



Joint Position paper - Bahrain  
September 2014

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**Human rights in Bahrain: EU must pursue efforts and deepen its search for results**

In mid-2012, the EU confirmed and strengthened its commitment to foster human rights in its external relations. The EU notably stated that it would « raise human rights issues vigorously in all appropriate forms of bilateral political dialogue, including at the highest level » and that « when faced with violations of human rights, the EU will make use of the full range of instruments at its disposal, including sanctions or condemnation ». The research for results and or increased efficiency clearly underpins the adopted 2012 EU strategic framework and action plan on human rights and democracy<sup>1</sup>.

The human rights situation in Bahrain hasn't progressed since the finalisation of the 2011 report of the Bahrain Independent Commission of Inquiry (BICI). The 2012 UPR recommendations<sup>2</sup> equally lack implementation. The authorities have actually increasingly demonstrated their determination to restrict freedom of expression, freedom of peaceful assembly and association. Impunity, lack of fair trial guarantees and reports of ill-treatment and torture in detention facilities remain. More recently, the Government of Bahrain has increasingly resorted to arbitrary deprivation of nationality without due process in order to sanction opponents and dissenting voices. Finally, and as shown in the present note, three years after the establishment of the Bahrain Independent Commission of Inquiry, the situation in the country is still characterised by:

- repression and imprisonment of human rights defenders and journalists
- the use of the anti-terrorism measures to crackdown on rights and freedoms
- repressive measures against political societies
- prevalent impunity

To address the situation, the EU has put some effort into mobilisation but has underestimated the efficiency of public diplomacy. Strong condemnations of human rights violations and a clear call for the release of prisoners arbitrarily arrested and detained are required. Bahrain has shown that it can be sensitive to public condemnations. It was the case when, last June, 47 countries – including all 28 EU Member States - signed a joint Statement during the 26th session of the Human Rights Council<sup>3</sup> which expressed “serious concerns” with regards to the human rights situation in the country. In the same vein, the strong appeal made by Member States (including Ireland and Denmark) during the 27th Session of the Human Rights Council, by Members of the European Parliament<sup>4</sup> added to the international community's mobilisation<sup>4</sup> for the release of Maryam Al Khawaja. These actions should be maintained and further efforts pursued. Her release on September 18 is not unconditional, and other peaceful human rights defenders and activists remain behind bars. Among them Mr. Abdulhadi al Khawaja, sentenced to life, and suffering, on 22 September, his 28th day of hunger strike. This hunger strike is a desperate call, shared by many others within the Bahraini civil society, for genuine reforms rather than cosmetic changes aimed at calming the expectations of international diplomacies, whose silence diminishes their credibility.

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<sup>1</sup> EU Strategic Framework and Action Plan on Democracy and Human Rights, 25 June 2012, [http://www.consilium.europa.eu/ue-docs/cms\\_data/docs/pressdata/EN/foraff/131181.pdf](http://www.consilium.europa.eu/ue-docs/cms_data/docs/pressdata/EN/foraff/131181.pdf)

<sup>2</sup> [http://adhrb.org/wp-content/uploads/2014/04/ADHRB\\_February2014\\_web.pdf](http://adhrb.org/wp-content/uploads/2014/04/ADHRB_February2014_web.pdf)

<sup>3</sup> Joint Statement on Bahrain at Human Rights Council 26th Session, Geneva, 10 June 2013, <http://www.bahrainrights.org/en/node/6920>

<sup>4</sup> MEPs call for the immediate release of Maryam Al-Khawaja, Abdulhadi al-Khawaja and all those wrongfully imprisoned in Bahrain, 4 September 2014, <http://www.anagomes.eu/en-GB/news.aspx?newsid=df5ef557-3abc-44a1-a4d9-2a18a077b0ff>

Beyond public condemnations and silent diplomacy, and as committed to in 2012, due attention should be given by the EU to the coherent use of all available foreign policy leverages, and the use of the full range of instruments at its disposal. A benchmarked strategy clearly linking a possible deepening of relations with tangible and effective human rights measures is also needed. Recommendations are made in that sense at the end of the present paper.

## **Repression and imprisonment of human rights defenders and journalists**

Since 2001, dozens of people have been arbitrarily detained for having exercised their right to freedom of expression. Human rights defenders have been at the forefront of the demands for more freedom in Bahrain, which they have paid for through constant harassment. The following prominent cases are just an illustration of a wider pattern of repression which affects, in different ways, a large part of Bahraini society.

