC; the SIU says he "refused to go" to the medical appointments and personally "signed a refusal form", which Ali al-Tajer denies.

His family say that CID officers returned to them T-shirts and sweaters that he had worn during his interrogation and bore blood stains. The SIU later asked for the items and the family handed them in. Two SIU doctors then took DNA and blood samples from Ali al-Tajer and one told him these matched the stains on his clothes. The SIU later told Amnesty International that three garments had small traces of Ali al-Tajer's blood but failed to respond to an information request from his lawyer regarding these tests.

Ali al-Tajer's family and lawyers have not been contacted by the SIU since December 2015 regarding the SIU's investigation into the torture allegations and were only informed by the Ombudsman's office in February 2016 that it had transferred the case to the SIU. This was the only contact made by the Ombudsman's office to Mohamed al-Tajer since he twice submitted complaints three months earlier. However, according to the SIU, the Ombudsman submitted a CD to the SIU which included "two videos showing the arrest and interrogating process of Ali al-Tajer [which] did not show any injuries, assault, abuse or maltreatment by the police". The SIU also reported that its "judicial police had stated that Ali al-Tajer's claims and allegations are false". The SIU told Amnesty International that on 19 May 2016 it will question "the security forces involved in arresting and interrogating... Ali al-Tajer" but has not received any update from the SIU regarding its investigation.

The SIU has failed to keep Mohamed al-Tajer informed about steps taken to investigate his brother's torture allegations throughout the 10 months since he first contacted the institution at the time of writing.¹³⁶ The SIU also failed to promptly conduct a medical examination of Ali al-Tajer as it referred him to the forensic doctor only in December, over one month after the torture complaint was brought to the SIU's attention by his brother and lawyer. Ali al-Tajer has alleged that he was told by the prison administration that his appointments with the orthopaedic consultant and urologist at the SMC were repeatedly cancelled by the SIU. If true, the SIU would have prevented him from having prompt medical examinations by consultants as recommended by its own forensic doctor, which could have been used as evidence of his torture.

Amnesty International requested updated information from the head of the SIU about his office's investigation into Ali al-Tajer's case in its letter of August 2016 but received no response. The Ombudsman's office told Amnesty International on 24 October 2016 that the SIU had dismissed Ali al-Tajer's case.

131 See also the case of Mahdi Abu Dheeb where the SIU failed to bring his torturers to justice and the Ombudsman's failure to ensure he received adequate access to medical care and medication.

132 The NSA is located in al-Qalaa, whereas the CID is in al-Adliya. Amnesty International has received allegations that detainees who are suspected of terrorism-related activities have been brought to the NSA and tortured since 2011. For example, Amnesty International, *Bahrain: Further information: Ahmed al-Arab now needs medical attention – Ahmed Mohammad Saleh al-Arab* (Index: MDE 11/009/2014), available at www.amnesty.org/en/documents/mde11/009/2014/en/

133 On 26 July 2016, the PPO sent Ali al-Tajer for trial with 137 others on several charges including "joining an illegal terrorist organization to overthrow the government by force".

134 In its letter dated 28 February 2016, the Ombudsman's office told Amnesty International that an investigator visited Ali al-Tajer and a "file of early investigation into the torture allegations" was referred to the SIU, whose investigation it is following. The office did not detail what its investigation entailed, the findings of its investigation or when it visited Ali al-Tajer.

135 Ali al-Tajer met his lawyer for a few minutes at the PPO.

136 Other than contacting him one month after he wrote to the SIU asking for Ali al-Tajer's clothing from the CID.

6. INTERNATIONAL SUPPORT OF INSTITUTIONS

Since establishing the Ombudsman and the SIU, the Bahraini government has promoted them internationally, as well as at home, as independent and effective institutions that can and do deliver justice and accountability for human rights violations. In this, the government has enjoyed considerable support from the UK government, which has repeatedly asserted that all torture allegations are independently investigated by the Ombudsman and the SIU to deflect criticism of Bahrain's human rights record in UN and other international forums. Promoting the institutions to the international community as independent and impartial without questioning the outcome of their investigations seems misleading.

The Ombudsman's office has received training and capacity building assistance from a range of international experts, including ombudsmen or equivalent institutions of other states, including the UK and the USA.¹³⁷

6.1 GOVERNMENTS

Bahrain's allies – particularly, the UK government as well as the governments of other EU states and to a lesser extent the USA – have generally refrained from publicly criticizing Bahrain's human rights violations and its human rights institutions, reflecting their prioritization of defence and security considerations over human rights.

Between 2013 and 2015, joint statements on Bahrain by the UN Human Rights Council, led by Switzerland, made specific reference to the Ombudsman and the SIU, urging them in 2013 and 2014 to “proactively fulfil their mandate” and encourage the government “to uphold its commitment” to them and “their independence.”¹³⁸ In 2015, the joint statement expressed “support” for what the Council considered were government efforts “to make these institutions and the judiciary more impartial, transparent, independent and effective”.¹³⁹

6.1.1 UK

The UK government, in particular, has supported and assisted the Ombudsman and the SIU, as well as the PDRC and the NIHR, providing financial and technical assistance and training. The UK has assisted the

¹³⁷ The Ombudsman of the Ministry of Interior, *First annual report 2013-2014*, pp. 75-81, available at www.ombudsman.bh/en/periodic-public-reports/reports/annual-report-2013-2014 (accessed 12 October 2016).

¹³⁸ 26th Session of the Human Rights Council, “Joint Statement on the OHCHR and the human rights situation in Bahrain”, 10 June 2014; and, 24th Session of the Human Rights Council, “Joint Statement on the OHCHR and the human rights situation in Bahrain”, 9 September 2013, both available at birdh.org/un-hrc/ (accessed 12 October 2016).

¹³⁹ 30th Session of the Human Rights Council, “Update by the United Nations High Commissioner for Human Rights”, 14 September 2015, available at www.indexoncensorship.org/wp-content/uploads/2015/09/Joint-statement-on-Bahrain_13.09_with-list-of-states.pdf

Ombudsman with capacity building support to “increase accountability and public confidence” by “sharing UK best practice on complaints procedures, investigation reports and the role of prison inspection”.

UK support to the SIU has included training on “forensic evidence, interviewing skills and the rights of suspected persons”¹⁴⁰ and has provided capacity building assistance to improve the effectiveness of its investigations and provided assistance to build public confidence in the SIU.¹⁴¹ In addition, the UK has provided training to the PDRC via its Inspectorate of Prisons.¹⁴²

The UK has provided significant support to the Ombudsman and the SIU, and other human rights institutions in Bahrain. This investment, coupled with its special historical relationship with Bahrain appears to have muted the UK’s critique of Bahrain’s human rights record and of the institutions it supports.

