

BAHRAINI LAW FOR THE PROTECTION
OF SOCIETY AGAINST TERRORIST ACTS:
**CONSOLIDATION OF
STATE TERRORISM
AGAINST CITIZENS**

June 2018



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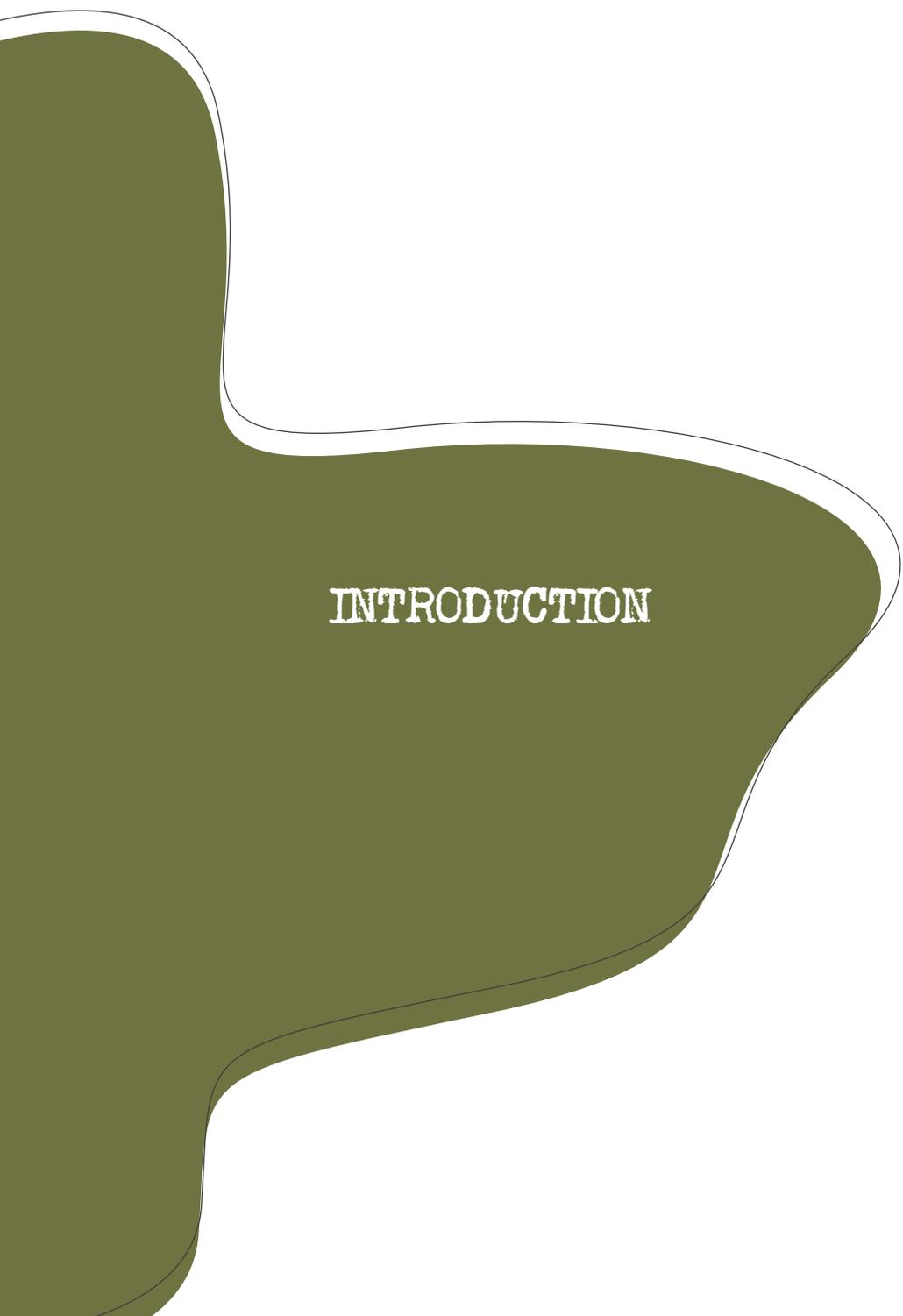