**Ms. Maryam Al Khawaja**, co-director of the Gulf Centre for Human Rights (GCHR) and member of the Bahrain Center for Human Rights (BCHR) was arrested on August 30 at Manama International Airport, when trying to enter Bahrain. The authorities refused entry to Ms. Al-Khawaja even though she has dual nationality (Bahraini and Danish). She was then charged with “assault and battery against on-duty public employees during their performance of official duty”. If convicted, she faces up to two years imprisonment. On September 16, her case was transferred to the High Criminal Court, with the first hearing scheduled for October 1st. On September 18, the judge ordered her provisional release and imposed a travel ban. During her arrest, she was reportedly assaulted by security forces. Her lawyer filed a complaint for “assault” at the Public Prosecution, however the Prosecution refused to record Ms. Al-Khawaja's fully testimony regarding the incident. In fact, the Prosecution only wrote down that she was injured while the police were trying to take her phone away. Ms. Al-Khawaja thus refused to sign her incomplete testimony.

On August 24, 2014, Ms. Al Khawaja's father, Mr. **Abdulhadi Al Khawaja**, a prominent human rights defender and co-founder of the Bahrain Center for Human Rights, started a hunger strike to protest against the continuation of his arbitrary arrest and detention. His health is rapidly deteriorating but he has refused to be transferred to the prison's medical clinic out of fear of force-feeding by the prison authorities. Mr. Al-Khawaja was sentenced on June 22, 2011 by the National Safety Court – a military court – to life imprisonment for his peaceful human rights activities. On January 7, 2013 Bahrain's highest court upheld the convictions against 13 leading activists for their role in anti-government demonstrations in 2011, including Abdulhadi Al Khawaja. The Office of the United Nations High Commissioner for Human Rights expressed concerns about the lack of fairness and due process afforded to these activists. The court ruling came more than a year after the government's pledge to implement the recommendations of the BICI, which called on authorities to “commute the sentences of all persons charged with offences involving political expression not consisting of advocacy of violence” and to overturn convictions imposed after grossly unfair trials.” In September 2012, the UN Working Group on Arbitrary Detention concluded that Mr. Al Khawaja's arrest was due to his exercise of the fundamental rights to freedom of expression, peaceful assembly, and association. The BICI had also concluded that Mr. Al Khawaja was subjected to torture and inhumane treatment during his arrest and detention. Mr. Al Khawaja was severely beaten, resulting in a broken jaw, and later spent two months in solitary confinement where he was subjected to physical, psychological and sexual torture.

Another human rights defender, Mr. **Naji Fateel**, also started a hunger strike on September 1 to protest against his arbitrary detention. Mr. Fateel is the president of the Bahrain Youth Society for Human Rights (BYSHR). He was sentenced to 15 years in prison on September 29, 2013 on charges of “setting up a terrorist group which aims to suspend the constitution and harm national unity” under Article 6 of the Terrorism Act (referring to the February 14 Coalition, an opposition pro-democracy youth movement). Mr. Fateel was arrested at his home in the village of Bani-Jamra, at dawn on May 2, 2013, by security men in civilian clothes and without a warrant. He was held incommunicado for three days, during which time it is reported that he was severely tortured at the Criminal Investigation Directorate (CID) where he was subjected to electric shocks, simulated drowning, severe beatings, sexual harassment, threats of rape, sleep deprivation, verbal abuse, and other forms of torture. He was taken to the Ministry of Interior's hospital twice for treatment due to the torture. Despite the photographic

evidence presented by FIDH members and partners in Bahrain, no investigation was ever launched into the reports of torture. At the start of Mr. Fateel's appeal trial in November 2013, the authorities refused to allow a lawyer mandated by FIDH and other NGOs to observe the trial.

FIDH recalls that the Bahrain authorities have long targeted human rights defenders because of their human rights activities. The use of judicial harassment to imprison and prevent human rights defenders from carrying out their legitimate activities continues unabated. FIDH deputy Secretary General, **Mr. Nabeel Rajab**, served two years in prison because he participated in and called for peaceful protests demanding fundamental freedoms. **Ms. Zainab Al Khawaja**, the daughter of Mr. Abdulhadi Al Khawaja, was also targeted by the authorities. Since 2011, she has faced at least 13 cases against her on charges ranging from "illegal gathering" to "insulting the King" and "destroying public property". She spent one year in prison from February 2013 to February 2014. At the end of August 2014, she was briefly detained when she went to visit her father in hospital where he had been transferred to from prison.