It provides support for the Ombudsman and the SIU through its Conflict, Security and Stability Fund (CSSF)¹⁴³ but the UK’s reform programme in Bahrain also receives funding through its Magna Carta Fund for Human Rights and Democracy.¹⁴⁴ The UK’s Foreign and Commonwealth Office (FCO) argues that “UK support to Bahrain’s reform programme is the most constructive way to achieve long-lasting and sustainable reform in Bahrain,”¹⁴⁵ while recognizing that “Bahrain had, and continues to have, capacity and capability problems”.¹⁴⁶ The UK has devoted energy and resources to promoting the Ombudsman, the SIU and other human rights institutions in official statements and reports, and through social media. For example, in September 2015 the UK sent a team of diplomats and advisers from its Bahrain capacity building programme to brief other states’ representatives ahead of a UN Human Rights Council vote on a draft joint statement that aimed to express serious concerns about the human rights situation in Bahrain. The FCO said the purpose was to “inform and discuss Bahrain’s progress on reform and human rights with a focus on the UK’s programme of assistance”¹⁴⁷ but it appears also to have contributed to weakening the reference to human rights violations in the final joint statement and to some missions not signing up to the statement.¹⁴⁸

The UK has also publicly described the Ombudsman and the SIU as “independent human rights and oversight institutions” that are “working more effectively” and gaining increased public confidence”, with the SIU “increasingly” investigating “complaints of allegations of torture or ill-treatment”.¹⁴⁹ The FCO stated that it is “standard practice to evaluate all FCO programmes” but does not specify what benchmarks are used to evaluate the impact and effectiveness of its assistance to Bahrain and has said that “there is no plan... to publish standalone assessments of the Bahrain programme”.¹⁵⁰ As this report shows, Amnesty International considers that these UK government assessments fail to reflect the continued serious shortcomings of the Ombudsman and SIU as effective accountability mechanisms capable of ensuring that victims of human rights violations receive justice.

140 FCO, *2014 Human rights and democracy report: Case study: Bahrain – reform implementation*, 12 March 2015, available at www.gov.uk/government/case-studies/bahrain-reform-implementation

141 Information provided by the UK embassy in Bahrain to Amnesty International on 3 October 2016; the embassy said that it could not provide further details.

142 The UK’s assistance programme also supports other areas of reform. For further details see

www.gov.uk/government/uploads/system/uploads/attachment_data/file/482617/FOI_0702-15_FCO_assistance_programme_funding_for_Bahrain_2015-16.pdf (accessed 12 October 2016).

143 The UK’s FCO described the CSSF as a “pool of money... for tackling conflict and instability overseas” See: Joint Select Committee, “Conflict, Stability and Security Fund inquiry launched”, 26 May 2016, available at www.parliament.uk/business/committees/committees-a-z/joint-select/national-security-strategy/news-parliament-2015/cssf-launch-16-17/

£1.2 million of the CSSF was designated for this work for 2014-2015, increased to £2.1 million for 2015-2016. See:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/482617/FOI_0702-15_FCO_assistance_programme_funding_for_Bahrain_2015-16.pdf (accessed 12 October 2016).

The FCO’s actual expenditure on Bahrain for 2012-2013 was £114,797 increased to £450,292 for 2013-2014. See:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/536409/FOI_0023-16_Letter_of_response.pdf (accessed 12 October 2016).

144 The FCO describes the Magna Carta Fund as its “dedicated strategic fund” supporting its “global human rights and democracy work”

See FCO, “The Magna Carta Fund is the FCO’s dedicated strategic fund supporting our global human rights and democracy work.”, 25 January 2016, available at www.gov.uk/government/news/the-magna-carta-fund-for-human-rights-and-democracy

To date, the FCO has allocated £300,000 of the Magna Carta Fund to non-Official Development Assistance countries, which includes Bahrain. See: data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/foreign-affairs-committee/the-foreign-and-commonwealth-offices-administration-and-funding-of-its-human-rights-work-overseas/written/30935.pdf (accessed 12 October 2016).

145 See www.gov.uk/government/uploads/system/uploads/attachment_data/file/536393/FOI_0118-16_Letter.pdf (accessed 12 October 2016).

146 See www.gov.uk/government/speeches/hm-ambassadors-speech-to-the-bahrain-british-business-forum--3 (accessed 12 October 2016).

147 See www.gov.uk/government/uploads/system/uploads/attachment_data/file/478655/FOI_0952-15_UK_Del_to_Geneva_re_Bahrain_September_2015.pdf (accessed 12 October 2016).

148 Jamie Doward, “Britain lobbied UN to whitewash Bahrain police abuses”, *The Guardian*, 21 February 2016, available at www.theguardian.com/politics/2016/feb/21/britain-lobbied-un-bahrain-human-rights-abuses

149 FCO, *Corporate report: Bahrain – human rights priority country*, 21 July 2016, available at

www.gov.uk/government/publications/bahrain-human-rights-priority-country/bahrain-human-rights-priority-country

150 See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482612/FOI_0664-15_FCO_technical_assistance_programme_to_Bahrain.pdf

The UK government has also pointed to the Ombudsman as evidence that Bahrain has an independent mechanism in place to investigate torture and other ill-treatment allegations in response to questions from UK parliamentarians.¹⁵¹ In April 2016 a FCO Minister said in response to a parliamentary question about Mohamed Ramadhan (see section 4) that the Ombudsman had “confirmed” to the UK embassy that it had received “no allegations of mistreatment or torture”¹⁵² while failing to make clear that Mohamed Ramadhan’s lawyer had submitted a complaint to the SIU about his alleged torture and that the Ombudsman had in fact received a complaint from Mohamed Ramadhan’s wife and ADHRB alleging his torture and other ill-treatment.¹⁵³ After receiving information and evidence of ADHRB’s complaint to the Ombudsman from Reprieve, an international NGO,¹⁵⁴ the government said in July 2016 that its embassy in Bahrain appeared “not to have received any evidence” in relation to Mohamed Ramadhan’s case” when the first parliamentary answer was given in April and that the Ombudsman “commits to undertake a full, independent investigation”.¹⁵⁵

151 See for example the UK government statements in 2015 and 2016: www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-04-12/33704/ (accessed 12 October 2016) and www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-12-16/20428/ (accessed 12 October 2016).

152 See www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-04-11/33305/ (accessed 12 October 2016).

153 In July 2016, the UK government was made aware that the Ombudsman had indeed received a complaint of torture to which the UK government has said that they “appear not to have received evidence [submitted to the Ombudsman] in relation to this case [when answering the question in April]” See section 4.3 for further details.

