



## **Briefing: Human Rights Situation in Bahrain November 2020**

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### **Organisational overview**

Salam for Democracy and Human Rights (SALAM DHR) is a human rights and democracy-focused organisation based mainly in London, UK. Its output relates mainly to Bahrain, but it also addresses other Gulf states, such as Kuwait, and the theme of statelessness and deprivation of citizenship. See: <https://salam-dhr.org/?lang=en>

### **Executive summary and recommendations**

This report briefing addresses the last six to twelve months. It forms part of SALAM DHR's occasional engagement with the EEAS and addresses specific issues relating to, amongst others, the UN / IGOs<sup>1</sup>;

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<sup>1</sup> This relates to six to twelve month developments in respect to principal conventions ratified; respect towards the treaties' reporting cycle; place of individual complaints; standing invitations; visits of UN thematic mechanisms; membership of UN HRC; situation of Universal Periodic Review; ICC or other relevant developments.

civil and political rights<sup>2</sup>; economic, social and cultural rights<sup>3</sup>; non-discrimination and the rights of people belonging to minorities<sup>4</sup>; functioning of the justice system<sup>5</sup>; the character of Bahrain's international relations relating to human rights and environmental justice<sup>6</sup>; democracy, domestic democratic institutions and transparency<sup>7</sup> and alignment with EU human rights priorities.<sup>8</sup>

This briefing does not provide an exhaustive treatment of human rights concerns in Bahrain but rather represents emblematic cases and issues or themes but is intended to be a resource in the context of the EEAS' ongoing human rights dialogue with the Government of Bahrain (GoB). It draws on a variety of sources but features the work of SALAM DHR.

SALAM DHR believes that unresolved human rights violations constitute ongoing and current concerns.

Despite its robust use of public diplomacy to convey the impression that the Government of Bahrain (GoB) is a rights-respecting power, it is a serial rights abuser and denier. Despite accession to a range of human rights treaties and cosmetic engagement with the UN treaty bodies, its key objective is, in fact, to limit or make impossible independent scrutiny of its human rights practices. The posture of the government is one that is able but unwilling to make changes in law and practice that would ensure adherence to international human rights standards, for the reason of the maintenance of unfettered political power.

As a result of this assessment, SALAM DHR's recommendations, constitute, in general, minimal measures and ones which we believe the EEAS could help facilitate over the short to medium term (viz. six months to a year). Accordingly, SALAM DHR urges the EEAS to press the GoB to:

1. Unconditionally release political prisoners, prisoners of conscience and / or human rights defenders;
2. Commute all current death penalty cases and impose a moratorium on the use of the death penalty from 2021;
3. End harassment and politically-motivated legal action against members of the Bahrain

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<sup>2</sup> This relates to developments in the last six to twelve months in respect to the death penalty, viz., application or moratorium (de jure or de facto), dates of last sentences and/or execution; torture and conditions of detention; freedom of assembly, association expression and information, including of the media and forms of digital communications tools; freedom of religion and belief; civil society, such as in relation NGO legislation and funding, including from abroad and restriction to legal registration and human rights defenders.

<sup>3</sup> This relates to developments in the last six to twelve months in respect to the practice of religious rites and traditions; access to employment, education, health care and housing; independence and the situation of trade unions in the context of the International Labour Organisation.

<sup>4</sup> Where not addressed above, this relates to developments in the last six to twelve months in respect the rights of migrant workers.

<sup>5</sup> This relates to developments in the last six to twelve months in respect to the independence of the judiciary and the legal profession; adherence to international standards in the administration of justice, viz., respect for pre-trial legal guarantees and of fair trial / due process; as well as police and security forces' compliance with international human rights standards.

<sup>6</sup> This relates to developments in the last six to twelve months in respect to the conduct of the GoB with respect to initiatives relating to human rights, including bilateral / multilateral human rights agreements, the manner in which international relations enmesh with the GoB's policies regarding human rights domestically and reference, where relevant to other states' reporting or reaction to human rights developments in Bahrain, including the US, UK and other states' human rights reports on Bahrain.

<sup>7</sup> This relates to developments in the last six to twelve months in respect to elections, including scheduling and conduct; the effectiveness and independence of parliament; political space for opposition parties or figures; progress in implementing election-related recommendations or government commitments, where relevant and adherence to fundamental, democratic principles.

<sup>8</sup> This relates to developments in the last six to twelve months in respect to adherence to EU's express human rights priorities. See: Human rights: EU adopts conclusions on EU priorities at United Nations Human Rights Fora in 2020, 17 February 2020, available at:

<https://www.consilium.europa.eu/en/press/press-releases/2020/02/17/human-rights-eu-adopts-conclusions-on-eu-priorities-at-united-nations-human-rights-fora-in-2020/#:~:text=The%20EU%20will%20also%20pursue,for%20human%20rights%20defenders%20worldwide> (accessed 12 October 2020). Reference will be made to the European Parliament as suitable.

- Lawyers' Association and facilitate its accession to the International Bar Association as a fully independent Bar Association;
4. Take public, transparent steps to address specific treaty body concerns and to make the necessary legal changes and changes to practice;
  5. Engage, openly, with independent human rights bodies, and act positively on at least one letter from the Special Procedures;
  6. Find a mechanism by which the GoB can restore citizenship to all those stripped of it;
  7. Involve independent human rights groups in the development of human rights 'plans' or measures, perhaps under the rubric of Sustainable Development Goals.

## UN / IGOs

SALAM DHR takes the view that the GoB's failure to address issues such as recommendations found in a treaty body's 'Concluding Observations' or unmet, specific recommendations made by UN Special Procedures or during the Universal Periodic Review (UPR) constitutes a present, ongoing human rights concern.

Bahrain is a state party to seven human rights treaties and two optional protocols to such treaties, or specialised treaties forming part of a larger thematic issue.<sup>9</sup>

An as yet unpublished five year analysis (2015-2020) by a SALAM DHR intern, of the GoB's engagement with the UN High Commission for Human Rights in respect to treaty bodies, Special Procedures and the Universal Periodic Review indicates that:<sup>10</sup>

- Since the 2011 social and political unrest in Bahrain and its immediate aftermath, the authorities have increased the use and scope of laws whose restrictions have not been in line with international standards, as well as methods of punishment and procedures leading to these that fall short of international standards, in a trend that suggests this gap is widening.
- The GoB has shown, at least superficially (see below), a high degree of engagement with UN human right bodies, viz., out of the 39 communications since June 2015, the GoB replied to 33 leaving 5 with no reply and 1 more recent case, which has not yet been translated into English, a convention before being posted on the UN Communications Database;
- The GoB has repeatedly failed to provide information supporting GoB assertions, notably that the GoB provide:
  1. More information to be given on cases and the allegations;
  2. The legal evidence and basis for the charges set out against a given person, according to national law and international standards;
  3. Information about how the GoB has been working to better align their national laws with international standards;
  4. Evidence of the improvement of conditions and measures put in place to aid the human rights of their citizens in a variety of areas;
  5. Clarification on the current wellbeing or condition of an accused/detainee;
  6. Investigations into cases and abuses carried out by the authorities i.e. re-trials, acceptance of appeals, investigations into torture cases; and

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<sup>9</sup> These are the international conventions (or covenants) on (and against) - the Elimination of All Forms of Racial Discrimination – March 1990 (CERD); Economic, Social and Cultural Rights – September 2007 (CESCR); on Civil and Political Rights – September 2006 (CCPR); the Elimination of All Forms of Discrimination against Women – June 2002 (CEDAW); Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – March 1998 (CAT); the Rights of the Child – February 1992 (CRC); the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict – September 2004 (CRC-OP-AC); the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OP-SC); and the Rights of Persons with Disabilities – September 2011 (CRPD).

<sup>10</sup> The text, by Amy Whittle, a student currently at the UK's University of Lancaster, is due to be issued in the last quarter of 2020. This text will be shared with the EEAS.

7. Explanations for why certain laws are being used for political gain i.e. anti-terrorism laws used to curb freedom of speech or opinion and the usage of travel bans to prevent attendance of UN human rights events.

Taken with GoB conduct in respect to amending reservations to treaties; its conduct towards recommendations made and accepted, rather than rejected or “taken note” of in respect to the Universal Periodic Review, SALAM DHR concludes that GoB engagement with the UN / IGOs in respect to human rights is superficial and comprises more performance than substance.



### Bahrain: a list of names of those sentenced to death in political cases

Updated on 15/06/2020

Number	Name	Court Stage	Date of Verdict	Next Stage
1	Maher Abbas al-Khabbaz	Cassation (final)	29/02/2017	King's ratification
2	Hussein Ibrahim Ali Hussein Marzouq	Cassation (final)	26/02/2018	King's ratification
3	Sayed Ahmed Fawad Abbas al-Abbar	Cassation (final)	21/05/2018	King's ratification
4	Hussein Ali Mahdi Jassim	Cassation (final)	21/05.2018	King's ratification
5	Salman Isa Ali Salman	Cassation (final)	04/06/2018	King's ratification
6	Mohamed Radi Abdullah Hasan	Cassation (final)	25/02/2019	King's ratification
7	Zuhair Ibrahim Jassim Abdullah	Cassation (final)	15/06/2020	King's ratification
8	Hussein Abdullah Marhoun	Cassation (final)	20/05/2019	King's ratification
9	Mousa Abdullah Mousa Jafar	Cassation (final)	03/06/2019	King's ratification
10	Hussein Abdullah Khalil Rashid	Cassation (final)	15/06/2020	King's ratificatio
11	Mohamed Ramadan Isa Ali	Appeal (after review)	08/01/2020	Cassation (final)
12	Hussein Ali Mousa Hasan	Appeal (after review)	08/01/2020	Cassation (final)

Failure to engage with such bodies in a meaningful way calls into question their efficacy as conflict prevention tool: the objective evidence indicates that the GoB has not and will not make substantive changes to law and practice in keeping with international human rights standards so as to ensure that the of unrest in 2011 will not once again occur.

### Civil and political rights

**Due process / death penalty** - After a seven-year moratorium, the government resumed executions in January 2017, with 6 individuals executed until now (5 of them alleged being tortured). There are currently at least 12 individuals on death row, with their executions awaiting the King's ratification.

On 15 June 2020, the Court of Cassation confirmed death sentences handed down to Husain Abdulla Khalil (“al-Rashed”) and Zuhair Ebrahim Abbas; on 13 July 2020, it did the same in respect to Mohamed Ramadhan Husain and Husain Ali Moosa Mohamed, despite credible evidence that their convictions were based on forced confessions resulting from torture.

In February 2020, the OHCHR called on the GoB to quash the death penalty in respect to these two cases.<sup>11</sup> SALAM DHR echoes the call for clemency in regard to Mohammed Ramadhan and Husain Moosa, set out by 53 MEPs in a letter to Sheikh Hamad bin Isa al-Khalifa, Office of the King, dated 23 July 2020<sup>12</sup>.

<sup>11</sup> UN, OHCHR - *UN experts urge Bahrain to quash death sentence against two men*, 12 February 2020, at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25543&LangID=E>, accessed 26 October 2020.

<sup>12</sup> See, amongst others, European Centre for Democracy and Human Rights, at <https://www.ecdhr.org/?p=998>, accessed 2 November 2020.

SALAM DHR's review of the twelve cases echoes concerns of other organisations that courts' decisions were taken following flawed trials that fell short of international standards (see SALAM DHR's open letter).<sup>13</sup>

On 17 May 2020, SALAM DHR expressed concerns about due process regarding twelve death penalty cases to Bahrain's Ombudsman's office, including its press office, by way of a private email. On 16 July SALAM DHR followed up and on 19 July 202 the office replied:

*Thank you for contacting the Ombudsman Office for the Ministry of Interior in the Kingdom of Bahrain. In line to its commitment to its jurisdiction, the Ombudsman Office is happy to investigate any complaints and/or assistance requests within that jurisdiction. You will understand that the Ombudsman Office would not be able to provide any information regarding the mentioned concerns as it is out of its remit. Hope you will find this helpful.*

This response betrays the government's approach: a state body charged with looking into fundamental issues relating to justice asserts that it is not its job to do so; despite assertions that the government engages with human rights groups, it chose, in this instance, not to engage. Bearing in mind that SALAM DHR is registered in the UK as well as in Switzerland and Sweden, with staff in France and Germany, the GoB's conduct in this instance has been to "blank" an EU-based human rights NGO. If the GoB were serious about improving its human rights record, it would have found a way to engage with our findings. This issue is also addressed below, under *Democracy, domestic democratic institutions and transparency*.