On September 5, 2014, independent UN experts, including the Special Rapporteur on Human Rights Defenders, expressed concern "at the human rights violations faced by defenders in Bahrain highlighting that the country had accepted recommendations made during its Universal Periodic Review (UPR) in 2012 to abandon any restriction on human rights defenders". Indeed, despite the repeated pledges made by the Bahraini authorities in the framework of the BICI report in November 2011 as well as the UPR in September 2012 to release all prisoners of conscience and human rights defenders, this remains to be implemented.

Furthermore, there are numerous reported violations of the right to freedom of information and expression against journalists, media workers and online activists. Mr. **Ammar Abdul-Rasool**, a photojournalist was arrested in his house on July 24, 2014 and taken to the *Criminal Investigation Directorate*, where he was reportedly severely beaten, sexually harassed and threatened with electric shocks. The Prosecution ordered his detention for 45 days and transferred him to trial on charges of "illegal gathering and rioting". On August 31, a Court of Appeals upheld the 10 year sentence against Mr. **Ahmed Humaidan**, an-award winning photojournalist detained since December 2012 for covering protests. He was charged with taking part in an attack against Sirta police station. Mr. **Hussain Hubail**, a freelance photographer, was sentenced on April 28, 2014 to five years imprisonment on charges of "illegal gathering", "inciting hatred against the regime" and "maintaining relations with government opponents in exile". There are at least nine other photographers and online activists currently imprisoned for exercising their right to freedom of information and expression.

In addition, education workers have also been targeted by the repression. **Mahdi Abu Deeb's** member of the Bahraini Teachers Association w has been detained since April 2011. He was sentenced to ten years imprisonment by the National Security Court for his participation in a general strike during the 2011 protests. In October 2012, his sentence was reduced to five years imprisonment but the court rejected his appeal against the sentence in November 2013.

### **Impact of the amended Anti-terrorism Law on rights and freedoms**

In August 2013, the National Assembly passed amendments on the already very restrictive "Anti-Terrorism" Law of 2006. The amendments significantly reinforced the repressive nature of a law already used excessively by the authorities to infringe upon fundamental human rights including freedom of speech, assembly and association. Among the most prominent new provisions is the possibility to revoke citizenship as a penalty.

According to figures documented by FIDH member organisation in Bahrain, BCHR, there were 38 cases of terrorism charges with 328 defendants in 2013. They were for the majority based on inadequate evidence and in some instances confessions extracted from defendants under torture and ill-treatment.

The law was also used to convict human rights defenders such as Mr. Naji Fateel to 15 years

imprisonment (see above). Forty-nine other individuals were convicted in the same case to sentences ranging from 5 to 15 years imprisonment - most of them reported being tortured in detention. Prominent political activists were also sentenced to hefty imprisonment terms; **Ibrahim Sharaf**, a Sunni muslim and leading figure of the Wa'ad political society was sentenced to five years imprisonment in the same case than human rights defender Abdulhadi al-Khawaja and other key political activists. He was reportedly tortured after his arrest in March 2011. **Abduljalil Al Singance**, a prominent blogger was sentenced to life imprisonment in the same case.

Political opponents have also been targeted by the law. For example, senior Al Wefaq Society leader Mr. **Khalil Marzooq** was arrested in September 2013 and detained for 38 days on charges of “inciting to commit terrorist acts” through his alleged support and relation with the “14 February Coalition”. The charges were based on a speech he gave to opposition groups at a peaceful rally. Another case that demonstrates the infringement of freedom of speech based on the terrorism act is that of Mr. **Abdul Ali Khair**, who was arrested in July 2013. Mr. Khair was not aware of the case brought against him until his photo was broadcast on television as a defendant charged with “membership in a terrorist organisation” referring to the “14 February Coalition”. In September 2013, he was sentenced to 10 years imprisonment based on the sole evidence of a 'whatsapp' message that he received and forwarded which contained a statement by the 14 February Coalition.

The amended law has been used as a legal basis for revoking the citizenship of political opponents. On August 6, 2014, a criminal court issued a sentence to revoke the citizenship of nine Bahrainis, after charging them with “spying for the Iranian National Guard, forming a terrorist organisation and smuggling weapons into Bahrain”. The charges were based on article 2 of the 2013 Anti-terrorism act.