154 Letters sent from Reprieve to the FCO on 8 June 2016 and 14 July 2016.

155 See www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-07-04/41676/ (accessed 12 October 2016).

THE UK'S SPECIAL RELATIONSHIP WITH BAHRAIN

The UK's close relations with Bahrain have deep historical roots stretching back at least to 1861 when Bahrain became an informal British protectorate.¹⁵⁶ Until independence in 1971, Britain claimed to act as Bahrain's protector against external aggression and increasingly took charge of internal security, creating a British-led police force in the 1920s¹⁵⁷ that became notorious for torture and other ill-treatment of detainees.¹⁵⁸ Even after independence in 1971, a British officer continued to head Bahrain's secret police and was implicated in torturing detainees in the 1990s.¹⁵⁹

The UK and Bahrain have remained firm allies since 1971 and continue to co-operate closely particularly on defence and security. In October 2012, the two countries signed a Defence Cooperation Accord, which they renewed and expanded in December 2014 to provide for the establishment of a permanent UK military base in Bahrain (HMS Juffair).¹⁶⁰ Construction of the base – the UK's principal military and naval base in the Gulf – began in October 2015 with Bahrain meeting much of the cost.¹⁶¹

Bahrain is also an important UK export market,¹⁶² including for military hardware: the UK exported over £104 million worth of military and dual use arms and equipment to Bahrain between January 2011 and March 2016.¹⁶³ The UK also supplies surveillance technology¹⁶⁴ and other services to Bahrain¹⁶⁵ over 590 UK companies have operations there.¹⁶⁶ Bilateral trade between the two countries was valued at some £451.4 million in 2014.¹⁶⁷

This, coupled with the appointment of an ambassador with a strong business background in 2011, suggests that Britain's priorities in Bahrain continue to be defence, exports and security over human rights even after the popular calls for reform during 2011 uprising. Despite the serious human rights committed in Bahrain in 2011, the FCO described Bahrain as a "case study", not a "country of concern", in its annual human rights report. This was criticized by the parliamentary Foreign Affairs Committee (FAC), which said in October 2012 that "the Bahraini authorities' brutal repression of demonstrators" indicated that Bahrain should have been designated as a country of concern.¹⁶⁸ The FAC voiced similar criticism in 2014 after the FCO again failed to describe Bahrain as "a country of concern".¹⁶⁹ The FCO's 2015 human rights report no longer uses the "countries of concern" classification, using instead the term "Human Rights Priority Countries" which Bahrain has now been classified as.

With its new Bahrain military base key to its new Gulf Strategy, a component part of the UK's National Security Strategy until 2025,¹⁷⁰ the UK appears committed to maintaining a close relationship with the Bahraini government regardless of its human rights record. One of the FCO's 10 stated priorities for 2015-2020 is to "implement the cross-government Gulf Strategy, increasing the UK's defence and security posture in the region".¹⁷¹

The UK's "special" and strategic relationship with Bahrain has resulted in the watering down of its public criticism of Bahrain's human rights record. For example, the UK government has not called for the release of prisoners of conscience, such as key political opposition figure Sheikh Ali Salman and prominent human rights defender Nabeel Rajab, but rather expressed only "concern" or said only that the UK encourages the Bahraini authorities to ensure they face "due process".¹⁷² In its annual report of 2015, the FCO stated that "there was progress on human rights in Bahrain... although challenges remain" and commended Bahrain's human rights "progress" despite the increased repression seen that year.¹⁷³ However, the UK did publicly criticize developments in Bahrain in 2016 in its statement to the UN Human Rights Council (HRC).¹⁷⁴

6.1.2 USA

The US government has not provided direct assistance or training to the Ombudsman or the SIU, although the latter has received American Bar Association training.

156 James Onley, "Britain's Informal Empire in the Gulf, 1820-1971", pp. 31-32, available at socialsciences.exeter.ac.uk/iais/downloads/Britain_s_Informal_Empire_in_the_Gulf_1820-1971_2005.pdf

157 Marc Owen Jones, "The history of British involvement in Bahrain's internal security", Open Democracy, 8 August 2013, available at www.opendemocracy.net/opensecurity/marc-owen-jones/history-of-british-involvement-in-bahrains-internal-security

158 Marc Owen Jones, "Methods of a mild Spanish Inquisition: British torture in Bahrain before Ian Henderson", 29 May 2013, available at marcowerjones.wordpress.com/2013/05/29/methods-of-a-mild-spanish-inquisition-british-torture-in-bahrain-before-ian-henderson/

159 See for example: Amnesty International, *Bahrain: A human rights crisis* (Index MDE 11/016/1995), 25 September 1995, available at www.amnesty.org/en/documents/mde11/016/1995/en/ and, Tony Thompson, "Britain silent on 'Butcher of Bahrain'", *The Guardian*, 30 June 2002, available at www.theguardian.com/politics/2002/jun/30/uk.world

The US government has spoken positively of both institutions and pointed repeatedly to both as evidence of Bahrain's progress in implementing the BICI recommendations. In its annual human rights reports to Congress – in both 2014 and 2015 – the US Department of State reported that the Ombudsman and the SIU had “expanded the number of abuse cases each undertook to investigate and received greater access to prisons, to interview detainees and prisoners, and to question security personnel”; in 2016, the Department of State asserted that the Ombudsman was “able to operate independently” from Bahrain's chain of command within the Ministry of Interior and “control its own budget”. Like the UK, the US government's assessment fails to reflect the continued serious shortcomings of the Ombudsman and SIU as effective accountability mechanisms but does acknowledge in 2016 that the SIU and other newly established state institutions “could benefit from greater independence”.¹⁷⁵

The USA has long-standing strategic and defence ties with Bahrain. It has had a naval base in Bahrain since 1948 and since 1995 Bahrain has been the base of the US Navy's Fifth Fleet. Like the UK, the US government has a Defense Cooperation Agreement with Bahrain, which it secretly extended in 2002¹⁷⁶ when it also designated Bahrain a “major non-NATO ally”.¹⁷⁷ The USA has also been a major supplier of arms and other military equipment to Bahrain,¹⁷⁸ although it placed a temporary stay on arms sales to Bahrain in response to the government's brutal repression of protests.¹⁷⁹ The US government renewed sales of certain arms to Bahrain to the BDF, National Guard and Coast Guard in 2012¹⁸⁰ after reportedly obtaining assurances from the Bahraini authorities that US-supplied items would not be used for crowd-control.¹⁸¹ In June 2015, the US government lifted its embargo on all arms sales to the Bahrain National Guard and BDF, and in August 2015 approved a US\$150 million deal to supply military aircraft parts, ammunition and communications equipment to Bahrain.¹⁸²

160 FCO, “UK-Bahrain sign landmark defence agreement”, 5 December 2014, available at www.gov.uk/government/news/uk-bahrain-sign-landmark-defence-agreement

161 BBC, “UK to establish £15m permanent Mid East military base”, 6 December 2014, available at www.bbc.co.uk/news/uk-30355953

162 Britain exported £295.5 million in goods to Bahrain in 2014, www.gov.uk/government/publications/exporting-to-bahrain/exporting-to-bahrain (accessed 12 October 2016).