SALAM DHR is alarmed at the 31 October 2020 newspaper report, stating that parliament was scheduled to debate legislation providing for the extension of the death penalty to the importation of nuclear waste into the country.<sup>14</sup> The report stated that the parliamentary Public Utilities and Environment [committee] "*has approved the draft*", that also incorporates onerous fines against "*anyone found guilty of importing, burying, storing or disposing of nuclear waste in any way on Bahraini territory [...]*". We have not received, at the time of writing, any follow up.

**Revocation of citizenship** - The Bahraini government arbitrarily instrumentalises citizenship as a tool of punishment and reward. In flagrant violation of human rights standards, the GoB "punishes" those whose views and political positions it rejects by depriving them of citizenship. Since 2012, 985 Bahrainis have been stripped of their citizenship. In April 2019, the King likewise has arbitrarily reinstated the citizenship of 551 individuals, bringing down the number of those made stateless to 434. In addition, those whose citizenship the GoB reinstated still face discrimination. They do not enjoy full rights, including in respect to housing, social allowances, social welfare, healthcare.<sup>15</sup> All cases of arbitrary stripping of citizenship constitute an ongoing human rights violation.

**Freedom of association** - The GoB has enacted criminal legislation and practices that create socio-political and economic marginalisation and, in the words of Bahrainis affected, "*isolation*", or "*political isolation*". While arising from decisions taken outside the reporting period, their continuation likewise constitutes a present human rights violation:

- In 2016 the GoB forcibly dissolved Al-Wefaq, the country's largest single political association;

<sup>13</sup> For more information on the four new cases in which the judiciary upheld the death penalty, see: *Open appeal to King of Bahrain* by SALAM DHR and partners, 11 August 2020: <https://salam-dhr.org/?p=4135>

<sup>14</sup> Times of Bahrain - Bahrain mulls the death-penalty for bringing in nuclear waste, 31 October 2020, at <https://www.timesofbahrain.com/2020/10/31/bahrain-mulls-death-penalty-for-bringing-in-nuclear-waste/> , accessed 20 November 2020

<sup>15</sup> For more information on revocation of citizenship in Bahrain and the name of the victims, See SALAM DHR's advocacy campaign "*Ana Bahraini*" at: <https://www.anabahraini.org/>

- In 2017 the GoB likewise dissolved the National Democratic Action Society (Wa'ad), the largest secular party;
- In June 2018, the King ratified an amendment to Law No. 14 of 2002 that permanently prevents individuals from running for parliamentary elections, including those previously convicted to a jail sentence of six months or more, and leaders and members of dissolved political organizations.<sup>16</sup>

These conditions applied to almost all political activists and political societies (de facto political parties), as the GoB has arbitrarily arrested and unfairly tried and imprisoned political leaders, depriving them of their freedom and for the peaceful expression of conscientiously held beliefs.

As a result, parliamentary elections held in November 2018 (second round in December) were neither free nor fair (see the index developed by Freedom House, in the Appendix, below), nor are those in respect to municipal elections or in relation to establishing or taking part in civil society associations, whether political, social, cultural, in relation to sports or other form of non-governmental organisation. This issue is set out below, under *Democracy and domestic democratic institutions*.

**Freedom of association / freedom of expression** - The GoB uses surveillance software - called spyware - to silence and undermine the individual security of human rights activists. It serves to limit freedom of expression, by creating an environment in which individuals understand that their every speech, meeting and movement can be surveilled and used against them. According to the Israeli newspaper Haaretz, the Israeli cyberarms firm, NSO Group Technologies sold spyware branded as Pegasus to the GoB.<sup>17</sup> While NSO Group has asserted that the spyware enables authorized governments to “combat terror and crime”, it has no control over the use of the technology, the penetration of which is based on a user opening a link to, for instance, a seemingly benign offer of an online or digital service or package. Pegasus spyware is capable of reading text messages, tracking calls, collecting passwords, mobile phone tracking, accessing the target device's microphone(s) and video camera(s), and gathering information from apps.<sup>18</sup>

For example, the 14 September 2020 podcast of Frontline Defenders, human rights defender Hussain Radhi, of the Bahrain Center for Human Rights spoke of the 2019 phishing link used by the GoB to gain access to his personal data. He explained his fear that the authorities will use information to blackmail him, his associates or his family and that it will force him to self-censor.<sup>19</sup>

A court case initiated in 2012, heard in the UK, in which Bahraini activists are suing another provider of spyware, FinFisher, remains ongoing.

On around 13 September, 17 organisations, from a variety of political and social backgrounds issued a statement which condemned the normalisation of Bahrain's relations with Israel. The statements

<sup>16</sup> See Law No. 25 of 2018 amending Law No. 14 of 2002:

<https://www.legalaffairs.gov.bh/AdvancedSearchDetails.aspx?id=14264>

<sup>17</sup>Haaretz - With Israel's Encouragement, NSO Sold Spyware to UAE and Other Gulf States / The Israeli spyware firm has signed contracts with Bahrain, Oman and Saudi Arabia. Despite its claims, NSO exercises little control over use of its software, which dictatorships can use to monitor dissidents, 25 August 2020, at

<https://www.haaretz.com/middle-east-news/.premium-with-israel-s-encouragement-nso-sold-spyware-to-uae-and-other-gulf-states-1.9093465> accessed 31 October 2020.

<sup>18</sup> See also The Guardian - NSO Group points finger at state clients in WhatsApp spying case / In court filing, Israeli spyware company says it does not operate technology it provides, by Stephanie Kirchgaessner, 7 April 2020, at

<https://www.theguardian.com/world/2020/apr/07/nso-group-points-finger-at-state-clients-in-whatsapp-spying-case>

<sup>19</sup> Frontline Defenders - Podcast: Season 2, Episode 9 - Watched & Monitored: Protecting HRDs from Surveillance, 14 September 2020, <https://www.frontlinedefenders.org/en/podcast> , accessed 2 November 2020. Listen, for example, to Hussain Radhi, Bahrain: 01:20 - 04:38 and Bill Marczak, The Citizen Lab, Canada: 04:39 - 16:11. See, also, the work by Citizen Lab: Hide and Seek / Tracking NSO Group's Pegasus Spyware to Operations in 45 Countries, Bill Marczak, John Scott-Railton, Sarah McKune, Bahr Abdul Razzak, and Ron Deibert September 18, 2018, at

<https://citizenlab.ca/2018/09/hidden-and-seek-tracking-nso-groups-pegasus-spyware-to-operations-in-45-countries/> referenced in the same podcast; accessed 31 October 2020.

reaffirms their “rejection of any kind of normalization with the Zionist enemy.”<sup>20</sup> The message, with arguably provocative language, was political in nature but constituted a forceful, peaceful expression of opinion. We urge the EEAS to seek express assurances from GoB counterparts that no action will be taken in connection with this peaceful expression of opinion.

**Torture or ill treatment** (after sentencing) - Coronavirus presented the most significant public health risk in the reporting period, including in prisons. The authorities reportedly released around 1500 prisoners in line with international recommendations for addressing the spread of Coronavirus in enclosed facilities such as prisons. However, save for Nabeel Rajab, the GoB has refused to release any political prisoners / prisoners of conscience during the COVID-19 pandemic.

The GoB appears to have treated citizens on a differential and discriminatory basis, failing to extend equitable access to safeguards against the virus as well as healthcare itself. The authorities appeared to carry out reprisals against those who spoke out with concerns about the impact of COVID-19 in prisons, including by restricting usual prisoners’ rights or subjecting individuals to solitary confinement.<sup>21</sup>

The GoB likewise has used the pandemic as an excuse to restrict fundamental rights in other instances.

SALAM DHR addresses these issues in, inter alia (via hyperlink):

- 30 March 2020 - [Bahrain: Urgent action on prisons, Bahrainis citizens requiring repatriation and adherence to human rights principles needed to uphold public health standards and human rights in the fight against COVID-19 virus](#)
- 29 March 2020 - [Three Bahraini organisations call on the Bahraini authorities to take measures to protect the health of detainees and free all prisoners in light of Coronavirus pandemic](#)

The impact of COVID-19 on a small number of long-term political prisoners is set out in a table below. However, according to Abdulla Alaali, officials at Jau Prison have, in general:<sup>22</sup>

- Failed to or refused to provide prisoners with masks;
- Failed to or refused to provide prisoners with hand sanitiser;
- Restricted the number of phone numbers prisoners were able to contact to five;
- Increased the costs of making contact with the outside world;
- Prohibited religious practices associated with Muharram inside detention facilities (addressed elsewhere).

In the reporting period, there have been credible reports, including by way of phone calls to family members from imprisoned detainees in which they have reported torture, including by way of denial of medical treatment, total isolation and overcrowded cells. Even prior to the emergency of the COVID-19 pandemic, Jau Prison was reportedly overcrowded, where many prisoners reportedly lived in squalid conditions; the authorities had routinely denied specific prisoners access to medical care.

In September 2020, the authorities transferred five prisoners in Jau Prison to an isolation facility and

<sup>20</sup> See factual, informative tweet by Elham Fakhro, 13 September 2020:

<https://twitter.com/elhamfakhro/status/1305087528828108800?s=20>, accessed 2 December 2020

<sup>21</sup> On this, see, amongst others: Gulf Centre for Human Rights - Bahrain: UNHRC side event calls for international action to protect rights defenders and solve human rights crisis, 6 July 2020, at <https://www.gc4hr.org/news/view/2424>, accessed 28 October 2020, as well as: Article 19 - Bahrain: Free imprisoned rights defenders and activists, extend releases to those at special risk of coronavirus, 6 April 2020, at

<https://www.article19.org/resources/bahrain-free-imprisoned-rights-defenders-and-activists/>, accessed 30 October 2020.

<sup>22</sup> Taken from: Americans for the Defence of human rights and Democracy in Bahrain- Profile in Persecution: Saeed Abdulla Alaali, 5 November 2020, at <https://www.adhrb.org/2020/11/profile-in-persecution-saeed-abdulla-alaali/>, accessed 15 November 2020.

denied them contact with other inmates. They were:

1. Professor Mohammad Serhan
2. Mohammad Fakhrawi
3. Sadek Al-Ghasra
4. Hassan Al-Attiya and
5. Sheikh Zuhair Ashour.

On 10 November, a report stated that many prisoners moved from Building 4 to Building 21 at Jau Prison are (or were) sick with flu symptoms but the GoB had not yet tested them for COVID-19 and that if a prisoner had requested such a test, they would have been put into isolation even if not tested.

Overcrowding has again become an issue, running counter to official guidance regarding social distancing. Yet, constant CCTV monitoring means that the GoB should know exactly what is going on in their facilities. The report also stated that the prisoners are now limited to five telephone contact numbers while prison officials have seized personal belongings forcing prisoners to buy new essential items from the prison shop.<sup>23</sup>

The ill-treatment of detainees in Bahraini prisons is a longstanding concern. Yet, even as recently as 18 September 2019, the UN Working Group on Arbitrary Detention; Special Rapporteur on the Rights of Persons with Disabilities; Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health and the Special Rapporteur on the Situation of Human Rights defenders wrote to the government of Bahrain in connection with the alleged denial of adequate health care for serious health conditions of 10 detainees held at Jau Prison, including some of those names in the table below.<sup>24</sup>

SALAM DHR remains concerned over the continued imprisonment of these and other political prisoners and prisoners of conscience, not featured here, whose cases have no prospect for review or pardon. The prisoners include those imprisoned for their alleged roles in the 2011 unrest.<sup>25</sup>

**Current cases of concern** - Current cases of concern, including in relation to access to medical care are set out below. These cases constitute an ongoing and current concern, where the individual appears to have been denied medical care; and/or remains incarcerated following unfair trial and where the GoB has failed to address long standing human rights violations.<sup>26</sup>

For each of those noted below, SALAM DHR urges the EEAS to call for their immediate and unconditional release, since there is no realistic prospect of the GoB holding a fair trial in any of their cases.