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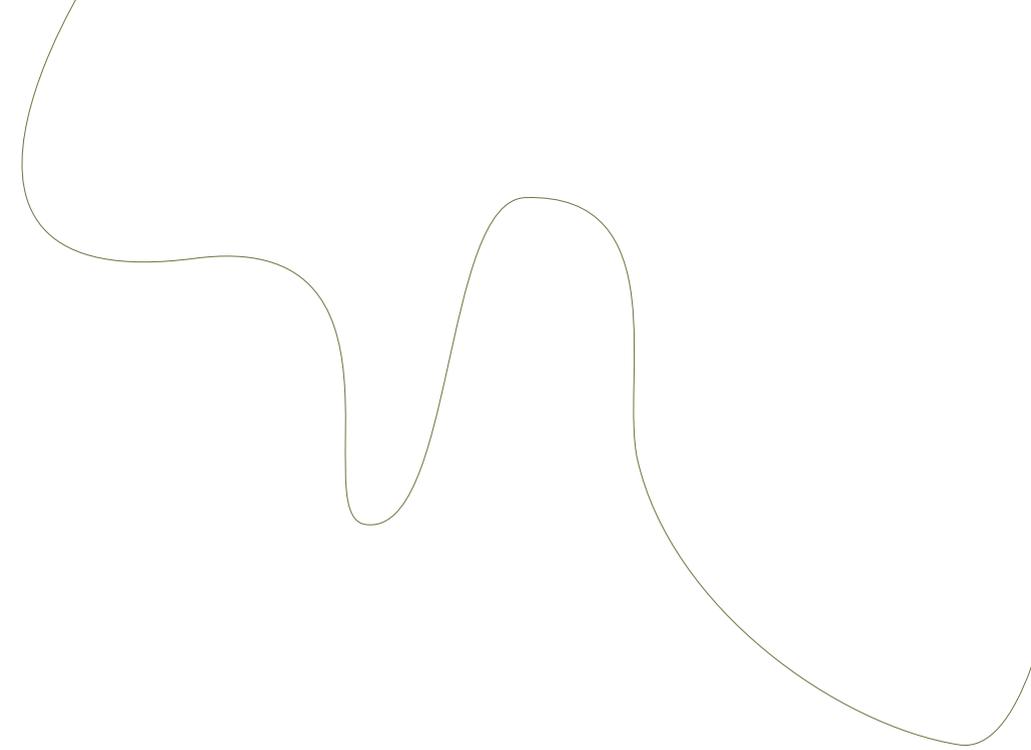
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**Bahraini Law for the Protection of Society
against Terrorist Acts: Consolidation of
State Terrorism against Citizens**