163 See www.caat.org.uk/resources/export-licences/licence?date_from=2011-01®ion=Bahrain&date_to=2016-03 (accessed 12 October 2016). According to Campaign Against Arms Trade, Saudi Arabia used British-made armoured vehicles when it entered Bahrain and brutally crushed the uprising in March 2011 and has accused the UK government of knowing about this the day before Saudi Arabia entered Bahrain. See: www.caat.org.uk/resources/countries/bahrain/fco-knew-re-saudi (accessed 12 October 2016).

164 Cora Currier, “Privacy group targets British spyware company over Bahrain surveillance”, *The Intercept*, 13 October 2014, available at theintercept.com/2014/10/13/privacy-group-targets-british-spyware-company-bahrain-surveillance/

165 See bahrainwatch.org/pr/ (accessed 12 October 2016).

166 British businesses already operating in Bahrain include HSBC, Standard Chartered, Atkins, National Express and Ordnance Survey.

167 See www.gov.uk/government/publications/exporting-to-bahrain/exporting-to-bahrain (accessed 12 October 2016).

168 House of Commons FAC, *The FCO's human rights work in 2011: Third report of session 2012-13*, 11 September 2012, available at www.publications.parliament.uk/pa/cm/201213/cmselect/cmfa/116/116.pdf

169 House of Commons FAC, *The FCO's human rights work in 2013*, 27 November 2014, available at www.publications.parliament.uk/pa/cm/201415/cmselect/cmfa/551/55104.htm

170 HM Government, *National Security Strategy and Strategic Defence and Security Review 2015: A secure and prosperous United Kingdom*, November 2015, p. 55, available at

www.gov.uk/government/uploads/system/uploads/attachment_data/file/478933/52309_Cm_9161_NSS_SD_Review_web_only.pdf

171 FCO, *Corporate report: Single departmental plan: 2015 to 2020*, 19 February 2016, available at

www.gov.uk/government/publications/fco-single-departmental-plan-2015-to-2020/single-departmental-plan-2015-to-2020

172 See www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-03-20/228630/ (accessed 12 October 2016) and www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-10-14/11899/ (accessed 12 October 2016).

173 FCO, *Corporate report: Bahrain – human rights priority country*, 21 July 2016, available at

www.gov.uk/government/publications/bahrain-human-rights-priority-country/bahrain-human-rights-priority-country

174 UK Mission to the United Nations Geneva, Human Rights Council 33, statement delivered under Item 2, 14 September, 2016, 14

September 2016, available at www.gov.uk/government/world-location-news/human-rights-council-33-statement-delivered-under-item-2-14-september-2016

175 See pomod.org/wp-content/uploads/2016/06/State-BICI-Report.pdf (accessed 12 October 2016).

176 The Agreement was signed in 1991, and in 2002 was extended until 2016. See Anna Fifield and Camilla Hall, “US and Bahrain secretly extended defence deal”, *Financial Times*, 1 September 2011, available at www.ft.com/cms/s/0/6bdc0118-d40b-11e0-b7eb-00144feab49a.html#axzz4FynUsRpr

177 Kenneth Katzman, “Bahrain: Reform, Security and US Policy”, Congressional Research Service, 29 August 2016, available at www.fas.org/spp/crs/mideast/95-1013.pdf

178 The USA has supplied Bahrain with Intercept-aerial Guided Missiles, advanced medium-range air-to-air missiles, multiple-rocket launchers, Cobra Helicopters, M60 tanks, Army Tactical Missile System missiles and small arms including cartridges, ammunition raw materials and manufacturing equipment, pistols and revolvers, sub-calibre weapons, non-military rifles, and shotguns. See: www.caat.org.uk/resources/countries/bahrain/summary-2002-10 (accessed 12 October 2016).

179 Amnesty International USA, “Amnesty International welcomes delay on US arms sales to Bahrain”, available at

www.amnestyusa.org/news/press-releases/amnesty-international-welcomes-delay-on-us-arms-sales-to-bahrain

180 See blog.amnestyusa.org/middle-east/another-us-arms-shipment-to-bahrain/ (accessed 12 October 2016).

181 US Department of State, “Renewal of US Security Cooperation with Bahrain”, 11 May 2016, available at www.state.gov/r/prs/ps/2012/05/189752.htm

182 The USA did not lift its embargo of arms sales to the Ministry of Interior. See: Defense Security Cooperation Agency, “Bahrain – F-16 follow-on support”, 7 August 2015, available at www.dsca.mil/major-arms-sales/bahrain-f-16-follow-support

The US government has been far less reluctant than the UK to speak out against human rights violations in Bahrain, despite its close military, diplomatic and economic ties and after the Bahraini authorities expelled a senior US human rights official in 2014 after he met representatives of the opposition Al-Wefaq party.¹⁸³

Recent US government statements have criticized the Bahrain authorities' dissolution of Al-Wefaq in July 2016 and the imprisonment of human rights defenders and political opposition activists, calling for Sheikh Ali Salman and Nabeel Rajab's release.¹⁸⁴ Moreover, the US Congress went one step further in May 2015 when it passed a bill requiring the Department of Defense to "plan a potential relocation of the Fifth Fleet if political tensions persist".¹⁸⁵

6.2 INTERGOVERNMENTAL BODIES

6.2.1 UNITED NATIONS

The UN has provided training assistance to the SIU, but not to the Ombudsman. The UN Development Programme (UNDP) has provided training from international experts to the SIU on investigating deaths in custody, torture and other deaths resulting from security force actions¹⁸⁶ and the UN Office on Drugs and Crime also provided training assistance.¹⁸⁷

Bahrain has engaged heavily with the UN mechanisms and special procedures. It has been negotiating with the Office of the High Commissioner for Human Rights (OHCHR) since 2014 on a proposed technical assistance programme and establishment of an OHCHR regional office in Bahrain, although this has yet to be established amid increasing OHCHR criticism of human rights violations in Bahrain. By contrast, however, the government has not been receptive to visit requests, inquiries and investigations by UN Special Rapporteurs, notably the Special Rapporteur on torture.

6.2.2 EUROPEAN UNION

The European Union (EU) has not provided any training or assistance to the Ombudsman or the SIU. However, the EEAS awarded its Chaillot Prize for the promotion of human rights in the Gulf Cooperation Council (GCC) region jointly to the Ombudsman and NIHR "to acknowledge and further encourage" their "efforts and work for the promotion and protection of Human Rights in Bahrain".¹⁸⁸ Although the EEAS awarded this prize to the Ombudsman after his office had only been functioning for one year, the Ombudsman has pointed to it as indicating international recognition of the effectiveness of his work and of Bahrain's commitment to ensuring accountability for human rights violations.