The case of the “Bahrain 13” is emblematic of Bahrain’s failed implementation of international human rights standards in the last decade as the GoB has never provided redress for the violations committed in the context of this case, amongst scores of others.

<sup>23</sup> See the 10 November 2020 thread of tweets, at: <https://twitter.com/BirdBahrain/status/1326218348431089667?s=20>, accessed 10 November 2020.

<sup>24</sup> See UN Communications Database: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24768>

<sup>25</sup> Parts of this section drew on a joint statement. See: Article 19 - Bahrain: Free imprisoned rights defenders and activists, extend releases to those at special risk of coronavirus, 6 April 2020, at <https://www.article19.org/resources/bahrain-free-imprisoned-rights-defenders-and-activists/>, accessed 30 October 2020

<sup>26</sup> Some of the information below is taken from or derived from Human Rights Watch - Bahrain: Prisoners Denied Medical Care / End Degrading Treatment of Imprisoned Opposition Activists, 8 October 2019, at (shortened) <https://bit.ly/HRWBahrainMedConcerns>, accessed 5 November 2020.

## The “Bahrain 13”

The 13, originally far more, included human rights defenders, political leaders, clerics and bloggers. The government detained at least four of them in August 2010, before their renewed detention amidst the unrest in early 2011.<sup>27</sup> The case remains an ongoing blemish on the administration of justice in Bahrain. Detained in March and April 2011, during the peak of the 2011 unrest, the GoB unfairly tried them in a military court. The individuals involved were: (1) Abdulhadi al-Khawaja (see main text); (2) Shi’a cleric, Abdulhadi al-Mukhodher; (3) Abduljalil al-Miqdad<sup>28</sup>; (4) Abduljalil al-Singace (see main text); (5) Abdulla al-Mahroos<sup>29</sup>; (6) Abdulwahab Hussain (see main text); (7) Hasan Mushaima (see main text); (8) Ibrahim Sharif; (9) Mohamed Habib al-Miqdad<sup>30</sup>; (10) Mohamed Hasan Jawad<sup>31</sup>; (11) Mohamed Ismail<sup>32</sup>; (12) Sa’eed al-Nuri<sup>33</sup>; and (13) Salah al-Khawaja. A summary chronology of aspects of the Bahrain 13 case could include the following points:

- 17 March - 9 April 2011 - Arbitrary arrest of the majority of the Bahrain 13. According to the Bahrain Centre for Human Rights, officials did not present arrest warrants when arresting any of them. Officials reportedly beat many of the detainees during their arrest and subjected them to ill treatment and torture during pre-trial solitary confinement.
- March / April - 28 November 2011 - The GoB held them at the al-Qurain military prison until 28 November 2011, when they transferred them to Jau Prison.
- 8 May 2011 - First hearing of the “Bahrain 13” before a military court. All denied the charges set out: “setting up terror groups to topple the royal regime and change the constitution” / “plotting a coup against the government”; “collaborating with a foreign state” / “having links to a terrorist organization abroad”. Other charges included “insulting the army, inciting hatred, disseminating false information and taking part in rallies without notifying the authorities.” The GoB denied access to the proceeding to observers from international human rights groups. None of the charges amounted to internationally recognisable criminal offenses. The GoB asserted that officials had not tortured or ill-treated any of them, and claimed that information from the Military Hospital and the Salmaniya Medical Complex showed that neither hospital had admitted or treated any of the detainees. At the hearing, the accused saw their families for the first time since their arrest and it was their first meeting with lawyers.
- 22 June 2011 - The court sentenced seven of the defendants to life imprisonment; four to fifteen years in prison; two to five years and one to two years. Those sentenced to life imprisonment included: Hussain Mushaima, Abdulhadi al-Khawaja, Abduljalil al-Miqdad, Abduljalil al-Singace, Mohammed Habib al-Miqdad, Saeed al-Nouri and Saeed al-Shehabi.
- 6 September 2011 - A military appeal court hears appeal.
- 28 September 2011 - Military appeal court upholds verdicts.
- November 2011 - The Bahrain Independent Commission of Inquiry (BICI) asked for a retrial in civilian courts on account of conviction in a military court.
- 29 January 2012 - The 13, along with human rights activist Mohamed al-Maskati and then a further +/- 150 prisoners undertake hunger strike to demand an end to the national, ongoing political repression; to protest against the conduct of the trials and call for the release of prisoners of conscience. Abdulhadi al-Khawaja subsequently embarked upon a renewed, 110-day hunger strike.
- April 2012 - Authorities transfer Abdulhadi al-Khawaja to hospital.
- 30 April 2012 - A court announced that the thirteen other defendants would be retried by a (civilian) criminal court of appeal, but they were not released from prison, in line with the principle of presumption of innocence.
- 22 May 2012 - First hearing before the High Criminal Court of Appeal. Authorities brought Abdulhadi al-Khawaja, on the ninetieth day of his hunger-strike, into court in a wheelchair. All defendants pleaded not guilty. Al-Khawaja and Abdulwahab Hussain stated that officials tortured them in the first weeks of their detention.
- 19 June 2012 - Lawyers for the accused called on the court to disregard “confessions” that the BICI report had suggested that officials extracted under torture; the public prosecutor insisted on their inclusion as evidence. According to the Bahrain Centre for Human Rights, these confessions were the sole evidence submitted to the

<sup>27</sup> These four were: Mohamed Habib al-Miqdad, Abdulla al-Mahroos, Abdulhadi al-Mukhodher and Mohamed Hasan Jawad.

<sup>28</sup> He was a Shi’a representative on Bahrain’s Ulama Council until resigning in 2005, and later a political rights activist; a co-founder of the Al-Wafa’ group.

<sup>29</sup> A religious rights and political activist, he was vice president of al-Zahra Society for Orphans; he was often critical of the government.

<sup>30</sup> He is a cousin of Abduljalil al-Miqdad (3); likewise a religious and political rights activist, and president of al-Zahra Society for Orphans. He reportedly holds Bahraini and Swedish citizenship.

<sup>31</sup> A human rights activist, he is an uncle of renowned human rights defender, Nabeel Rajab; and father of Hussain Jawad, likewise a human rights defender.

<sup>32</sup> Mohamed Ismail was a political rights activist and associate of Abdulwahab Hussain.

<sup>33</sup> A political rights activist, he was a member of Al Wafa’.

court. At the same session, cleric Mohamed Habib al-Miqdad described torture he faced. Upon conclusion of the session, the judge stated that subsequent sessions would be held *in camera* and banned media coverage of the case. He cited reasons of “national security”. As a result, in protest, the thirteen asked their defense lawyers to stop representing them. The court appointed new lawyers and the judge asserted that he would render a judgement even if the defendants refused to attend.

- 4 September 2013 - Civilian appeal court upholds all verdicts.
- 7 January 2013 - Bahrain’s highest court, its Court of Cassation, upholds all sentences. As a result, the only avenue that remains for release is a royal pardon.

Several of these individuals, such as Ibrahim Sharif and Salah al-Khawaja have now served their sentences and have been released. The GoB has never provided any form of compensation for the human rights violations they experienced. As unresolved human rights violations, their cases remain a current concern.

Some of these cases are addressed below, as part of SALAM DHR’s cases of current and ongoing concern.

**Key for cases of current and ongoing concern:**

- *Name and age, where known; another, relevant personal information*
- *Role; area of activity*
- *Case summary, including medical concern where present*

- **Abdulhadi al-Khawaja**<sup>34</sup>, dual Denmark-Bahrain citizen
- Co-Founder of the Bahrain Center for Human Rights
- With a long history of activism, the GoB had arrested him in 2004 and 2007. During the unrest in 2011, he organised peaceful awareness-raising events and conducted human rights education sessions. He reportedly said that he had intentionally kept himself away from the Pearl Roundabout in order to avoid providing the authorities with a pretext to arrest him. As one of the “Bahrain 13” (see box), the GoB arrested him in April 2011. In June 2011 a military court tried him as one of the group. In June 2011, a military court sentenced him and eight others to life imprisonment on charges of, *inter alia*, “seeking to overthrow the government” and “espionage”.<sup>35</sup> The GoB denied him access to his lawyer during the initial 20 days of detention, during which time officials tortured him and tried him before a military court in contravention of international standards. He attempted to speak at least four trial hearings and to make complaints about the torture he claims to have endured but on each occasion judges silenced him and refused to investigate the claims. He has repeatedly undertaken hunger strikes to draw attention to the injustice he and others have faced (see box). Held at Jau Prison.
- **Naji Fateel**<sup>36</sup>
- Member of the Board of Directors of the Bahraini human rights NGO Bahrain Youth Society for Human Rights (BYSHR).
- Detained since 2007, he has reportedly endured torture and had been the target of death threats during the 2011 Bahraini uprising. On 15 November 2013 a lawyer mandated by international human rights organisations was denied entry into Bahrain to observe his trial. On 29 May 2014, the Appeals Court of Bahrain upheld a 15-year sentence against him. In September 2019, prison authorities transferred him to solitary confinement. On 9 August 2020, he began a hunger strike to protest conditions. Held at Jau Prison.

<sup>34</sup> For additional information, see Frontline Defenders, Case Summary:

<https://www.frontlinedefenders.org/en/case/case-history-abdulhadi-al-khawaja#case-update-id-1205>

<sup>35</sup> See also: Kenneth Katzman -Bahrain: Reform, Security, and U.S. Policy, [US] Congressional Research Service, 18 March 2016.

<sup>36</sup> For additional information, see Frontline Defenders, Case Summary:

<https://www.frontlinedefenders.org/en/case/case-history-naji-fateel>

- **Hassan Mushaima**<sup>37</sup>, 72
- General Secretary of the Haq Movement for Liberty and Democracy; one of the leading figures of rights-based activities from the 1980s through to the 1990s.
- Arrested over four months in 2009, then released with a royal pardon. Detained alongside scores of others on 17 March 2011.<sup>38</sup> Tried as one of the “Bahrain 13” (see box). Since his arrest, but notably since 2017, the authorities have *routinely failed to take him to medical appointments* (see hyperlink) due to his *refusal to submit to wearing shackles during transfers*. (see hyperlink). In 2018, his son Ali Mushaima began a hunger strike outside the Bahraini embassy in London, protesting the denial of medical treatment for political prisoners including his father. In November 2020, Ali Mushaima made a number of statements regarding his father’s medical condition, asserting that:<sup>39</sup> he was twice hospitalised due to a serious deterioration in health, on 19 October 2020, when he was informed that he required specialist care but that this was not done, and that, as a result, he needed to return to the A&E in early November; on 10 November 2020, Jau Prison authorities transferred him to the A&E at the Bahrain Defence Force Hospital, where staff put him on an emergency respirator, and that despite a renewed medical request for specialist care, they returned him to prison after about 6 hours; Jau Prison authorities confirmed the appointment for specialist medical care on 15 November 2020; since his father is in remission from cancer, he requires PET scans every six months to monitor his condition but that since the last PET scan was in October 2019, it was (at the time of the tweet) at least 7 months overdue; that the authorities have not permitted medical professionals to assess his father’s diabetes, viz., that he has not received specialist care for this for more than four years; that his father suffers from difficulty hearing resulting from torture he endured in 2011, which required an operation in 2013 but that he has not received treatment for this issue for at least four years. SALAM DHR believes that information published (see hyperlink) by Bahrain’s Foreign Ministry in relation to this case is, at best, misleading while Ali Mushaima’s 13 November 2020 Twitter thread (see hyperlink) presents, in fact, a fairer assessment.
- **Abdulwahab Hussain**, 66<sup>40</sup>
- Among the leaders of rights-based activism in the 1990s, he is a former member of al-Wefaq (resigned in 2005 and left politics); returned to politics in 2009 to co-found the al-Wafa’ Islamic Movement, becoming its spokesperson.
- One of the “Bahrain 13”, officers ill treated him during his arrest in March 2011. During interrogation, he stated that National Security Agency officials subjected him to forms of water torture, like water-boarding; spat in his mouth and forced him to kiss the shoes of his torturers in order to extract a ‘confession’. Officials kept him in solitary confinement for several weeks and denied him access to medical assistance. He was one of those sentenced to life imprisonment by a military court in June 2011. Held at Jau Prison. According to ADHRB, he faces “multiple health concerns and conditions such as diabetes, nerve damage, sickle cell disease, retinal detachment, polyradiculoneuropathy (a rare autoimmune disorder that causes the deterioration of bodily tissues), and blood pressure issues, among other health concerns,” and that “[h]e has undergone massive weight loss while imprisoned.”<sup>41</sup> Held at Jau Prison.