- JUNE 2018 -



INTRODUCTION



In August 2006, the King of Bahrain ratified Law No. 58 of 2006 on the Protection of Society from Terrorist Acts.

Nearly ten years after the enactment of this law, SALAM for Democracy and Human Rights believes that the Bahraini authorities have exploited the Law on the Protection of Society from Terrorist Acts, rather in intimidating citizens from exercising civil and political rights through severe punishments of death, forced deportation, life imprisonment and prolonged detention and legitimizing the crime of enforced disappearance, which the United Nations classifies as a crime against humanity.

Through the articles in this law, the Public Prosecution was highly empowered and a special sub-division was designated under the name of the Prosecution of Terrorist Crimes. Greater powers were given to the judicial authority and its officers in condemning prison sentences or depriving the accused of citizenship.

The authorities manipulated broad terms with vague ambiguities such as “Infringement to national unity” or “Stirring sedition”, and also give the court and the military prosecution powers to try civilians through military laws and courts. It should be noted that these latter powers were not clearly mentioned in the Law on the Protection of Society from Acts of Terror.

In this way, the state security authorities have been able to bring charges against political dissidents, human rights organizations and activists, who are considered long-term opponents to the government. Indeed, a huge number of them have been imprisoned for long periods of time forcibly deport after having their citizenship revoked, and even being executed.





**WHY DID
THE LEGISLATIVE
AUTHORITIES IN BAHRAIN
ISSUE THE
ANTI-TERRORISM ACT?**

SALAM for Democracy and Human Rights found through a legal review that all articles relevant to security crimes mentioned in the Law for the Protection of Society against Terrorist Acts are found already in the Bahraini Penal Code. Consequently, there was no need or reason for issuing a new law. This law only legalizes diverse ways of state violation against the social movement, human rights activists and public freedoms by eliminating all types of civil mobility, freedom of expression and instead spreads terror in Society through these excessive penalties. Through this law, extensive powers have been vested to the Prosecution of Terrorist Crimes and the judicial arrest officer represented by the State Security Agency.

Decree No. (68) Amending certain provisions of Law No. (58) Of 2006 regarding the protection of Society from terrorist acts granted powers to the state security agency to detain the accused for a period of 28 days without permission from the judiciary. It also granted powers to the Prosecution of Terrorist Crimes to issue detention orders for a period or successive periods not exceeding six months in total.

The International Convention for the Protection of All Persons from Enforced Disappearance states in article 1 that no person shall be subjected to enforced disappearance and no exceptional circumstance, whether a state of war or a threat of war, internal political instability or any situation, to justify enforced disappearance.

DECREE	LAW
<p>According to Decree No. (1) of 2017, the amendment of some of the provisions of Decree No. (14) for the year 2002 concerning the establishment of the National Security Agency:</p>	<p>Officers, noncommissioned officers and members of the National Security Agency shall be judicial inspectors for terrorist offenses.</p>

DECREE	LAW
<p>Decree-Law No. (68) of 2014 amending some provisions of Law No. (58) for the year 2006 regarding the protection of Society from terrorist acts:</p>	<p>Article (27)</p> <p>If there is sufficient evidence that a person has been charged with an offense set forth in this Act, the judicial arrest officer can arrest the accused for a period not exceeding twenty-eight days.</p> <p>The judicial arrest officer shall hear the statements of the arrested accused and send him to the Prosecution of Terrorist Crimes after the expiry of the period referred to in the preceding paragraph.</p> <p>The prosecution must interrogate with him within three days of his presentation, and then order his provisional detention or release.</p>

EXAMPLE:

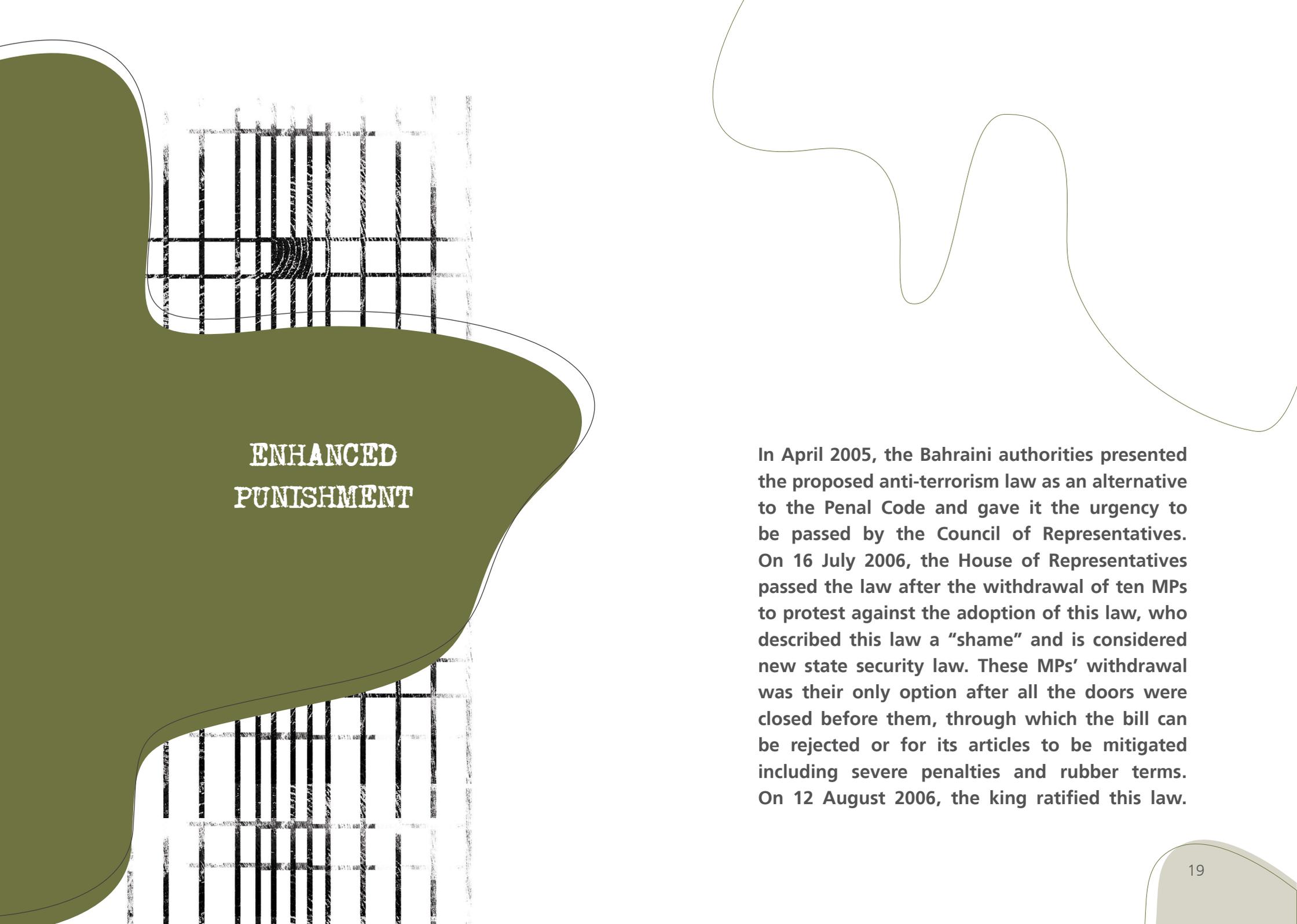
On 25 May 2017, human rights defender Ebtisam Al Saegh received a call from the National Security Agency to appear before them on the next day. Upon her arrival, she was blindfolded. During the interrogation she was sexually assaulted and beaten. She was forced to stand for most of the investigation. She was released after being threatened to suspend her human rights activities. A month later, the National Security Agency arrested, tortured, and charged her with terrorism-related offenses. She was held in the women's prison for six months pending investigation. Ebtisam was released later, but still faces trial under the Protection of Society against Terrorist Acts.

ANOTHER EXAMPLE:

In April 25, 2018 three civilian citizens Sayed Alawi Hussain, Fadhel Abbas, Mohammed Al Mutghawi, and military citizen Mubarak Muhannawere tried under the Law "on Protection of Society from Terrorist Acts", the court issued a final judgment of The Military Court of Cassation was sentenced to death on charges of having intended to target the

general commander of the Bahrain Defense Force (BDF) with confessions extracted under torture during an enforced disappearance that lasted nearly a year.

The next day of the Military Court of Cassation support the death sentence for the defendants mentioned, the King of Bahrain, Hamad bin Isa al-Khalifa to commute the death sentence against the aforementioned four.