The Ombudsman has also engaged with EU actors on several occasions during their visits to Bahrain, including meetings with the EEAS, the EU Special Representative for Human Rights and MEPs during their visits to Bahrain.

The EU has spoken positively of both institutions publicly, for example, in its most recent statement at the HRC the EU stated it is "worried about allegations of torture, and welcomes the work of the Special Investigations Unit and Ombudsman to investigate these".¹⁸⁹ The European Parliament has been more critical, calling in a February 2016 Resolution for the Bahraini authorities to "ensure the independence" of the Ombudsman and the PDRC and "to guarantee the independence" of the SIU from the PPO.¹⁹⁰

183 Al Jazeera America, "Bahrain kicks out US diplomat for meeting with opposition group", 7 July 2014, available at america.aljazeera.com/articles/2014/7/7/bahrain-us-diplomat.html

184 See www.state.gov/r/pa/prs/dpb/2016/06/258980.htm#BAHRAIN (accessed 12 October 2016).

185 US News, "Bahrain bristles as US threatens to move fleet", 19 May 2015, available at www.usnews.com/news/articles/2015/05/19/bahrain-bristles-at-threat-to-move-5th-fleet

186 open.undp.org/#project/00080256 (accessed 12 October 2016).

The UNDP's project with the SIU is funded by both the UNDP and PPO, US\$100,000 from the former and US\$150,000 from the latter, see info.undp.org/docs/pdc/Documents/BHR/signed%20PD%2019%20June%202014%20full%20set.pdf (accessed 12 October 2016).

187 Meeting with Amnesty International on 4 May 2014, Bahrain.

188 See eeas.europa.eu/delegations/gulf_countries/press_corner/all_news/news/2014/20141203_en.htm# (accessed 12 October 2016).

189 33rd Session of the United Nations Human Rights Council Geneva, 13-30 September 2016 EU Statement – Item 2: Update by the

High Commissioner followed by General Debate, available at eeas.europa.eu/delegations/un-geneva/9801/hrc-33---eu-statement-item-2_en
190 www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P8-RC-2016-0174+0+DOC+XML+V0/EN (accessed 12 October 2016).

Bahrain's bilateral relations with the EU are limited mostly to its engagement as a member of the GCC during the EU-GCC meetings.¹⁹¹ Despite this, the EU have issued statements criticizing human rights violations in Bahrain, including the government's action against leaders and supporters of Al-Wefaq and the arrest of Nabeel Rajab.¹⁹²

191 For further details of the EU-GCC, see eeas.europa.eu/gulf_cooperation/index_en.htm (accessed 12 October 2016).

192 See eeas.europa.eu/statements-eeas/2016/160705_03.htm (accessed 12 October 2016).

7. KEY PRINCIPLES FOR ASSESSING THE OMBUDSMAN AND THE SIU

In assessing the role and effectiveness of the Ombudsman and the SIU as institutions responsible for ensuring accountability for human rights violations, Amnesty International has taken account of the following key principles established under international law. These principles are “mutually reinforcing” whereby conducting transparent, prompt, adequate and effective investigations into human rights violations will mutually serve to build public confidence and give the institutions legitimacy which will, in turn, reinforce the “integrity” of the system.¹⁹³

Independence

Those carrying out investigations into alleged human rights violations must be financially, politically, structurally and practically independent from the government and from those implicated in the events being investigated.¹⁹⁴ They should be demonstrably free of undue political or other influence and demonstrate the political will and ability to be “counter-cultural”.¹⁹⁵

Impartiality and neutrality

Those conducting investigations must be impartial; they must not harbour preconceptions about the matter under investigation or the identities of the alleged victims and perpetrators.¹⁹⁶ They must not engage in any matter that involves a conflict of interest.¹⁹⁷ If serving or former police officers are appointed to an institution responsible for conducting investigations, they should not have decision-making responsibility, to safeguard against an inherent risk of bias in such decision-making, and they should comprise a minority – preferably, no more than 25%¹⁹⁸ – of the institution’s investigative staff to avoid undermining impartiality.¹⁹⁹

193 UN Office on Drugs and Crime, *Handbook on police accountability, oversight and integrity*, July 2011, Chapter 1A, available at www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability_Oversight_and_Integrity_10-57991_Ebook.pdf

194 Amnesty International, *Northern Ireland: Time to deal with the past* (Index EUR 45/004/2013), 12 September 2013, p. 21, available at www.amnesty.org/en/documents/EUR45/004/2013/en/ (Amnesty International, *Northern Ireland: Time to deal with the past*).

195 Dame Anne Owers, “Independent oversight of police complaints: The IPCC eight years on”, 3 July 2012, p. 7, available at www.ipcc.gov.uk/sites/default/files/Documents/speeches/speech_dame_anne_owers_john_harris_memorial_lecture.pdf?_sm_au_=iVW1qD2kwQQSNokN

196 Amnesty International, *Northern Ireland: Time to deal with the past*, pp. 20-21.

197 See www.ombudsassociation.org/About-Us/IOA-Standards-of-Practice-IOA-Best-Practices/Code-of-Ethics.aspx (accessed 12 October 2016) and UN Convention against Torture, 10 December 1984, Articles 12 and 13.

198 Liberty, *An Independent Police Complaints Commission*, April 2000, p. 39, available at: www.liberty-human-rights.org.uk/sites/default/files/an-independent-police-complaints-commission-april-2000.pdf

199 Amnesty International Dutch Section, *Police and Human Rights Programme – Short paper series No. 2, Police oversight*, January 2015, pp. 24-26, available at www.amnesty.nl/sites/default/files/public/police_oversight_light_def_for_website_phrp.pdf (Amnesty International Dutch Section, *Police oversight*).

Confidentiality

All information provided by complainants and relating to complainants and witnesses, including their identities, must be treated confidentially to protect them from possible reprisals²⁰⁰ and to safeguard the integrity of the investigation; breaches of confidentiality must be investigated and punished.

Effectiveness

There is public awareness of and access to the institution, which has the powers to investigate and to propose adequate remedies and can secure compliance with findings or recommendations.²⁰¹ An effective and thorough investigation is one of means and not of results. The investigation should be capable of establishing the circumstances of the case and identifying the person(s) responsible.²⁰²

The scope of the investigation must be wide-ranging and rigorous.²⁰³ The persons or institution undertaking the investigation must take all reasonable steps available to them to secure evidence concerning the incident, including forensic evidence and testimony of eyewitnesses and other key witnesses; be capable of resolving uncertainties and ambiguities in accounts of key witnesses and physical evidence; secure the evidence of a forensic specialist where one is reasonably required; and make efforts to locate and secure key evidence (including not simply accepting allegations of facts by state authorities, but rather investigating whether there is actually any evidence in support of them) state agents or bodies, to ensure their accountability for deaths and other abuses occurring under their responsibility.