<sup>37</sup> SALAM DHR is aware that his son, Ali, is in direct contact with EEAS. We nevertheless include his case here as it remains of concern to our organisation as well. Information provided by Ali can be expected to be newer and more ‘direct’ while the information here is intended only to support him and his father.

<sup>38</sup> BBC - Bahrain unrest: Shia dissident Hassan Mushaima returns, 26 February 2011, at <https://www.bbc.co.uk/news/world-middle-east-12587902>, accessed 15 November 2020.

<sup>39</sup> See: Twitter / Ali Mushaima, at <https://twitter.com/AMushaima/status/1327306790346887169?s=20>, <https://twitter.com/AMushaima/status/1318937942170152961>, <https://twitter.com/AMushaima/status/1326597253788790791> and others.

<sup>40</sup> Born 9 October, 1954. Some of the material here is derived from ADHRB - Bahrain: Profiles in Persecution - Abdulwahab Husain Ismaeel, 1 November 2018, at <https://www.adhrb.org/2018/11/profiles-in-persecution-abdulwahab-husain-ismaeel/>, accessed 26 November 2020.

<sup>41</sup> ADHRB - Bahrain: Profiles in Persecution - Abdulwahab Husain Ismaeel, 1 November 2018, at <https://www.adhrb.org/2018/11/profiles-in-persecution-abdulwahab-husain-ismaeel/>, accessed 26 November 2020.

- **Dr Abdel-Jalil al-Singace**, 57
- Former al-Wefaq member, in 2005 he joined and became spokesman for the Haq Movement for Liberty and Democracy; former chair of University of Bahrain Engineering Department
- One of the Bahrain 13.
  
- **Sayed Nizar Alwadaei** (or: Sayed Nazar Naama Baqquer Ali Yusuf Alwadaei)<sup>42</sup>, 22 (born 1998)
- Rights activist
- According to the 7 January 2019 Opinion set out by the UN Working Group on Arbitrary Detention, or WGAD, the Bahraini authorities arbitrarily detained Sayed Nizar Alwadaei in March 2017.<sup>43</sup> On 7 May 2017 he was tried on vague charges relating to national security, and on 30 October 2017 a court sentenced him to three years' imprisonment. On 29 November 2017, the authorities set out further charges. At a court session on 20 December 2017, he alleged that he faced torture and that his trial was in contravention on Article 15 of the Convention against Torture and Article 14 of the international Convention on Civil and Political Rights. The GoB responded to the WGAD on 29 May 2018. They rejected the findings. In a further exchange on 4 June 2018, the WGAD expressed regret that the GoB did not reply substantively and failed to address the "*catalogue of alleged due process and fair trial violations*". In its 7 January 2019 Opinion, paragraph 101, WGAD determined that his deprivation was in contravention to specific articles of the ICCPR and that his detention was arbitrary. In paragraph 108 of the Opinion, WGAD invited the government of Bahrain for any further information; in paragraph 106 they requested that the government disseminate the opinion by all available means and as widely as possible. It has not done so.
  
- **Saeed Abdulla Alaali**<sup>44</sup>
- Political rights activist
- The GoB arbitrarily detained him 21 September 2016. Officials conducting a raid on his house did not clarify the reason for his arrest and are believed to have ill treated him during transport to the office of the Criminal Investigation Directorate (CID). Although officials permitted him to inform family of his whereabouts following arrest, they forbade contact for 22 days when he was taken to prison during pre-trial detention and the investigative phase of the case against him, when authorities forbade any meetings with him and he was not permitted an effective opportunity to challenge the lawfulness of his arrest. The GoB tried him after eight months' pre-trial detention, when he was charged with national security-related offenses involving engagement in Iran. The lower court did not allow him to challenge the evidence presented against him. In the course of the first trial, now, the government laid new, separate charges, but failed to make him aware of the case until he was questioned in relation to it. The GoB did not enable him to develop an effective defence in this case and the authorities did not permit him to meet with his lawyer. In February 2018, a lower court sentenced him to seven years' imprisonment in the first case; in April 2018, to 10, along with revocation of his citizenship. The

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<sup>42</sup> SALAM DHR is aware that his brother-in-law, Sayed Ahmad AlWadaei, is in direct contact with EEAS. We nevertheless include his case here as it remains of concern to our organisation as well. Information provided by Sayed Ahmad can be expected to be newer and more 'direct' while the information here is intended only to support him and his relative. This section draws on - and SALAM DHR recommends that EEAS refer to: UN Human Rights Council - Working Group on Arbitrary Detention (WGAD) - Opinions adopted by the Working Group on Arbitrary Detention at its eighty-second session, 20–24 August 2018 - Opinion No. 51/2018 concerning Sayed Nazar Naama Baqquer Ali Yusuf Alwadaei, Mahmood Marzooq Mansoor and Hajar Mansoor Hassan (Bahrain), A/HRC/WGAD/2018/51, 7 January 2019, at [https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session82/A\\_HRC\\_WGAD\\_2018\\_51.pdf](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session82/A_HRC_WGAD_2018_51.pdf), accessed 30 November 2020.

<sup>43</sup> UN Human Rights Council - Working Group on Arbitrary Detention (WGAD) - Opinions adopted by the Working Group on Arbitrary Detention at its eighty-second session, 20–24 August 2018 - Opinion No. 51/2018 concerning Sayed Nazar Naama Baqquer Ali Yusuf Alwadaei, Mahmood Marzooq Mansoor and Hajar Mansoor Hassan (Bahrain), A/HRC/WGAD/2018/51, 7 January 2019, at [https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session82/A\\_HRC\\_WGAD\\_2018\\_51.pdf](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session82/A_HRC_WGAD_2018_51.pdf), accessed 30 November 2020.

<sup>44</sup> Information on this case includes material from: Americans for the Defence of Human Rights and Democracy in Bahrain- Profile in Persecution: Saeed Abdulla Alaali, 5 November 2020, at <https://www.adhrb.org/2020/11/profile-in-persecution-saeed-abdulla-alaali/>, accessed 15 November 2020

courts rejected upheld the verdicts on appeal. In April 2019, the GoB arbitrarily restored his citizenship. In October 2020, he and other prisoners refused to engage in any communication outside the prison in protest against the imposition of a restriction of a maximum of five contact numbers to be used by prisoners as well as a price increase for making such calls. Held in Jau Prison since February 2018.

- **Sheikh Ali Salman**, (see hyperlink) 55
- Secretary General, al-Wefaq National Islamic Society, Bahrain’s largest opposition group
- The GoB arrested Sheikh Ali Salman on 28 December 2014 in connection with statements he had made in speeches in 2012 and 2014, including his speech at the party’s General Assembly meeting two days earlier on 26 December 2014.<sup>45</sup> In it, he spoke about the determination to obtain power in Bahrain via democratic, peaceful means, and achieve the demands of the 2011 uprising; and the intent to hold those responsible for committing human rights abuses to account. He also highlighted the need for equality for all Bahrainis, including the ruling family. His arrest took place a few days after he was re-elected for a fourth term as Secretary General of al-Wefaq. His trial before the High Criminal Court began on 28 January 2015. International observers attended. The content and context of his speeches formed a basis of dispute in court and his lawyers complained to the court that the excerpts of his speeches presented in court were taken out of context, and asked for the complete versions to be played to the court, including the sections relating to the peaceful nature of his party’s demands. The judge repeatedly “*rejected this request as well as demands by the lawyers to call defence witnesses to testify in court. The judge arbitrarily interfered in the defence team’s cross examination of key witnesses, including of the officer who carried out the investigation into Sheikh Ali Salman, by objecting to their questions or rephrasing them. During the last trial session, the judge allowed the prosecution to submit additional pleading in writing but suspended the hearing after a few minutes without allowing the defence lawyers to submit further documents as evidence.*”<sup>46</sup> On 16 June 2015, Bahrain’s High Criminal Court sentenced him to four years’ imprisonment following an unfair trial. He received two years’ imprisonment for “public incitement to loathing and contempt of a sect of people which will result in disrupting public order” and “publicly insulting the Interior Ministry”, and to another two years in prison for “publicly inciting others to disobey the law”. The court acquitted him of “incitement to the promotion of the change of the political system by force, threats and other illegal means”. The Prosecution appealed the acquittal.

The charges referred to speeches he made in 2012 and 2014, including at his party’s General Assembly, in which he reaffirmed his party’s determination to achieve, through peaceful means, the reform demands of the 2011 uprising, and to hold those responsible for human rights violations to account. He also stressed the need for equality for all Bahrainis. An appeal hearing opened before the Court of Appeal in Manama on 15 September 2015. The prosecution called for the maximum penalty and for the acquittal to be reversed. During a prison visit ahead of the first session of the appeal, prison officers prevented Sheikh Ali Salman from discussing his case in private with his lawyers. During the second appeal hearing on 14 October 2015, the judge (once again) denied his lawyers’ request to play video recordings of Sheikh Ali Salman’s speeches to demonstrate that excerpts used as evidence to sentence him were taken out of context, without giving any basis for this denial. His lawyers submitted their defence pleading in writing and then in court, but were interrupted throughout the hearing by the Public Prosecution. Sheikh Ali Salman was allowed to make a 15-minute statement to the court in which he denied all the allegations against him and said that he was seeking political and constitutional change through peaceful means and was being prosecuted for his beliefs.

<sup>45</sup> This text draws on Salam for Democracy and Human Rights - “Who is a prisoner of conscience? Sheikh Ali Salman as a model”, 27 May 2020, at: <https://salam-dhr.org/?p=4032>, accessed 30 November 2020.

<sup>46</sup> Amnesty International - Urgent Action / Further Information: Bahrain - Opposition leader’s sentence reduced again, AI Index MDE 11/6068/2017, 3 April 2017, at <https://www.amnesty.org/download/Documents/MDE1160682017ENGLISH.pdf> , accessed 30 November 2020.

On 30 May 2016, the Court of Appeal upheld his conviction and extended his prison sentence from four to nine years, thus reversing his earlier acquittal. His appeal was marred by irregularities, including violations to the right to adequate time and facilities to prepare a defence. In September 2015, the UN Working Group on Arbitrary Detention called on the Bahraini authorities to release Sheikh Ali Salman immediately and to grant him adequate compensation. On 17 October 2016, the Court of Cassation ordered him retried by the Appeal Court, but on 12 December 2016, it upheld the nine year prison sentence. On 3 April 2017, the Court of Cassation in Bahrain reduced the prison sentence to four years in prison for the second time. However, in November 2017, the GoB charged him and two others with maintaining intelligence contacts with Qatar, revealing national defence secrets and accepting financial sums all of which undermine the “political, economic position and national interests with the purpose of overthrowing the regime” in Bahrain. The charges were based on recorded telephone conversations he had with the-then Prime Minister and Minister of Foreign Affairs of Qatar, Sheikh Hamad Bin Jassim Bin Jabr Al Thani, in 2011. Bahrain’s state broadcasters aired the recording in August 2017. On 21 June 2018, the High Criminal Court acquitted him and two others, Sheikh Hassan Ali Juma Sultan and Ali Mahdi Ali Al-Aswad, both tried in absentia, on charges of spying based on the recordings. On 4 November 2018, following an appeal by prosecutors, the Bahrain High Court of Appeals overturned the acquittal and convicted all three men to life imprisonment.<sup>47</sup> SALAM DHR believes that Sheikh Ali Salman is a prisoner of conscience. He is held at Jau Prison.