ENHANCED PUNISHMENT

In April 2005, the Bahraini authorities presented the proposed anti-terrorism law as an alternative to the Penal Code and gave it the urgency to be passed by the Council of Representatives. On 16 July 2006, the House of Representatives passed the law after the withdrawal of ten MPs to protest against the adoption of this law, who described this law a “shame” and is considered new state security law. These MPs’ withdrawal was their only option after all the doors were closed before them, through which the bill can be rejected or for its articles to be mitigated including severe penalties and rubber terms. On 12 August 2006, the king ratified this law.

On July 21, 2013, the Bahraini authorities amended Law No. (58) for the year 2006 on Protection of Society from Terrorist Acts without consulting the House of Representatives. Articles 10, 17 and 30 were replaced by Legislative Decree No. 20 of 2013, where it made the punishment severer.

On November 26, 2014, the Bahraini authorities amended Decree Law No. (58) of 2006 again without consulting the Council of Representatives. The texts of Articles 8, 15, 26, 27 and 28 by Decree-Law No. 68 for the year 2014, where it made the punishment.

Below is a comparison between the amendment to some articles of the law:

DECREE	LAW
<p>Law No. 58 of 2006 on the Protection of Society against Terrorist Acts:</p>	<p>Article (10)</p> <p>Whoever commits an explosion with the intent to intimidate the safe, whatever the type or form of the explosion, shall be punished by imprisonment.</p>

DECREE	LAW
<p>Decree No. (20) of 2013 amending certain provisions of Law No. (58) for the year 2006 regarding the Protection of Society against Terrorist Acts:</p>	<p>Article (10)</p> <p>Anyone who initiates or made a bombing, or attempts to do so with the intention of carrying out a terrorist purpose, whatever the type or form of the explosion, shall be punished by imprisonment of not less than ten years.</p> <p>The penalty shall be death or life imprisonment if the bombing resulted in the death or injury of a person.</p> <p>Any who placed or carried in public or private premises the same models or structures simulating or assuming the form of explosives shall be punished by imprisonment.</p>

DECREE	LAW
Law No. 58 of 2006 on the Protection of Society against Terrorist Acts:	<p>Article (17)</p> <p>Any person who incites others to commit an offense for a terrorist purpose, even if the act does not have an effect, shall be liable to imprisonment for a term not exceeding five years.</p>
Decree No. (20) of 2013 amending certain provisions of Law No. (58) for the year 2006 regarding the Protection of Society against Terrorist Acts:	<p>Article (17)</p> <p>Any person who incites others to commit an offense for a terrorist purpose, even if the act does not have an effect, shall be liable to imprisonment for a term not exceeding five years.</p>

DECREE	LAW
Law No. 58 of 2006 on the Protection of Society against Terrorist Acts:	<p>Article (30)</p> <p>The Public Prosecution may directly order to obtain any data or information relating to accounts, deposits, secretariats or treasuries with banks or other financial institutions or related transactions, if this requires disclosure of the truth in any of the offenses provided for in this Law. In order to carry on these, permission of the judge of the Grand Court should be obtained.</p>
Decree No. (20) of 2013 amending certain provisions of Law No. (58) for the year 2006 regarding the Protection of Society against Terrorist Acts:	<p>The Public Prosecution may directly order to obtain any data or information relating to accounts, deposits, secretariats or treasuries with banks or other financial institutions or related transactions, if this requires disclosure of the truth in any of the offenses provided for in this Law</p>



LIMIT THE POWER
OF JUDGES
TO COMMUTE PUNISHMENT

Article (10) of the law in 2006 stipulates that: "Anyone who commits an explosion with the intention of intimidating the safe persons, whatever the type or form of this explosion, shall be punished by imprisonment". But the amendment to the Act of 2013 set the minimum sentence where "anyone who has committed or attempted to cause a bombing for terrorist purpose, whatever the type or form of such a bombing, shall be sentenced to death or life imprisonment if the explosion results in the death or injury of a person". This law also committed the judge on the same sentence and penalty to those who have already committed or have already started and to those who have only attempted.