Revocation of citizenship had previously been used by the executive authorities to repress opponents, including former MPs, clerics and lawyers. On November 6, 2012, the Ministry of Interior ordered the revocation of nationality for 31 individuals. The Ministry based its decision then on article 10 of the nationality law which allows for the revocation of citizenship in cases where the individual is a “threat to national security”. Among those individuals is a senior Shiite cleric, Sheikh **Hussain Najati** who was ordered in April 2014 to leave Bahrain for Lebanon after being exposed to enormous pressure and harassment from the authorities. In April 2014, the United Nations Special Rapporteur on freedom of religion or belief issued a communication on the case of Sheikh Najati and considered that “targeting the most senior and influential Shi’a religious figure in Bahrain may amount to intimidating and thus discriminating against the entire Shi’a Muslim community in the country because of its religious beliefs”<sup>5</sup>. Furthermore, the discrimination of individuals based on their religious beliefs constitutes a blatant violation of fundamental human rights.

More than 40 Bahrainis have had their nationality revoked since 2011. These persons have become stateless, in flagrant violation of international law, including the Universal Declaration of Human Rights.

### **Repressive measures against political societies**

In September 2013, the Minister of Justice declared an amendment to the 2005 law for political societies which obliges them to seek prior approval before meeting with foreign diplomats and to be accompanied by representatives of the Bahrain Foreign Ministry during these meetings. On July 10, the Public Prosecution charged two leading opposition figures, **Sheikh Ali Salman** and Mr. **Khalil al-Marzooq** with violating the 2005 Law on Political Societies, because they had met on July 6 with the U.S. assistant secretary of state for democracy, human rights and labour, Mr. Tom Malinowski, without prior government approval. The following day, the Bahraini authorities declared Mr. Malinowski *persona non grata* and ordered him to leave the country. Sheikh Salman and Mr. al-Marzooq were interrogated about the content of their meeting with Mr. Malinowski.

On July 20, 2014, the Ministry of Justice filed a complaint against the Al Wefaq National Islamic Society, the leading opposition party in Bahrain. The complaint seeks to ban Al Wefaq from taking part in any activities for three months “until it rectifies its illegal status following the annulment of four general assemblies for lack of a quorum and the non-commitment to the public and transparency requirements

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5 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14533&LangID=E>

for holding them<sup>6</sup>. Al Wefaq has claimed that its general assemblies are all held according to the law and that the concerned official institutions are informed of the outcomes of these meetings<sup>7</sup>.

The administrative harassment against political opposition groups questions the claim which the authorities make that they seek political dialogue and that they wish to restart the national dialogue (interrupted since January 2014).

## Continuing impunity

According to the latest figures documented by BCHR, at least 96 individuals have been killed by security forces since the February 2011 uprising, including 30 deaths since the release of the BICI report in November 2011. The report recommended that the government conduct independent and impartial investigations into all deaths as a result of excessive use of force as well all allegations of torture in detention centres. In February 2012, the authorities established a “Special Investigation Unit” to specifically investigate allegations of death and torture by government forces. In November 2012, the unit announced that it was investigating 92 death cases and 122 allegations of torture. In December 2013, the authorities reported that all 46 deaths documented in the BICI report had been investigated and that 39 of them had been referred to court. Out of 95 defendants tried in these cases, 13 have been convicted, 15 acquitted and 25 cases are still ongoing.

The measures taken by the authorities to hold perpetrators accountable for human rights violations remain however insufficient. The majority of those tried are low-ranking officers, as only two high-level personnel were ever charged, and none have been convicted as of date. In February 2014, the unit announced that it would adopt the “superior responsibility” doctrine to investigate commanding officers.

Mr. Mohamed Al Khursham, a lieutenant at the Ministry of Interior was tried in September 2012 for the death of a protester<sup>8</sup>. He was convicted of assault with no intention to kill and was sentenced to seven years imprisonment, later reduced in appeal to six months imprisonment in May 2013. Police officers Mr. Amin Musaad and Mr. Ahmed Al Dawadi were charged in September 2012 with assault causing the death of two protesters<sup>9</sup> but were later acquitted. In February 2013, their appeal confirmed the acquittal. In a separate case, two police officers, Abdel Hafiz Hamisan and Muhammad Al Hamza were also acquitted in February 2013 by the court on charges of assault leading to death of one protester<sup>10</sup>. The court found that the officers were acting in legitimate self-defence.