Restrictions to press and media freedom are addressed below, under *Democracy, domestic democratic institutions and transparency*.

SALAM DHR is aware of specific instances in the past two years, in which the GoB has undermined academic freedom, such as by threatening PhD students, such as those in the UK, so that they have been obliged to change the text of their dissertation in order for them to be granted permission to teach in Bahrain.

### **Economic, social and cultural (ESC) rights**

Long-standing official, governmental discrimination has served to deprive communities of ESC rights. For example, in 2012 King Hamad stated that: “[...] both Shi’a and Sunna had come from Zubara together to drive the Persians out of Bahrain.”<sup>48</sup> Scholar Marc Owen Jones notes that:

*There is no evidence that this actually happened. Despite Hamad’s words, Bahārna and Shi’a culture are marginalized in Bahrain’s historical and cultural output. TV shows produced by Bahrain’s national television are mainly made in Sunni dialect, marginalizing the Bahrānī dialect almost completely. The National Museum of Bahrain tends to promote the history of Bahrain’s Sunni-dominated pearl industry and pre-Islamic civilization of the Dilmun to the almost complete exclusion of the ‘Ajam and the Bahārna, the latter of whom mostly formed a settled agricultural class. As Amal Khalaf notes, the state-controlled image economy emphasizes the ruling family and therefore privileges Sunni Muslims or those loyal to the ruling tribe.*

*Thus political repression extends as far as attempting to remove potential deviant identities from the Al Khalifa’s perception of the national fabric. The marginalization of particular Shi’a or Bahrānī voices, abetted implicitly by censorship laws, from Bahrain’s media and cultural fabric has undermined the king’s attempt to project the regime as tolerant and exclusive and perhaps served to strengthen this native identity.*

<sup>47</sup> Amnesty International - Bahrain: Verdict on opposition leader is bitter blow to freedom of expression, 29th January 2019, at <https://www.amnesty.org/en/latest/news/2019/01/bahrain-verdict-on-opposition-leader-is-bitter-blow-to-freedom-of-expression/>, accessed 30 November 2020

<sup>48</sup> Marc Owen Jones - Political Repression in Bahrain, Cambridge University Press, 2020, p264, text available via <https://marcownenjones.wordpress.com/2020/07/19/new-book-political-repression-bahrain/>, accessed 16 November 2020.

*With regard to repression, it has merely served to strengthen oppositional grievances and undermine the support of fellow citizens who are denied access to alternative and inclusive understandings of Bahrain's history.*<sup>49</sup>

Aspects of how this exclusionary vision manifests itself in terms of policy is examined below.

**Instrumentalisation of citizenship and the 'right of rights'** - SALAM DHR remains concerned that opaque and unaccountable GoB measures relating immigration and population change are intended to change the demographic composition of the country and deprive swathes of the population of their rights. The GoB has:

- Arbitrarily revoked the nationality of hundreds of Bahrainis, even after the likewise arbitrary restoration of citizenship in 2018, as set out on the [Ana Bahraini](#) (see hyperlink) website;
- Naturalised an unknown number of people of Sunni heritage, apparently in order to disenfranchise existing citizens.

A secret, then leaked September 2006 report by a former government advisor and now critic, Salah al-Bandar described how the GoB had developed a policy to offer citizenship primarily to Sunni Muslims from other Arab countries and Pakistan.<sup>50</sup> The 240-page report is reported to contain:

- *"[...] hundreds of pages of supporting material, apparently authentic, including canceled checks, hotel bills, accounting sheets and notes. The material suggests that at the very least, unusual business dealings were occurring between government officials, [...] and that it may have amounted to an effort to set off ethnic conflict"*<sup>51</sup>;
- An assertion that *"\$6 million was spent to plant articles in Bahraini newspapers, organize counter demonstrations when Shiites held protests, set off cellphone text-message campaigns against opposition figures and even support a program to convert Shiites into Sunnis."*
- Information stating that *"[...] payments were made to the news media and other groups to write articles and spread messages; [...] the campaign went beyond corruption as a network of officials, religious leaders, government-backed civic groups and even some Jordanian intelligence agents worked to drown out Shiite voices and strengthen Sunnis"*;
- An assertion that the initiative is *"[...] part of a five-year plan to put political control of the country firmly in the hands of a small group of militantly anti-Shiite Sunnis."*

**Violations of religious freedoms** - In August 2020, the GoB violated the Shi'a community's right to exercise their religious rites - and rights. Using the pretext of the pandemic, the authorities disproportionately restricted the Shi'a community's right of assembly for the purposes of commemorating the 'Ashoura religious occasion, including in prison (see above). The GoB has:

- Threatened organizers with long prison sentences and heavy fines, even though organisers would have implemented precautionary, safety measures. Confusingly, gyms, swimming pools, malls and others were allowed to remain open in accordance with the then health measures in place;
- Limited collective commemoration to 20 minutes;

<sup>49</sup> Marc Owen Jones - Political Repression in Bahrain, Cambridge University Press, 2020, p264, text available via <https://marcownjones.wordpress.com/2020/07/19/new-book-political-repression-bahrain/>, accessed 16 November 2020.

<sup>50</sup> Jane Kinninmont - Opinion / Bahrain's Rulers Are Eager for Close Ties With Israel. Bahrainis Are Not, 30 September 2020, Haaretz Newspaper, at <https://www.haaretz.com/middle-east-news/.premium-bahrain-s-rulers-are-eager-for-close-ties-with-israel-bahrainis-are-not-1.9197045>, accessed 5 November 2020.

<sup>51</sup> Hassan Fattah - New York Times: Shiites in Bahrain demonstrated Friday against what they said was a government effort to grant citizenship to Sunnis from other Arab countries, 2 October 2006, at <https://www.nytimes.com/2006/10/02/world/middleeast/02bahrain.html>, accessed 7 November 2020. The information in the bullet points are taken from this article.

- Prohibited broadcast of commemorations via loudspeaker;
- Summoned organisers and those working to stage commemorations and forced them to remove ‘Ashoura banners situated on their personal, private properties;
- Coerced managers of many Shi’a mosques to sign a pledge to suspend ‘Ashoura ceremonies and related activities;
- Forcibly closed places of worship and community gathering;<sup>52</sup>
- Arbitrarily detained those who took part in or oversaw ‘Ashoura commemorations, including Sheikh Ibrahim Al-Ansari, Abdulnabi Al-Samak and Nasser Ali Nasser and on 6 October 2020, the GoB detained two orators, Ahmed al-Majed and Habib al-Mahdi, for taking part in mourning ceremonies.<sup>53</sup>

SALAM DHR will forward to the EEAS, in a separate email, its findings on religious freedom in the context of ‘Ashoura 2020 and information about a seminar held in November 2020 which discussed the findings.

### **Discriminatory practices and impact on economic, social and cultural rights**

Members of the Shi’a community continue to experience discrimination in terms of access to employment in the public sector: representation of this community in specific ministries, such as those related to security, is poor, as it is with respect to the police and other security services. As the government does not appear to measure such data, it is impossible to have any real sense of this issue beyond anecdotal accounts.

### **Women’s rights**

The GoB asserts that it is committed to advancing women’s rights. SALAM DHR’s ongoing concerns relate to:

- Workplace discrimination;
- Persistent political discrimination such as women’s representation in parliament, while increased by three in 2018 over the previous election, it remains weak;
- Discriminatory provisions in 2017 family and personal status law, resulting in differential rights in respect to inheritance;
- Provisions under which accused rapists can avoid punishment by marrying their victims, and;
- The absence of criminalisation for spousal rape.

### **Non-discrimination and the rights of people belonging to minorities**

SALAM DHR did not undertake specific research into the plight of migrant workers during the height of the COVID19 pandemic. [Migrant Rights](#) (see hyperlink) can, however, provide reliable information about this issue. Their 15 September 2020 statement, [Migrants in Bahrain face an eviction crisis amid COVID19-19 pandemic / Courts are now upholding evictions against workers who have struggled to pay rent due to job and income loss](#), (see hyperlink) provided important information.

### **Administration of justice**

Note that fair trial concerns are set out above. In the reporting period, the government continued to act against the legal profession and specific lawyers.<sup>54</sup> Writing about the the justice system, scholar

<sup>52</sup> Locations forcibly closed and events forcibly suspended included the funeral of the Taf martyrs in the Naim area; the Sayyida Khadija Mosque in Hamad Town; al-Zahra Mosque in Hamad Town Circle 40; Zahraa Mosque in Hamad Town Circle 10 after (locks changed by the Ministry of Interior) and the Imam al-Hassan mosque and centre in the Sadad region.

<sup>53</sup> News of Bahrain - Religious Gathering: Bahrain to take legal action, 9 October 2020, at <https://www.newsofbahrain.com/bahrain/66812.html>, accessed 29 October 2020.

<sup>54</sup> Government assertions about the rule of law can be accessed at: <https://www.mofa.gov.bh/AboutBahrain/RuleofLaw/tabid/125/language/en-US/Default.aspx> and

Marc Owen Jones comments:<sup>55</sup>

*In 1954, the ruler Salman bin Hamad Al Khalifa thought judicial reform would mean ceding his absolute authority over Bahrain. Naturally the best antidote to this fear was to maintain Al Khalifa domination of the judiciary. Failing that, coercion of the judiciary could be implemented. In 1976, the prime minister, and Shaykh Salman's son, Shaykh Khalifa bin Salman Al Khalifa said he would put the judges on trial if they did not agree to his sentence on a case of political murder. His attitude seems to have remained the same. In 2013, he was filmed telling a man accused of torture that both he and the Al Khalifa **were above the law [added]**. Indeed, the lack of political dynamism and the continuation of tribal rule has led to a form of "sticky authoritarianism", where the influence of conservative members of the Al Khalifa (within or without the judiciary) have impacted upon the legal apparatus, whether in specific legal decisions or general processes of legislative development.*

Principal concerns and developments in the reporting period comprised the following:

- **Lawyers Association** - SALAM DHR is concerned that the lack of effective independence enjoyed by the Lawyers Association; the change in the composition of its members in a manner instructed by the GoB and that the structure of licensing of new lawyers has undermined the principle of independent legal representation of one's own choice;
- **Lawyers targeted** - SALAM DHR is likewise concerned that criminal cases brought against lawyer Fatima al-Khawaj - at least two of which are under consideration at the time of writing, may be politically motivated. We urge the EEAS to obtain independent information in relation to this case. In relation to lawyer Abdullah Al-Shamlawi, in September 2020, the Third High Criminal Court sentenced him, on two charges related to social media posts. The Court suspended a custodial sentence on charges of "inciting hatred of a religious sect" while he settled with a plaintiff in relation to a second charge of "misusing a telecommunications device" (a common criminal charge in the Gulf).<sup>56</sup> At the time of writing, SALAM DHR was looking into a 2013 case (reopened in 2016) against Hamad al-Harbi, who has reportedly repeatedly sought a reconsideration of his suspension, reportedly in place since 29 April 2012, including in relation to the time period of one year;<sup>57</sup>
- **Composition of judges** - The organisation draws to EEAS' attention the composition of judges across the legal system. The King leads the Judicial Council, which, in turn, administers the courts and oversees judicial appointments. This shows how the courts are open to bias in favour of the government. A lawyer of longstanding practice and independence told SALAM DHR that the lack of representation from the Shi'a community likewise undermines principles of inclusivity and independence (from government) in matters pertaining to justice;
- **Administration of justice** - SALAM DHR continues to be concerned by the arc of unfairness in the administration of justice: police and other officials with the power of arrest continue to make arrests for alleged acts which are not internationally recognisable as criminal; officials limit or prevent detainees' access to lawyers of their own choosing while they often hold detainees incommunicado. The GoB undermines the presumption of innocence by refusing, on spurious grounds, pre-trial bail applications. At trial itself, judges often limit the legal scope of defence by restricting attendance, access to the client or procedural requests, say, in relation to admissibility of witnesses or evidence.

<https://www.legalaffairs.gov.bh/71.aspx?cms=iQRpheuphYtJ6pyXUGiNqkizO3w1IVEN>

<sup>55</sup> Marc Owen Jones - Political Repression in Bahrain, Cambridge University Press, 2020, pp.200-1, text available via <https://marcowenjones.wordpress.com/2020/07/19/new-book-political-repression-bahrain/>, accessed 16 November 2020.