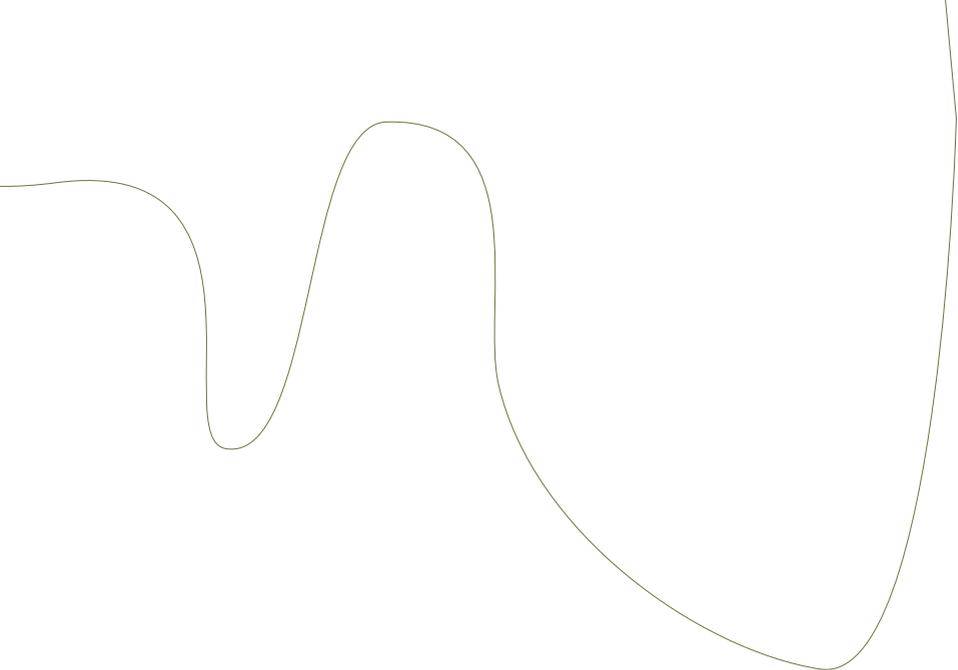
THE EMPOWERMENT OF JUDICIAL BODIES

On April 18, 2017, the King of Bahrain ratified a law that disqualified the civil judiciary in the trial of those charged with serious offenses related to terrorism and has granted powers of trial to the military judiciary under Law No. 12 of 2017 amending certain provisions of the Military Justice Law promulgated by Legislative Decree No. 34, of 2002. This decree gave full powers to the military judiciary to try civilians and did not specify an exceptional and temporary nature of these powers during the period of war and crises.

Here lies the difference between military courts that are permanent and specialized in the military trial and those of an exceptional nature called “customary judiciary” that tries civilians. The latter is usually associated with the presence of a foreign military occupation and the absence of any presence of civil administration. However, this is not the case for Bahrain. Therefore, as many autocratic regimes often do, it can be said that the Bahraini government resort to military courts to intimidate political dissidents and activists.

SALAM for Democracy and Human Rights did not find any justification for trying civilians in the military judiciary in Bahrain. The civil judiciary in Bahrain is very strict already. It has previously issued death sentences, carried out executions, revoked the nationality of hundreds, forcibly deported others, and issued life sentences and long prison sentences.

CONCLUSION AND RECOMMENDATIONS



SALAM for Democracy and Human Rights followed the Bahraini authorities' use of the Law on Protection of Society from Terrorist Acts. We believe that there was no need to replace the Bahraini Penal Code with this law and no need to double the penalties from temporary imprisonment to life imprisonment and excessive use of the death penalty in the articles of law, as well as the lack of need to granting powers to the arrest officer who are swords imposed on the necks of activists and opponents.