Any deficiency in the investigation which undermines its capability of establishing the circumstances of the case or the person responsible is liable to fall foul of the required measures of effectiveness.²⁰⁴

Promptness

Investigations into alleged human rights violations must be carried out promptly and be completed as soon as reasonable.²⁰⁵ In particular, where relevant medical or other evidence may be available – for example, through medical examinations of alleged victims of torture and other ill-treatment – this should be collected with minimum delay.²⁰⁶

Adequacy

Institutions and their investigators should be capable and have the authority to gather evidence to determine whether the behaviour of police or security officers complained of was unlawful and to identify and punish those responsible either through disciplinary or judicial measures.²⁰⁷

Transparency

Investigations and the workings of the institutions must be transparent in order to ensure public confidence, prevent any appearance of collusion or tolerance of unlawful acts and for the institutions to be seen as fair by law enforcement officials, against whom a complaint is made.²⁰⁸

Complainants, and whoever they give permission of access to, such as their lawyer and family, must be afforded effective access to the investigatory procedure, including steps taken by the institutions and the outcome.²⁰⁹ In cases involving killings, it is imperative that the next of kin of the victim be involved in the procedure to the extent necessary to safeguard their legitimate interests. Victims and their families should be kept informed of the proceedings and the outcome.²¹⁰

Public confidence

Institutions can only be effective if they gain and maintain public trust. Public confidence can be built by demonstrating in practice that the institutions are working in the public's interest, are improving human

200 UN Convention against Torture, 10 December 1984, Article 13; and, the Istanbul Protocol, Article 3 (b) of Annex.

201 The International Ombudsman Institute, "Fundamental elements of an effective ombudsman institution", 2009, p. 9, available at www.theioi.org/downloads/934ch/Stockholm%20Conference_15.%20Plenary%20Session%20II_Dear%20Gottehrer.pdf

202 Amnesty International, *Northern Ireland: Time to deal with the past*, p. 20.

203 Amnesty International, *Northern Ireland: Time to deal with the past*, p. 20.

204 Amnesty International, *Northern Ireland: Time to deal with the past*, p. 20.

205 Amnesty International, *Northern Ireland: Time to deal with the past*, p. 20.

206 Istanbul Protocol, "Chapter II Legal investigation of torture", para. 104. The UN Committee against Torture ruled that a 15-month delay in investigating allegations of torture is unreasonably long and not in compliance with Article 12 of the Convention. See Communication 8/1991, para. 185, Report of the Committee against Torture to the General Assembly (A/49/44), 12 June 1994, and UNCAT, Articles 12 and 13.

207 Council of Europe, "Opinion of the Commissioner for Human Rights concerning independent and effective determination of complaints against the police", 12 March 2009, available at wcd.coe.int/ViewDoc.jsp?p=&id=1417857&direct=true#P97_5903

208 Amnesty International, *Northern Ireland: Time to deal with the past*, p. 21.

209 The Istanbul Protocol, Article 4 of Annex 1.

210 Amnesty International, *Northern Ireland: Time to deal with the past*, p. 21.

rights, providing accountability and preventing further violations. Public confidence can be built through awareness building in the local communities on the mandate of these institutions and how to access them.²¹¹

In addition to these principles, as a voting member of the International Ombudsman Institute, the Ombudsman must uphold the principles laid out in the International Ombudsman Institute's by-laws which stipulate that members protect individuals against abuses or "unfairness", uphold confidentiality and impartiality, and maintain independence.²¹²

Whilst the onus is on the Ombudsman and SIU to adhere to the above principles, the Bahraini authorities also have a legal responsibility to enable the Ombudsman and SIU to fulfil their mandate and principles which are defined in Bahrain's national law through its decrees establishing both institutions. By doing so, the authorities will also implement the BICI recommendations Bahrain accepted in 2011 and the Universal Periodic Review recommendations which it accepted in 2012.²¹³ Furthermore, as a member of the UN General Assembly, the authorities should fulfil the UN General Assembly's adopted Resolution of December 2012 on the role of the Ombudsman.²¹⁴

211 Amnesty International Dutch Section, *Police oversight*, pp. 28-29.

212 International Ombudsman Institute, Bylaws, 13 November 2012, available at www.theioi.org/downloads/fnutr/IOI_Bylaws_Final%20Version_EN_20121113.pdf

213 Human Rights Council 21st session – Agenda item 6, Report of the Working Group on the Universal Periodic Review Bahrain, Addendum.

214 UN General Assembly Resolution 67/163.

8. CONCLUSION AND RECOMMENDATIONS

8.1 CONCLUSION

Five years have passed since the BICI report exposed the scale of serious human rights violations in Bahrain and the government agreed to adopt the measures that the BICI said were needed to address them and hold those suspected to be responsible to account. The Bahraini government claims that the human rights oversight bodies it subsequently created, the Ombudsman of the Ministry of Interior and the Special Investigations Unit, have served this purpose. It holds them up – for both a domestic and international audience - as model institutions, in effect as pioneers of change, as part of its reform rhetoric. Their existence and the creation of other human rights institutions in the wake of the BICI report have been interpreted as a positive development indicating a new-found commitment to accountability that adds lustre to Bahrain's reputation.

As this report acknowledges, the Ombudsman of the Ministry of Interior and the SIU have achieved some successes in investigating and prosecuting human rights violations. However, they have too often failed to fulfil their roles in a sufficiently prompt, adequate and transparent manner to ensure accountability and act as an effective deterrent. Their perceived lack of independence from, and reluctance to criticize, the government, combined with their failure to ensure that members of the security forces who torture and abuse detainees or commit unlawful killings do not escape criminal prosecutions and justice, have led many victims and the lawyers, human rights defenders and others who support them to say they have no confidence in the two institutions and to see them as mere window-dressing.

Clearly, considering their mandate, powers and resources – and the training and other assistance and support they have received from UN agencies and the UK – the Ombudsman and the SIU could and should be far more effective in ensuring accountability than they have proved to date, even taking into account the political and judicial obstacles that they face in Bahrain. They should do so urgently if they are not to lose credibility in Bahrain, at least among those who should be their first and only priority – those who suffer serious human rights violations at the hands of the government and its security forces – and eventually beyond Bahrain. Much work is still needed to break the country's long-standing culture of impunity.