<sup>56</sup> See, *inter alia*, the Gulf Center for Human Rights (GCHR) - Bahrain: *GCHR declares solidarity with human rights lawyer Abdullah Al-Shamlawi, sentenced to prison for tweets*, 15 September 2020, at: <https://www.gc4hr.org/news/view/2422>, accessed 19 October 2020.

<sup>57</sup> The case of Hamad al-Harbi is briefly discussed in: Alwatan News (pro government newspaper) - أيمن شكل / Ayman Shakal: مواطنون يشكون تعامل المحامين.. والجمعية تطالب بحق تأديب أعضائها

23 June, 2020, at <https://bit.ly/> (shortened), accessed 16 November 2020

A rare June 2020 article in the pro-government Alwatan newspaper set out what was described as popular concerns over fees and unsatisfactory, unethical aspects of the lawyer-client relationship, but also gave voice to some of these concerns.<sup>58</sup> In it, the Lawyers Association is depicted as:

- Seeking completion of the draft Lawyers' Law, reportedly still in the Legislative Council;
- Seeking autonomy from the Ministry of Justice so as to be able to collect its own registration fees and withdraw them from the Ministry of Justice, considering that what is happening now is an exception to the origin of the right of the union;
- Seeking the power to register and disbar lawyers instead of the Ministry of Justice;<sup>59</sup>
- Seeking the right to discipline its own members;<sup>60</sup>
- Concerned over the suspension of eight lawyers from the profession in the preceding six months, including two suspended for one month; another for three months and three for six months and another, who faced a three years' suspension and another who, in May 2020, had his license to practice revoked.

Press reports on 3 November 2020 stated that Bahrain's High Criminal Court had convicted, at a mass trial, 51 individuals on national security charges. Prison terms ranged between five years and life; some were reportedly fined: the court ordered 17 ordered to pay 100,000 Bahraini dinar (BD, or around \$265,243) each and three others BD52,400, or around \$138,987. One suspect was acquitted.

This was the first mass trial since April 2019 and may therefore reflect a heightened security context and the government's ongoing determination to marginalise and repress sectors of society.

Press reports did not provide detail relating to the number of people actually in court; access to legal representation of their choice or any other detail relating to the administration of justice.

The public prosecutor asserted they constituted a terrorist organisation and that Iran's Revolutionary Guards (IRGC) had ordered them to stage attacks in Bahrain.<sup>61</sup> Al-Monitor stated that "According to investigators, they plotted attacks against economic installations, security sites and the headquarters of the Interior Ministry and the Bahrain Defense Force." The court convicted 27 of them in absentia; officials arrested the other 24 in 2019, during a foiled attack on public transportation, according to the government's Bahrain News Agency (BNA). BNA, not always a reliable source of information, asserted that at the time of arrest, the detainees had "anti-personnel explosive devices, vehicles and tools used in their manufacture, in addition to Molotov cocktails" and that "investigators said the defendants traveled abroad to receive military training from the IRGC" Iran-backed paramilitary forces in Iraq, where "they were trained on how to recruit and lead terrorist groups within Bahrain, as well as on the use of weapons and explosives supplied by Iran." BNA did not cite any independently, objectively verifiable evidence to support the assertions.

The London-based Bahrain Institute for Rights and Democracy spoke with family members of one of those involved. They claimed that the trial was marred by due process violations and the use of

<sup>58</sup> Alwatan News (pro government newspaper) - أيمن شكل / Ayman Shakal:

مواطنون يشكون تعامل المحامين.. والجمعية تطالب بحق تأديب أعضائها

23 June, 2020, at <https://bit.ly/> (shortened), accessed 16 November 2020.

<sup>59</sup> At the time of writing, SALAM DHR is looking into Chapter 6 of the Advocacy Law. Its Article 43 sets out punishments to be handed down to lawyers in connection with unprofessional conduct. It stipulates steps taken in cases of dispute.

<sup>60</sup> According to the article: "The association requested that discipline be graded into 3 stages, the first of which is within the competence of the association, then appeal to a judicial body and the possibility of appeal by cassation so that the judgment has an indisputable authority".

<sup>61</sup> Al-Monitor - Bahrain sentences 51 accused of Iran-linked terror plots / Investigators said the defendants received orders from Iran's powerful Islamic Revolutionary Guard Corps to stage attacks in Bahrain, 3 November 2020, at <https://www.al-monitor.com/pulse/originals/2020/11/bahrain-terrorism-iran-irgc-convict-high-criminal-court-jail.html>, accessed 30 November 2020.

evidence obtained under torture.<sup>62</sup>

**Alternative Penalties Law** - While this 2017 provision has enabled hundreds of prisoners to serve custodial sentences on a form of prolonged release, residing at home or with family, the GoB has required stringent restrictions relating to eligibility and on freedom of expression upon recipients of this provision. In instances, the alternative punishments provisions maintain the initial, unfair conviction on the individual, say human rights defender Nabeel Rajab, whose freedom - in terms of liberty and expression- remains constricted upon receipt of the status, while the state does not offer compensation for the unjust arrest and imprisonment. In a 31 July 2020 statement, a human rights group asserted that released prisoners faced “Post-Traumatic Stress Disorder and [had] a difficult time integrating back into society.”<sup>63</sup>

### Civil society and governance

The GoB projects a positive image to the outside world regarding the state of civil society inside the country. The government states that the:

*[...] Ministry of Labour & Social Development took many encouraging steps to double the impact of NGOs through increasing coordination among them and provide them with facilities options to execute their activities in a way that contributes to achieving their objectives. Besides, the Ministry is very keen to engage the NGOs and voluntary institutions in all seminars, conferences and workshops organized by the Ministry and which contribute undoubtedly to developing the abilities of members in these NGOs and institutions.*

The GoB does not state that the granting of NGO permits as per the Law of Associations, No. 21 / 1989, is subject to sweeping discretionary practices, open to abuse and that the ministry of Labour and Social Development is empowered to replace entire boards without setting out a reason.

As noted by scholar Marc Owen Jones, it:<sup>64</sup>

*“[...] has also been used by the government to interfere in the work of NGOs. It gives the government the authority to replace board members and forbids the NGO from engaging in ill-defined ‘political’ activities. The law has been used as a weapon by the regime in dealing with dissent. In 2011, the Ministry of Social Development used the Law of Associations to dissolve the Bahrain Teachers Society and ‘replace the board of the Bahrain Medical Society’, after they had supported protesters demanding more political rights.*

*The Law of Associations has also curtailed sources of funding for NGOs. As a result, those groups who refuse to accept government funds for fear of appearing to be co-opted and complicit in government strategy have severe restrictions on how they can raise money. As Gary Marx noted, social movements require funding, and government actions work to restrict funding in order to weaken them.*

*As always following widespread political unrest, the progression of legal repression gained pace after 2011. In September 2013, Ministerial Order No. 31 of 2013 stipulated that political societies must liaise with the Ministry of Foreign Affairs (MoFA) before meeting with representatives of foreign parties or political societies. The MoFA authorized itself to send a representative to any*

<sup>62</sup> Bahrain Institute for Rights and Democracy (BIRD) - Bahrain Convicts 51 People in Mass Trial Marred by Torture Confessions & Due Process Violations, 3 November 2020, at <http://birdbh.org/2020/11/bahrain-convicts-51-people-in-mass-trial-marred-by-torture-confessions-due-process-violations>, accessed 11 November 2020.

<sup>63</sup> Gulf Centre for Human Rights - Bahrain: Leading Imprisoned HRD Abdulhadi Al-Khawaja releases statement on Bahrain’s “Alternative Punishment” Law, 31 July 2020, at <https://www.gc4hr.org/news/view/2440>, accessed 20 October 2020.

<sup>64</sup> Marc Owen Jones - Political Repression in Bahrain, Cambridge University Press, 2020. pp.223-4, text available via <https://marcownenjones.wordpress.com/2020/07/19/new-book-political-repression-bahrain/>, accessed 16 November 2020.

*meetings. Such a move represents the increase of state surveillance over the activities of political groups and reflects a deliberate government strategy to prevent NGOs from alerting sympathetic foreign governments and audiences to relevant political grievances. This, in turn, creates further obstacles for social movements trying to draw attention to their cause by the international community. Such laws do not simply reflect government fears of, for example, groups like Al Wefaq meeting with Shi'i figures in other countries but also their fears born out of Bahrain's advocacy revolution, which has seen a burgeoning number of groups seeking assistance from international organizations."*

## **Democracy, domestic democratic institutions and transparency**

When King Hamad came to power in 1999, government statements declared that the country would restore an elected parliament that had been suspended since the 1970s. Officials claimed Bahrain was on track to become a British-style constitutional monarchy and George W. Bush called it a model for the region. Instead, however, in 2001, King Hamad oversaw the drafting of a new constitution and manipulated parliament to ensure that the majority of the population would not have representation commensurate with its population. The upper house of parliament is, in any case, appointed. A 2006 report by a government advisor highlighted the use of citizenship as a tool of social policy, under which the government has sought to change the sectarian composition of the state, an effort to which the government added citizenship stripping (discussed above).<sup>65</sup>

In this overarching context, SALAM DHR remains concerned that measures relating to domestic democratic institutions implemented by the GoB in previous years inhibit the government's ability to fulfill international human rights standards and our shared goal of meeting the standards set out in the UN's Sustainable Development Goals (SDGs). These measures include the:

### *Representative democracy*

- Appointment by the King of the 40-member Consultative Council, Bahrain's upper house of the National Assembly;
- Prohibition of the existence of political parties in the 40-person lower house, or Council of Representatives;<sup>66</sup>
- Enacting of legislation prior to the November / December 2018 parliamentary elections under which candidates who had belonged to forcibly-dissolved political groups were banned from standing while those who had a prison sentence of six months or more were likewise prohibited from standing. As reflected in INGO and UN human rights outputs from 2011 onward, the GoB arbitrarily arrested, tried and unfairly convicted scores of political and other rights activists, violating not only fair trial standards but continuing to impose restrictions to freedom of assembly and association that constitute ongoing rights violations. The GoB forcibly dissolved the large, Al-Wefaq political 'society' in 2016, allegedly for 'encouraging violence'; it did likewise in 2017 to National Democratic Action Society (Wa'ad), depriving the voices of each party's members and supporters from a voice - and stake - in society;
- Designation of electoral districts that are structurally arranged so as to minimise representation of the Shi'a population, or gerrymandering. The GoB has instrumentalised electoral constituencies in order to ensure political outcomes that favour the state rather than those that favour representative democracy. It constitutes a violation of the spirit of human

<sup>65</sup> These issues are also discussed in, amongst other sources, Haaretz - Opinion / Bahrain's Rulers Are Eager for Close Ties With Israel. Bahrainis Are Not, by Jane Kinnimont, 30 September 2020, at <https://www.haaretz.com/middle-east-news/premium-bahrain-s-rulers-are-eager-for-close-ties-with-israel-bahrainis-are-not-1.9197045?v=1606905778484>, accessed 2 December 2020. Regarding the author, Haaretz states: "Jane Kinnimont is a political and economic analyst specialising in the Middle East. In the 2000s she covered the Israeli and Palestinian economies as an analyst and forecaster. She is currently Head of Programmes at The Elders." She is a former Gulf analyst at Chatham House.

<sup>66</sup> In June 2016, following an urgent hearing the High Administrative Court ordered the suspension of al-Wefaq and the seizure of its assets and on 17 July 2016, the court dissolved al-Wefaq. The party lost its appeal on 22 September 2016.

rights standards and has resulted in the passing of legislation that has limited or no popular support, and which drives a social wedge between the people and the state by creating a false division;

- Instrumentalisation of patronage and clientelism in order to undermine and erode transparency in the political process.

In sum, SALAM DHR is alarmed at the the near-wholesale removal of democratic accountability in Bahrain, say by way of parliament, through arbitrary prohibitions, contrary to ICCPR obligations, of political associations and the unfair and illegal (from the point of view of international criminal law) arrest, imprisonment and/or restrictions on the conduct and activities of persons who have, formerly, been politically active, so that the decision to normalise relations was conducted above the heads of the Bahraini people, setting aside the merits of the decision itself.