The unnecessary generation of more excessive laws have crushed civil movement and democratic activity and eliminated freedom of expression in Bahrain, where

the social activities, seminars and pro-democracy events were one of the most active in the region. It is noted that the authorities largely disrupted political activity, imprisoned leaders and activists such as the leader of Al-Wefaq Sheikh Ali Salman. The authorities also restricted the freedom of expression to a large extent when it closed "Al-Wasat", the only independent newspaper in Bahrain, prevented the travel of dozens of activists, imprisoned human rights activists such as Nabeel Rajab and carried on executions.

Bahrain's Anti-terrorism Act is incompatible with international human rights law. On July 25, 2006, a UN human rights expert urged the government of Bahrain to amend the anti-terrorism bill, expressing deep concerns that the law could harm human rights in the country and would be "disturbing in particular", since the Kingdom is a member of the United Nations Human Rights Council. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms, Martin Schein in, also called to review the law and encouraged the executive and legislative authorities to make amendments to this law to bring it into conformity with the International human rights law.

He said: “Ignoring concerns based on international human rights standards will be of particular concern to a member country of the Human Rights Council”. The Special Rapporteur wrote to the Bahraini government in March 2006 and again in June 2006, when the bill was before the Bahraini parliament, he identified some concerns with regard to the proposed legislation and said that he was concerned about the following: “the definition of terrorism was broad and the law considered some acts “terrorist” without intent to cause death or serious physical injury and thus this definition ran counter to several human rights instruments. This, therefore, shall impose restrictions on freedom of association and assembly and shall criminalize peaceful demonstrations; and excessive restrictions on freedom of expression would be imposed because of the use of broad and vague terms in relation to the crime of incitement to terrorism because there was no clear limit to the criminalization in force. Moreover, rights in legal proceedings will be restricted because of the overall powers of the prosecutor with regard to detention without judicial review”.

The Bahraini authorities have also used their media wings to defame the demands of political and human rights reforms and to label them on terrorism charges

and ruin their reputations. We therefore recommend that the Bahraini authorities to stop using the media in defaming the peaceful civil movement and turning it into a security issue in an attempt to gain international support against those who claim their legitimate rights. It should also release all prisoners of conscience facing charges under the Anti-terrorism Act, as well as the prohibition of the trial of civilians in military courts.

We also recommend to the Bahraini authorities to abide by the following national and international instruments and conventions relating to the restoration of the powers of the judicial arrest to the National Security Agency which is in itself a violation of the King’s undertakings and ratifications of Royal Decree No. 115 of 2011 and No. 28 of 2012 to repeal the powers of the National Security Agency.

This is especially after the Bahrain Independent Commission of Inquiry found that during the period of national safety in 2011, the National Security Agency carried out the arrest of hundreds and participated in the torture of detainees on a large scale and tortured to death Abdelkarim Fakhrawi, co-founder of Al-Wasat newspaper, which was closed by the Bahraini authorities in 2017. Therefore, we urge the Bahraini authorities to stop and disrupt all powers of the

NATIONAL SECURITY AGENCY.

We also recommend the repeal of the law authorizing the practice of enforced disappearance under the name of the detention of the accused for a period of 28 days without the permission of the judiciary and giving powers to the prosecution of terrorist crimes to carry out this procedure. This contravenes with the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance in its Article 1 stating that: “no person shall be subjected to enforced disappearance, nor shall any exceptional circumstance, whether a state of war or threat of war, internal political instability or any other exception, be invoked to justify enforced disappearance “as well as Article 7 of the Rome Statute of the International Criminal Court considers “enforced disappearance” a crime against humanity.

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- **Law No. (58) for the year 2006 on the protection of Society against terrorist acts**
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- **Decree-Law No. (68) for the year 2014 amending certain provisions of Law No. (58) for the year 2006 regarding the protection of Society from terrorist acts**
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- **The Terrorism Bill in Bahrain is inconsistent with international human rights law - the UN expert**

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