The office of the Ombudsman of the Ministry of Interior and the SIU operate within a context of entrenched judicial and political obstacles to accountability, blocking them from genuinely fulfilling their collective mandate to independently investigate human rights violations and bring those suspected to be responsible to justice, whatever seniority or influence. They also operate in a system where human rights violations continue, repression of opponents and critics is increasing to unprecedented levels and more effort is put into promoting an image of reform than delivering true reform. Ultimately, the lack of an independent and impartial judicial system that delivers fair trials and due process and the absence of political will to deliver true accountability, where victims are protected rather than the perpetrators, needs to be a priority for the authorities, to enable these institutions to succeed in their mandate.

Amnesty International remains committed to contributing in whatever way it can to ensuring full accountability and ending human rights violations in Bahrain, and provides the following recommendations addressed to the Bahrain government, the Ombudsman of the Ministry of Interior and the SIU towards this end. If fully, effectively and swiftly implemented, Amnesty International believes that these recommendations

could see the Ombudsman and the SIU prove much more effective and gain the confidence and trust of those who they are mandated to protect and assist as well as ensure accountability.

In the same vein, Amnesty International includes recommendations addressed to the UK and other governments that maintain close diplomatic and other ties with Bahrain and should, therefore, be in a position to exert positive and constructive influence on the Bahrain authorities and the Ombudsman and the SIU.

8.2 RECOMMENDATIONS

8.2.1 TO THE OMBUDSMAN OF THE MINISTRY OF INTERIOR

Amnesty International urges the Ombudsman to ensure and use all appropriate means to demonstrate the independence and impartiality of his office; to ensure and uphold confidentiality and hold to account anyone suspected to be responsible for subjecting complainants or others to reprisals; to promptly and thoroughly investigate all alleged torture and other serious human rights violations by Bahraini security forces, law enforcement personnel and officials, referring relevant cases to the SIU for investigation and possible prosecution; and ensuring that complainants are kept regularly informed about the progress of investigations and their outcome.

In particular, the Ombudsman's office should take the following steps to address concerns detailed in this report:

- Intervene immediately in all cases in which detainees are reportedly held in undisclosed locations where they could be at risk of torture and other ill-treatment in order to ascertain their whereabouts and inform their families, ensure their safety and access to legal counsel of their own choosing, including by carrying out unannounced visits to places of detention, in particular the CID;
- Ensure that any detainees are fully protected against torture and other ill-treatment, ensuring that they are moved to other facilities whenever appropriate and any state officials accused of torture or other abuse of detainees are immediately suspended pending investigation;
- Conduct regular unannounced inspections of all places of detention, including Jaw and Dry Dock prisons and the CID and other facilities, and publish the Ombudsman's findings and recommendations, including those related to the inspection it undertook of the CID;
- Recommend to the Ministries of Interior and Health that they instruct prison and prison health care authorities to ensure that prisoners and detainees in their custody have adequate access to medical care, appropriate medication and medical examinations and treatment outside prison when recommended by prison doctors;
- Regularly remind staff of the need to ensure confidentiality and protection of victims from reprisals during and following the conduct of their investigations, including when meeting victims and witnesses in detention and that those found breaching confidentiality will be held accountable;
- Thoroughly and promptly investigate how Bahrain's Brussels embassy obtained the Ombudsman's confidential report to the Ministry of Interior on Mohamed Ramadhan and how his confidential complaints were passed to the UK government without his or his family's consent, publish the result and take appropriate disciplinary or other action against those suspected to be responsible;
- Take all appropriate measures and seize opportunities to prevent and correct misrepresentation of its role and function by the Bahraini government or others and where necessary, clarify the SIU's involvement in a case;
- Publish the results of the investigation of allegations of torture and other ill-treatment of prisoners at Jaw Prison during and following the disturbances there in March 2015;
- Set up and clarify publicly, including on its website, a reasonable time standard for investigating and deciding outcomes and regularly communicating full and adequate details, including any SIU investigation and outcomes to complainants;
- Specify in its annual report statistics the number of complaints related to torture and other ill-treatment or unlawful killings, the reasons that led the Ombudsman to either refer the case on, dismiss it or "resolve"

it, indicating how this resolution was achieved, and which recommendations the Ministry of Interior has implemented and those it has not; ensure complaints are no longer separated between “requests for assistance” and “complaints”; and not record as “complaints” any legitimate requests for assistance or information which do not fall within the remit of the Ombudsman;

- Reach out to and engage with all civil society organizations in Bahrain, including the Bahrain Center for Human Rights and the European-Bahraini Organisation for Human Rights.

8.2.2 TO THE SPECIAL INVESTIGATIONS UNIT

Amnesty International urges the SIU to ensure and use all appropriate means to demonstrate its independence and impartiality; to ensure and uphold confidentiality, protecting victims from reprisals and intimidation by its staff or officers under investigation and hold to account anyone responsible for subjecting complainants or others to reprisals; to promptly, thoroughly and transparently investigate into all alleged torture and other serious human rights violations by Bahraini security forces and officials, including the collection of oral and medical evidence and referring promptly allegations to trial whenever appropriate; and to ensure victims and their families are kept fully and regularly informed about the progress of investigations, the outcome and the reasoning for closing a case, where relevant.

In particular, the SIU should take the following steps to address concerns detailed in this report:

- Ensure accountability for all recorded cases of human rights violations, including those mentioned in the BICI report, referring to trial, where appropriate, officers of all ranks including those with superior responsibility;
- Ensure that all SIU investigations are conducted promptly and strictly follow the methods set out in the Istanbul Protocol, in particular recording without delay any statements from witnesses, victims or suspects and a medical examination of anyone alleging torture or other ill-treatment;
- Recommend to the Public Prosecutor to amend the Directives to the SIU to strengthen victim protection, including guarantees of protection from violence, threats of violence and any other form of intimidation pursuant to the investigation, as per the Istanbul Protocol; also amend Article 37 of the Directives to include rules on how to conduct an identification line-up that would protect the victim from any form of intimidation and re-traumatization, including not allowing the victim to be put in the same room as the alleged perpetrators, and ensure this is consistently followed in practice;
- Regularly remind investigators of the need to ensure confidentiality and protection from reprisals and that those accused of breaching confidentiality will be thoroughly investigated and held accountable, including in the cases of Mohamed al-Sheikh’s and Mohammed al-Oraibi;
- Ensure that the number of Ministry of Interior and Justice employees at the decision-making level, including investigators, judicial police and forensic doctors, are reduced to a maximum of 25% compared with non-government staff, and ensure judicial police are directly employed and paid by the SIU, rather than through secondment from the Ministry of Interior, in order to safeguard against possible conflict of interest for persons appointed;
- Relocate the SIU to new premises outside of the Public Prosecution Office that reflects its standing as an independent institution;
- Set up and clarify publicly a reasonable time standard for investigating, including a minimum amount of time that medical and psychiatric examinations are conducted within, and deciding outcomes and communicating full and adequate details;
- Ensure Ali-al Tajer is taken urgently to all the consultants recommended by the forensic doctor;
- Disclose to complainants how the SIU reached a decision to close a case, ensuring that more details other than “lack of evidence” is given, and the steps taken by the SIU in cases where investigations have been slow to demonstrate the reason for not coming to a conclusion; also set up a transparent complaints procedure to enable complainants to challenge the SIU’s decision to close an investigation into their complaint or take no action on it.