### *Failure of domestic human rights mechanisms*

SALAM DHR is concerned that evidence suggests that the GoB has instructed the National Institution for Human Rights and the Ombudsman's Office of the Ministry of Interior to not fulfill their mandate.

SALAM DHR echoes the concerns set out in a 20 August 2018 statement issued by a coalition of NGOs on the failure by GoB human rights mechanisms to address the case of Hassan Mushaima, namely that:<sup>67</sup>

*On 7 August, Bahrain's National Institution for Human Rights (NIHR) released a statement regarding the health conditions of Hassan Mushaima, yet this statement was made without any direct investigation of his condition or consultation with him in prison. The NIHR's assertions in their statement are misleading and incomplete, and they fail to address core concerns directly raised with the Institution. The statement declares that Mushaima has voluntarily declined medical services provided to him and refused to attend six of his medical appointments in the last six months. What the statement neglects to mention is the degrading treatment Mushaima has endured in order to gain access to medical care. In choosing to omit any reference to core concerns raised in complaints to the NIHR, including the use of punitive shackling, we in the international human rights community view the Institution's statement as a clear attempt to obfuscate prison authorities' degrading treatment of prisoners.*

A free and fair media environment likewise helps ensure state accountability and transparency. Regrettably, the GoB:

- Prevents, in practice, the creation of independent media platforms: the authorities banned al-Wasat, an independent newspaper, in 2017;
- Has enacted a Press Law that provides for the arbitrary restriction of freedom of expression, including by way of criminalising peaceful criticism of national political figures, including by resorting to opaque provisions relating to insult or national security;
- Accords press credentials to journalists working for non-Bahraini platforms in a biased manner.

### **Character of international relations relating to human rights and environmental justice**

This section summarizes some developments that we believe can usefully inform the EEAS regarding the development of human rights practices in Bahrain and shape possible avenues of discussion.

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<sup>67</sup> See, amongst others, Amnesty International - Bahrain: NGOs raise concerns regarding the failure of Bahrain's human rights mechanisms to properly address the case of hassan Mushaima, 20 August 2018, at <https://www.amnesty.org/en/documents/MDE11/8967/2018/en/>, accessed 15 October 2020.

**International engagement on human rights** - The government has asserted that it is open and engaged with international human rights bodies, including the United Nations, international NGOs, but alongside its cosmetic engagement with UN human rights bodies, the GoB limits its exposure to international scrutiny. In July 2020, former UN Special Rapporteur on Human Rights Defenders, Michel Forst, and Preethi Nallu, a journalist and IMS Advocacy Consultant noted that “*they never received permission to enter Bahrain to investigate human rights abuses, despite repeated requests.*”<sup>68</sup> As noted above, SALAM DHR has, itself, contacted the government and the Office of the Ombudsman. The former did not reply; in July, the latter informed us that 12 death penalty cases were not issues they concern themselves with.

**Appointment of new Prime Minister** - In November, long-serving Prime Minister (PM), Prince Khalifa bin Salman Al Khalifa, 84, passed away. He had been PM since independence from the UK in 1971.<sup>69</sup> SALAM DHR urges the EEAS to impress upon the new PM, Crown Prince Salman bin Hamad Al Khalifa, 51, that this is an opportunity to make a fresh start with communities in the country and with the international community. His involvement in the 2002 National Charter initiative could help him overcome deeply held mistrust, despite other, unhelpful activities.<sup>70</sup> We urge the EEAS to urge the PM to engage, meaningfully, with political representatives and civil society in order to improve the quality of life in Bahrain.

**National human rights programme** - The GoB is in the process of developing a National Human Rights Action Plan. We believe that the GoB will cite and emphasise this effort in order to mute concerns and issues raised by the EEAS in relation to human rights. In August 2020 the Speaker of Parliament and the Minister of Foreign Affairs chaired an online workshop - described as a first (presumably of many) to discuss the role of the legislature in protecting and promoting human rights with a view to developing a “National Human Rights Action Plan”.<sup>71</sup>

SALAM DHR believes that this effort is part of the GoB’s public diplomacy in order to misdirect international concern over human rights violations and its real failure to abide by international human rights standards to provide redress to victims of violations. Acts speak far louder than words and we urge the EEAS to convey this message to your counterparts.

According to press reports, at the August meeting, Sayyid Ali bin Saleh Al-Saleh, Chairman of the Shoura Council stated that the King “has guaranteed rights and freedoms for all, and has contributed to reaping multiple human rights achievements”. It appears he is not familiar with the international human rights system nor the recommendations made to the GoB relating to treaty body recommendations or those made by UN Special Procedures.

SALAM DHR will ask to be consulted and engaged in respect to the development of the National Human Rights Action Plan and will copy at least one member of the EEAS team in order to share that step. We will also set out a preliminary plan for parliament and the GoB’s consideration. This will be done in good faith.

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<sup>68</sup> Information taken from: Gulf Centre for Human Rights - Bahrain: UNHRCs side event calls for international action to protect rights defenders and solve human rights crisis, 6 July 2020, at <https://www.gc4hr.org/news/view/2424> , accessed 28 October 2020.

<sup>69</sup> Al-Monitor - Bahrain's longtime prime minister dies at 84 / Prince Khalifa bin Salman Al Khalifa was among the world's longest-serving prime ministers, 11 November 2020, at <https://www.al-monitor.com/pulse/originals/2020/11/bahrain-khalifa-bin-salman-al-khalifa-dies-84-mayo-clinic.html#ixzz6eO2jV9qj> , accessed 20 November 2020.

<sup>70</sup> Responsible Statecraft - Emile Nakhleh - Could Bahrain’s new prime minister chart a new path toward reform?, 19 November 2020, at <https://responsiblestatecraft.org/2020/11/19/could-bahrains-new-prime-minister-chart-a-new-path-toward-reform/> , accessed 20 November 2020.

<sup>71</sup> See Bahrain News Agency -

(برعاية رئيسية مجلس النواب ووزير الخارجية انطلاق الورشة الأولى (دور السلطة التشريعية في حماية وتعزيز حقوق الإنسان وإعداد خطة العمل الوطنية لحقوق الإنسان) 18 August, 2020, at <https://bit.ly/NatHRAcPl> (shortened), accessed 2 December 2020.

**Formula 1** - On 28 November, SALAM DHR issued an open letter to the heads of the UN, ILO and OECD in connection with the conduct of the Government of Bahrain and the Formula 1 Group in regards to the F1 races in the country.<sup>72</sup> We called for the events to be suspended until the GoB could fulfill a basic level of adherence to fundamental human rights standards. SALAM DHR has engaged directly, via email, with those three institutions and has asked the F1 Group to engage with SALAM DHR directly, over its Human Rights Statement.

**Environmental justice** - The perception of unfairness in economic life is one aspect of environmental injustice in Bahrain. It impoverishes the entire country and erodes the rule of law, and thereby, justice. The death in November 2020 of former PM, Prince Khalifa bin Salman Al Khalifa, 84, occasioned mention in media outside the country that he “*was one of the largest real estate owners in the country*”.<sup>73</sup> One source noted “his buildings, lands, and even islands were built on state or ‘reclaimed’ land, which he acquired for free [and that]. He and his children had controlling financial interests in most major industrial, commercial, banking, transportation, and oil enterprises in the country.”<sup>74</sup> His role in governance was equally as problematic.

### Alignment with EU human rights priorities

The Council’s Action Plan on Human Rights and Democracy for 2020-2024 focuses on supporting human rights defenders and the fight against the death penalty. It recognises the link between global environmental challenges and human rights and identifies five overarching priorities:<sup>75</sup>

1. Protecting and empowering individuals;
2. Building resilient, inclusive and democratic societies;
3. Promoting a global system for human rights and democracy;
4. New technologies: harnessing opportunities and addressing challenges;
5. Delivering by working together.

Our (*preliminary*) summary assessment of the GoB’s conduct with respect to the objectives is set out below.

Alignment with EU human rights priorities <sup>76</sup>		
Item No.	Objective	SALAM DHR’s preliminary assessment of GoB conduct (refer to text above or contact SALAM for details), that the GoB has:
1	<b>Protecting and empowering individuals</b>	
1.1	Protecting people eliminating inequalities discrimination and exclusion	<ul style="list-style-type: none"> <li>- Upheld death penalty verdicts against at least 12 people</li> <li>- Refused to acknowledge incidents of torture or CID</li> </ul>

<sup>72</sup> SALAM DHR - Open letter: Suspend holding the Formula 1 motor race in Bahrain until the government acts on long standing human rights violations, 28 November 2020, at <https://salam-dhr.org/?p=4207>, accessed 30 November 2020

<sup>73</sup> Responsible Statecraft - Emile Nakhleh - Could Bahrain’s new prime minister chart a new path toward reform?, 19 November 2020, at <https://responsiblestatecraft.org/2020/11/19/could-bahrains-new-prime-minister-chart-a-new-path-toward-reform/>, accessed 20 November 2020

<sup>74</sup> Responsible Statecraft - Emile Nakhleh - Could Bahrain’s new prime minister chart a new path toward reform?, 19 November 2020, at <https://responsiblestatecraft.org/2020/11/19/could-bahrains-new-prime-minister-chart-a-new-path-toward-reform/>, accessed 20 November 2020.

<sup>75</sup> Council of the European Union - Outcome of proceedings: General Secretariat of the Council, 18 November 2020, at <https://www.consilium.europa.eu/media/46838/st12848-en20.pdf>

<sup>76</sup> The assessment is based on indicators set out in the text of the EU’s Action Plan, issued in November 2020

		<p>treatment, including in respect to deprivation of medical care</p> <ul style="list-style-type: none"> <li>- Refused to provide redress for long standing human rights violations</li> <li>- Prevented the independent monitoring of prisons or other places of deprivation of liberty</li> <li>- arbitrarily detained and harassed HRDs</li> <li>- Discriminated in policy and practice, against women, and on the basis of religious affiliation</li> <li>- Failed to adopt a rights-based approach in respect to public policy</li> </ul>
1.2	Empowering people	<ul style="list-style-type: none"> <li>- Failed to create Conditions to empower women and girls and to ensure their full effective and meaningful participation and equal representation in all spheres of life</li> </ul>
1.3	Promoting fundamental freedoms and strengthening civic and political space	<ul style="list-style-type: none"> <li>- Failed to recognise and support the essential role that civil Society plays in the delivery of Sustainable Development Goals and in promoting human rights</li> <li>- Restricted the development of civil society by banning human rights organisations or subjecting them to arbitrary and unfair restrictions</li> <li>- Used digital technologies to harass, intimidate and repress civil society activists including human rights defenders</li> <li>- Repressed journalists and media workers, including by restricting the space for freedom of expression</li> <li>- Banned whole groups and imprisoned leaders rather than Encourage peaceful inclusive dialogue and resolution of political crises</li> <li>- Restricted interfaith dialogues and the opportunity for religious and faith-based actors to engage</li> </ul>
1.4	Reinforcing economic social cultural and labour rights	<ul style="list-style-type: none"> <li>- Failed to Strengthen the linkage between human rights and the environment including climate change</li> <li>- Promoted discriminatory access to social services including housing</li> </ul>
1.5	Supporting the rule of law and the fair administration of justice	<ul style="list-style-type: none"> <li>- Failed to advance the rule of law or strengthen the independence and impartiality of the judiciary</li> <li>- Failed to support the improvement of detention conditions and the treatment of those persons deprived of liberty</li> </ul>
1.6	Closing the accountability gap fighting impunity and supporting transitional justice	<ul style="list-style-type: none"> <li>- Failed to create any mechanism for real accountability including for human rights violations committed in previous years</li> <li>- Failed to implement treaty body body recommendations or act on recommendations made by the special procedures</li> </ul>
2	<b>Building resilient inclusive and democratic societies</b>	
2.1	Enhancing democratic accountable and transparent institutions	<ul style="list-style-type: none"> <li>- Acted against the separation of powers and independence and impartiality of the judiciary and a fair and accountable justice system</li> <li>- Weakened parliamentary institutions and their capacity to exercise oversight and ensure that fair democratic procedures be observed</li> <li>- Rejected independent oversight of electoral processes by refusing independent and international observation missions</li> </ul>