The BICI report found that Mr. **Ali Saqer** and Mr. **Zakaria Al Ashri** died in custody as a result of torture and ill-treatment by security forces. Two police officers were charged with assault with intent to kill regarding the death of Mr. Saqer and Mr. Al Ashri. While the court sentenced both police officers to 10 years imprisonment for the death of Mr. Saqer, it acquitted them for the death of Mr. Al Ashri, citing that there is no evidence linking the officers to his assault. The Prosecution did not appeal the latter verdict. The two police officers filed an appeal against the 10-year jail term. In September 2013, the court confirmed the assault convictions but reduced the officers' term to two years imprisonment. In another case, which concerns the death following torture (according to the BICI report) of Mr. **Abdel Karim Fakhrawi**, two National Security Agency officers were charged with assault. The court sentenced them to seven years imprisonment citing that the officers did not intend to kill Mr. Fakhrawi. In October 2013, the Supreme Court of Appeals reduced the terms to three years imprisonment citing clemency.

The above limited cases of prosecutions and convictions of human rights violations demonstrate that an organised and quasi-systematic pattern of impunity exists in Bahrain. The case of human rights defender Mr. Naji Fateel is emblematic in that regard. Although he showed the court the torture marks on his body during his trial, the court did not order any investigation but sentenced him to 15 years. There are numerous other cases of reported torture that have neither been investigated nor punished.

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6 <http://www.bna.bh/portal/en/news/626618>

7 <http://alwefaq.net/cms/2014/09/15/32430/>

8 The protester was Hani Abdel Aziz Juma who died on March 19, 2011.

9 The protesters were Isa Abdel Hassan Hussein and Ali Abdullah al Momen who died on February 17, 2011.

10 The protester was Fadel Salman Maatouk who died on February 15, 2011.

The BICI report alone documented 1,866 cases of torture.

## Recommendations to the EU

The European Union and its Member States should increase their efforts in order for Bahrain to

- Cease harassment against civil society and human rights defenders, including at the judicial level, and immediately release and drop charges against human rights defenders and other prisoners of conscience detained for merely exercising legitimate rights to freedom of expression, assembly and association.
- Put an immediate end to all forms of harassment of political societies, engage in credible democratic reforms and a meaningful and inclusive national dialogue.
- Repeal the decision revoking nationality for 40 Bahraini citizens, and put the legislative framework in accordance with international law.
- Amend the anti-terrorism act in order to bring it in-line with international human rights standards.
- Ensure effective, prompt and independent investigation into all human rights violations committed since 2011, and ensure the victims' right to effective remedy according to international standards.
- Effectively implement BICI and UPR recommendations, as well as other unimplemented UN mechanisms' recommendations such as the 2006 CAT and CERD recommendations and those issued by international NGOs.
- Cooperate with UN Special Procedures - in particular the Special Rapporteur on torture but also on the rights to freedom of peaceful assembly and of association, on the independence of judges and lawyers and on the situation of human rights defenders - and allow the previously planned visits.
- Ratify the Optional Protocol of the Convention Against Torture, the Second Optional Protocol to the ICCPR aiming at the abolition of the Death Penalty, the Convention for the Protection of All Persons from Enforced Disappearances, International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families.

Based on the 2012 EU strategic framework and action plan commitments, the EU and Member States should:

- Ensure those efforts are served not only by silent diplomacy, but also by prompt and strong public reactions to human rights violations.
- Develop common messages and adopt comprehensive Council Conclusions in order to contribute to a time-bound benchmarked strategy leading to concrete commitments by Bahrain and progress on the ground.
- Undertake a public evaluation of EU and/or Member States' support given to Bahrain (e.g. judicial and police system) and reshape this support when needed on the basis of the lessons learnt through the evaluation exercise. Publish human rights indicators used to assess and measure the results and the efficiency of the cooperation.
- Ban exports of tear gas and crowd control equipment until investigations are conducted regarding their improper use and until the perpetrators of such improper use are held accountable; Ban the export of technologies used for tracking, tracing, censorship and surveillance of information and communication flows, resulting in human rights violations. Consider the call made by the European Parliament in that regard<sup>11</sup>.

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11 [European Parliament resolution of 17 January 2013 on the human rights situation in Bahrain](http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-32)  
<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-32>