8.2.3 TO THE BAHRAINI AUTHORITIES

Amnesty International urges the Bahraini authorities to conduct investigations into human rights violations in line with international standards and ensure those who have committed them, including those of superior responsibility, are brought to account; to protect detainees from torture and other ill-treatment and protesters from excessive use of force; to ensure the independence and impartiality of the judiciary; to ensure prisoners have adequate access to medical care and medication; to increase the mandate and authority of the Ombudsman and the SIU, including by creating an environment where both institutions have the political space to fulfil their mandate and are genuinely independent and impartial; to ratify international human rights instruments to which they are not yet a state party; and to guarantee access for UN special procedures and international NGOs.

In particular, the authorities should take the following steps to address concerns detailed in this report:

- Conduct prompt, thorough, impartial and independent investigations in line with international standards, including where necessary re-opening closed investigations, into all allegations of torture, deaths in custody and unlawful killings, including those resulting from unnecessary and excessive use of force, committed since the beginning of the February 2011 protests, suspend suspected officials from active duty pending the outcome of their investigation and ensure those suspected of committing these violations, including those in command responsibility, are held accountable, including in a trial consistent with international fair trial guarantees and without recourse to the death penalty;
- Provide all victims of human rights violations full reparations including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition;
- Ensure that detainees are questioned and held only in officially recognized places of detention and are not held incommunicado and that accurate information about their arrest and whereabouts is made available to their relatives and lawyers without delay;
- Ensure the right of all prisoners to the highest attainable standard of health and in particular ensure that they have access to timely and appropriate health care, comparable to that available to people in Bahrain, through doctors and other health professionals whose primary concern must be the health needs of the patient and who must be free to provide treatment according to their professional judgement and medical ethics;
- Start a full and comprehensive legal reform of the judiciary to ensure its full impartiality and independence from the executive authorities;
- Ensure that any statement which is established to have been made as a result of torture or other ill-treatment is not invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made; and ensure that the SIU's investigation into these allegations are concluded before proceeding with the trial;
- Ensure that prisoners who have legitimate concerns about going to government-run hospitals, in particular the BDF hospital when they allege they were subjected to torture and other ill-treatment there in 2011, and whose medical needs cannot be met by the prison clinic, be instead allowed to receive the medical treatment they require in an alternative hospital, and give the Ombudsman the authority to facilitate such access;
- Amend Decree 35 of 2013 to give the Ombudsman the authority to make obligatory the implementation of his recommendations to the Ministry of Interior;
- Amend Decree 35 of 2013 to give the Ombudsman the authority to oblige the prison administration to ensure prisoners have access to their prescribed medication and appointments;
- Amend the Directives to the SIU to strengthen victim protection including guarantees of protection from violence, threats of violence or any other form of intimidation pursuant to the investigation, as per the Istanbul Protocol and ensure this is followed in practice;
- Ratify the two Optional Protocols to the International Covenant on Civil and Political Rights; as well as the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Rome Statute of the International Criminal Court;
- Allow the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Bahrain at their earliest convenience and ensure international NGOs including Amnesty International have full access to the country.

8.2.4 TO THE UK AUTHORITIES

Amnesty International urges the UK authorities to ensure the FCO's technical assistance programme on Bahrain is evaluated according to measurable benchmarks of progress to inform future assistance provided, and to use its influence in Bahrain to raise concerns publicly about human rights violations in Bahrain and lack of accountability.

In particular, the UK authorities should take the following steps to address concerns detailed in this report:

- Ensure the evaluation of the FCO's technical assistance programme on Bahrain contain measurable benchmarks which align with the key principles of independence and impartiality, promptness, transparency, confidentiality and effectiveness outlined in this report and publish its evaluation;
- Publicly and privately urge the Ombudsman, SIU and Bahraini authorities to implement the recommendations in this report, in particular to ensure the conduct of investigations into human rights violations in a prompt, thorough, effective manner, upholding confidentiality and leading to real accountability;
- Ensure their public statements assessing the Ombudsman and the SIU truly reflect their operations and effectiveness in practice;
- Publicly and privately raise concerns about the overall lack of accountability in Bahrain and push for a more comprehensive and prompt reform of the justice system.

8.2.5 TO THE INTERNATIONAL COMMUNITY, IN PARTICULAR THE USA AND EUROPEAN UNION

Amnesty International urges the international community to use its influence in Bahrain to urge the institutions and the authorities to implement the recommendations in this report, and to raise concerns publicly and privately about human rights violations in Bahrain and the overall lack of accountability.

In particular, the international community, in particular the USA and European Union, should take the following steps to address concerns detailed in this report:

- Publicly and privately urge the Ombudsman, SIU and Bahraini authorities to implement the recommendations in this report;
- Continue to raise concerns publicly and in private about human rights violations in Bahrain with a view to ensure full compliance with Bahrain's international human rights obligations;
- Raise concerns with the Bahraini authorities about the overall lack of accountability in Bahrain and the culture of impunity which continues to persist and push for a more comprehensive and prompt reform of the justice system in order to ensure independence, impartiality and accountability.

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WINDOW-DRESSING OR PIONEERS OF CHANGE?

AN ASSESSMENT OF BAHRAIN'S HUMAN RIGHTS OVERSIGHT BODIES

Five years have passed since the government agreed to adopt the measures the Bahrain Independent Commission of Inquiry report said were needed to address the serious human rights violations committed during the 2011 uprising and hold those suspected to be responsible to account. The Bahraini government claims that the human rights oversight bodies it created, the Ombudsman of the Ministry of Interior and the Special Investigations Unit, have served this purpose.

The two institutions were given wide-reaching mandates and resources to ensure accountability, and have received support and training from in particular the UK government. They have achieved some successes in investigating and prosecuting human rights violations. However, they have too often failed to fulfil their roles in a sufficiently prompt, adequate and transparent manner to ensure accountability and act as an effective deterrent.

Much work is still needed to break the country's long-standing culture of impunity. The Ombudsman and the Special Investigations Unit need to urgently address their failings if they are not to lose credibility. In particular, they must ensure all alleged human rights violations are investigated in an effective, adequate, transparent and prompt manner and those responsible are brought to justice.