2.2	Promoting responsive inclusive participatory and representative decision-making	<ul style="list-style-type: none"> <li>- Banned the pluralist party system and restricted the political space</li> <li>- Repressed civil society making it unable to provide oversight or accountability in both the public and private sector</li> <li>- Withdrawn citizenship from hundreds of people in an arbitrary and discriminatory manner</li> </ul>
2.3	Supporting independent and pluralistic media access to information and the fight against disinformation	<ul style="list-style-type: none"> <li>- Forcibly closed all independent media</li> <li>- Opposed investigative journalism and civil society monitoring of the government's performance in relation to governance and compliance with human rights obligations</li> </ul>
2.4	Reinforcing a human rights and participative approach to conflict prevention and crisis resolution	<ul style="list-style-type: none"> <li>- Enacted discriminatory legislation and practices That's served to heighten the possibility of conflict and social unrest</li> <li>- Failed to create an independent civil Society for no other reason than to act as a social safety valve</li> </ul>
3	<b>Promoting a global system for human rights and democracy</b>	
3.1	Multilateral cooperation	<ul style="list-style-type: none"> <li>- Instrumentalised cooperation so as to shield the government from independent scrutiny</li> <li>- Restricted strategic cooperation with the office of the high commissioner for human rights in order to instrumentalise the relationship</li> </ul>
3.2	Regional partnerships	
3.3	Bilateral cooperation	
3.4	Civil society and national human rights institutions	<ul style="list-style-type: none"> <li>- Failed to deepen let alone enhance engagement with an independent and pluralistic civil Society including human rights defenders trade unions independent media or individual activists</li> </ul>
3.5	Business sector	<ul style="list-style-type: none"> <li>- Failed to engage with the business sector to uphold and promote human rights or anti-corruption measures</li> <li>- Failed to promote or use international principles relating to business and human rights (see: <a href="https://salam-dhr.org/?p=4207">https://salam-dhr.org/?p=4207</a> )</li> </ul>
3.6	Compliance with international human rights and international humanitarian law	<ul style="list-style-type: none"> <li>- Acted to diminish the effectiveness and efficiency of the UN human rights treaty body system</li> <li>- Failed to advocate or support international humanitarian law or to safeguard humanitarian space notably through normalisation of relations with Israel</li> </ul>
4	<b>New technologies: harnessing opportunities and addressing challenges</b>	
4.1	Capacity building and effective monitoring	<ul style="list-style-type: none"> <li>- SALAM DHR is ready to engage in and assist with respect to capacity building of HRDs and rights activists both in and outside of Bahrain</li> </ul>
4.2	Promoting human rights and democracy in the use of digital technologies including artificial intelligence	<ul style="list-style-type: none"> <li>- Deployed spyware to violate international human rights standards and undermine human rights defenders</li> </ul>
5	<b>Delivering by working together</b>	
5.1	Public diplomacy and strategic	<ul style="list-style-type: none"> <li>- Instrumentalised its public diplomacy to convey a</li> </ul>

	communication	false image of compliance with human rights standards
5.2	Implementation monitoring and evaluation	

**//end//**

## Appendix: Third party indices and assessments relating to aspects of governance

- **Transparency International - Corruption Perceptions Index 2019**<sup>77</sup>

2019 Rank

77/180

2019 Score

42/100

Observations from SALAM DHR:

- A limited range of laws are in place to fight corruption
- Enforcement is weak on account of enforceability and political will
- Prominent public figures suspected of corruption are rarely investigated; even more rarely punished
- The media is insufficiently free enough to hold the government to account in respect to corruption

- **Freedom House - indicators from Freedom in the World (report), 2020**<sup>78</sup>

Overall ranking 2019 12/100 - “not free”

Overall ranking 2020 11/100 - “not free”, comprising:

Political rights 1/40

Civil liberties 10/60

### *A - Electoral process*

A1 - Was the current head of government or other chief national authority elected through free and fair elections? 0/4

A2 - Were the current national legislative representatives elected through free and fair elections? 1/4

A3 - Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 1/4

### *B - Political Pluralism and Participation*

B1 - Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 0/4

B2 - Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 0/4

B3 - Are the people’s political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means? 0/4

B4 - Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 0/4

### *C - Functioning of Government*

C1 - Do the freely elected head of government and national legislative representatives determine the policies of the government? 0/4

<sup>77</sup> See Transparency International for the full dataset, at <https://www.transparency.org/en/countries/bahrain>, accessed 15 October 2020.

<sup>78</sup> Freedom House, Freedom in the World, 2020, accessible at: <https://freedomhouse.org/country/bahrain/freedom-world/2020>, accessed 15 October 2020. See the report for the methodology.

- C2 - Are safeguards against official corruption strong and effective? 2/4  
 C3 - Does the government operate with openness and transparency? 0/4

#### ADDITIONAL DISCRETIONARY POLITICAL RIGHTS QUESTION

Is the government or occupying power deliberately changing the ethnic composition of a country or territory so as to destroy a culture or tip the political balance in favor of another group? (-3)

#### *D - Civil Liberties*

D- Freedom of Expression and Belief

D1 - Are there free and independent media? 0/4

D2 - Are individuals free to practice and express their religious faith or nonbelief in public and private? 1/4

D3 - Is there academic freedom, and is the educational system free from extensive political indoctrination? 0/4

D4 - Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 1/4

#### *E - Associational and Organizational Rights*

E1 - Is there freedom of assembly? 0/4

E2 - Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 0/4

E3 - Is there freedom for trade unions and similar professional or labor organizations? 1/4

#### *F - Rule of Law*

F1 - Is there an independent judiciary? 0/4

F2 - Does due process prevail in civil and criminal matters? 1/4

F3 - Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 0/4

F4 - Do laws, policies, and practices guarantee equal treatment of various segments of the population? 0/4

#### *G - Personal Autonomy and Individual Rights*

G1 - Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 1/4

G2 - Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or non-state actors? 2/4

G3 - Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2/4

G4 - Do individuals enjoy equality of opportunity and freedom from economic exploitation? 1/4

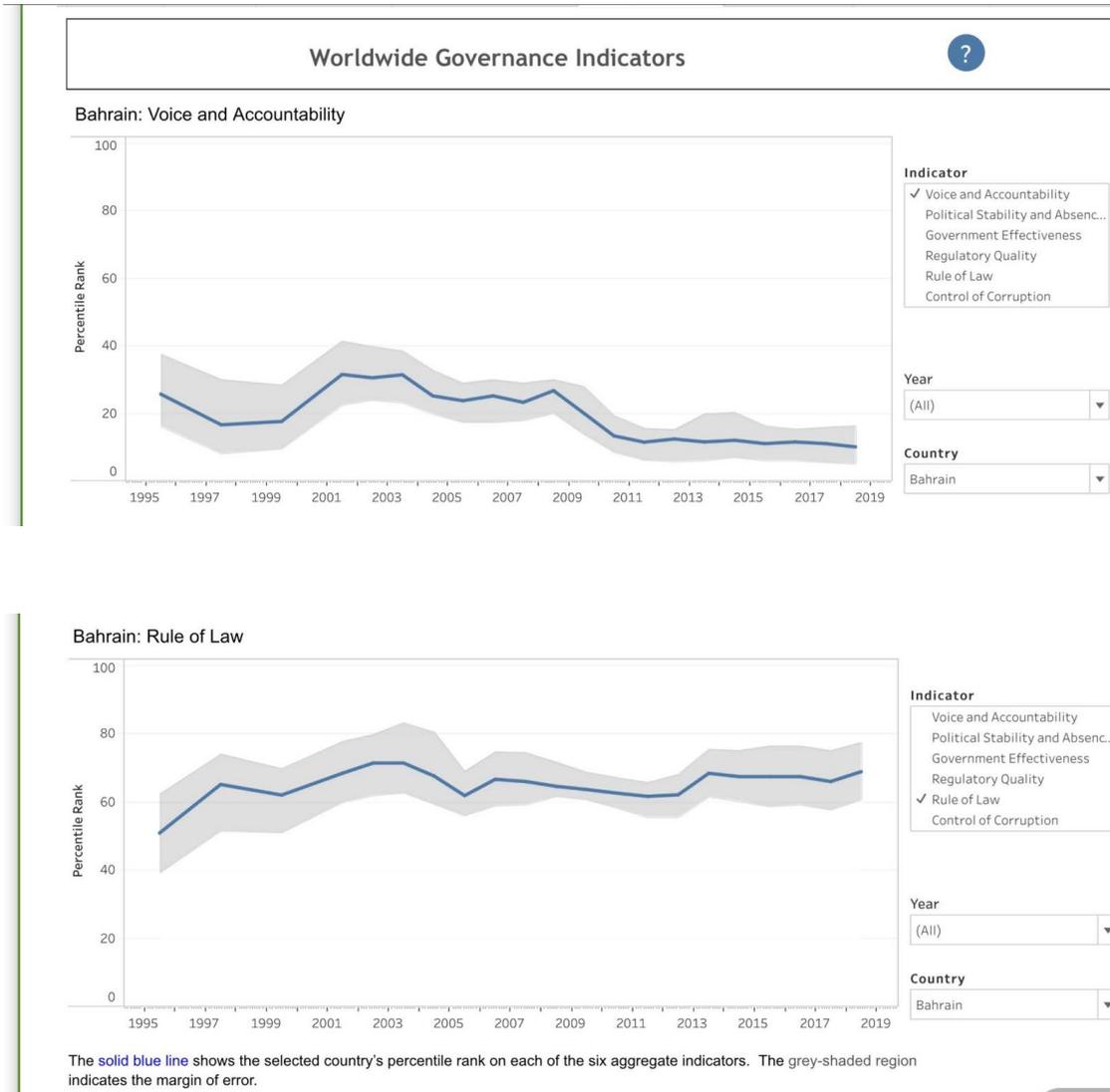
- **Reporters without Frontiers (RSF) - Bahrain - Press Freedom Index<sup>79</sup>**

- See the source for the methodology
- 2020: 169 out of 180 countries (calculated) in 2020; score: 60.13 (-2 on previous year)
- 2019: 167 out of 180 countries (calculated) in 2019; scores 61.31

<sup>79</sup> Reporters Without Borders' 2020 rankings are found at: <https://rsf.org/en/ranking#> , accessed 15 October 2020.

• **World Bank - Governance Index<sup>80</sup>**

Three indicators selected: (1) Voice and Accountability - currently under 20%; (2) Rule of Law - around 70%; and (3) Political stability - around 20%

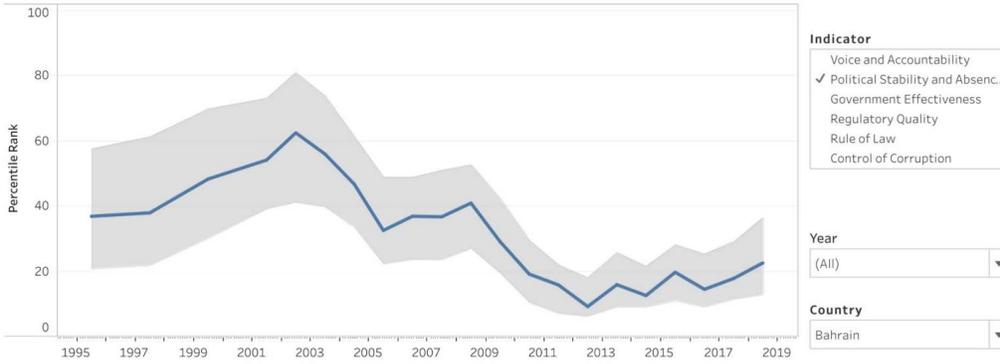


<sup>80</sup> See the options set out at <https://info.worldbank.org/governance/wgi/>, accessed 31 October 2020.

# Worldwide Governance Indicators



## Bahrain: Political Stability and Absence of Violence/Terrorism



The solid blue line shows the selected country's percentile rank on each of the six governance indicators. The shaded area...