

The Right to Independent Judiciary

Bahrain: No Justice While Judiciary Remains a State-Controlled Tool



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An independent judiciary should guarantee an efficient and effective administration of justice for all, without discrimination of any kind, such as on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, in order to protect and enforce human rights equally.

Gabriela Knaul

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A report on the principle of independence of the judiciary, dubbed a human right, an absent principle in Bahrain, as the Bahraini judiciary is a tool in the hands of the ruling authorities, used to punish activists and those who oppose the government's policy.



Human Rights Background



The independence of the judiciary is described as a human right and a manifestation of advanced democratic systems. It is approved by the International Bill of Human Rights, acknowledged by all countries of the world, and confirmed by the majority of democratic systems which – therefore – take measures that would completely ensure achieving the principle of independence of the judiciary.

As for Bahrain, the laws and legislation recognize the principle of independence of the judiciary and ensure that the judicial authority works completely independent from the executive authority's interference and desires of other governance-related institutions. However, the verdicts, particularly the ones with political and security backgrounds, are directed by state agencies. In fact, when reviewing the judgments of the Bahraini courts in the past decades, they are found to be consistent to a large extent with the government's policy and wishes. The Bahraini courts punish political, human rights, and media activists, and rarely issue sentences against government and security officials and members of the security services for breaking the law and committing human rights violations.

Since the establishment of the judiciary in Bahrain to the present time, there are a lot of cases, incidents, information, and data, which confirm the absence of the principle of independence of the judiciary in Bahrain. For example, in 1904 judge Sheikh Qassim bin Mahzaa called for non-interference in the Bahraini judiciary, which cost him being prevented from exercising any activity as well as depriving the judges of Bahrain in March 1905 of issuing judgments in the cases of some individuals and foreigners (English) in the country. There are many other cases related to the political movements that occurred in the twenties, fifties, sixties, seventies,



eighties, and nineties in the last century. Political movements also occurred between the years 1994 and 2001 and witnessed dozens of sentences against those involved in it issued in trials that lack independence and fair standards.

During the political movement that began in February 2011, Bahrain witnessed many trials, which were described by the report of the Bahrain Independent Commission of Inquiry – also known as the Bassiouni report – as unfair and lacking the international standards of fair trials, particularly the principle of independence of the judiciary. Human Rights Watch described the trials as a travesty of justice, and Amnesty international described them as a sham and a parody of justice.

In March 2011, the National Safety Court was established. It is a special military court that was founded to try protesters, opposition leaders, and human rights activists who supported or participated in the protests. A military judge presides the court alongside two civilian judges, all of whom are appointed by the Commander in Chief of the Bahrain Defense Force, Marshal Khalifa bin Ahmed Al Khalifa, who is close to King. The National Safety Court was severely criticized by international human rights organizations for trying civilians before a military court, lack of transparency, and not providing the legal procedures that ensure a fair and independent trial.

Although the government promised to reform the judiciary after those criticisms, the actions and measures taken by the authorities in Bahrain have increased the size of violations and unfair trials. The judiciary became even more distant from independence, and the Executive Authority's interference in judicial decisions related



to punishing political activists became more severe. That especially occurred with employing the Law on “Protecting Society from Terrorism Acts” – or what is known as the Anti-Terrorism Law¹ – to prosecute many of those whose cases have been associated with anti-government demonstrations and rallies.

Moreover, among the measures taken by the government during the crisis in Bahrain since 2011, is establishing the Terror Crimes Prosecution, which stirred a lot of cases against political and human rights activists as well as some journalists and photographers. While most participants in the political movement used to be tried under the Bahraini Code of Criminal Procedure and the Law on Public Gatherings, the majority of them were tried under the Law on Protecting Society from Terrorism Acts, and in the anti-terrorism court. However, these cases cannot be classified as terrorism cases according to the international concepts and norms, since the majority of them are over charges of participating in unlicensed protests, demonstrations and gatherings, according to how security authorities deemed them. This makes these trials unfair and biased, which is an employment of many legislations and laws, including terrorism laws, in order to punish the political, human rights, and media movement in Bahrain and its activists. All of the above, in addition to other points, will be addressed in this report.

1- Law No. 58 of 2006 on Protecting Society from Terrorism Acts.



The Principles of Independence of the Judiciary



Independence of the judiciary is “a rule which regulates the relationship between the judicial authority and other state authorities, based on the non-interference of other state authorities in the matters of the judiciary, by giving the judiciary a constitutional authority independent from the rest of the authorities. Independence of the judiciary means that its authority is liberated from any intervention by the legislative and executive authorities and the judges are only subject to the law.”²

In the English system, independence of the judge is defined by preventing the judge from working in politics, not allowing him/her to be involved in political fields, and not allowing his/her political feelings to affect his/her judgment. The judge is prevented from running for parliament, and the judges’ salaries are paid from a private fund, which makes the judge financially independent from the government.³

The nature of the judicial job, which is based on achievement of justice, protection of individuals’ rights and freedoms, and respect of the law, requires non-interference in the work of the judiciary so that it can achieve its job. Otherwise, the judiciary will achieve its objectives, which can create unrest in society and undermine individuals’ confidence in the law.

The principles of independence of the judiciary were identified in accordance with the international law, by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The congress was held in Milan from 26 August to 6

2- Supreme Judicial Council, judicial authority, Bahrain http://www.sjc.bh/website/page_016.php?plD=11

3- Booklet on the independence of the judicial job, University of Science and Technology, Sana’a



September 1985 and adopted – under the United Nations General Assembly Resolutions 32/40⁴ – the following principles:

1. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.
2. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.
3. The judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law.
4. There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision. This principle is without prejudice to judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary, in accordance with the law.
5. Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.

4- The principles of independence of the judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which was held in Milan from 26 August to 6 September 1985. They were also adopted and made public under the United Nations General Assembly Resolutions 4032/ dated November 29, 1985 and 40146/ dated December 13, 1985



6. The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.

7. It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions.

From the above-mentioned principles, it is clear that the principle of independence is one of the most important principles that should be taken into account in a fair judiciary, and that there must be guarantees and measures to ensure non-interference in the work of the judiciary by any other authorities or powerful bodies in the State.

All of the above concepts and principles are included in the Bahraini law. Article 20 of Chapter 3 on Public Rights and Duties of the Bahraini Constitution – which was amended in 2002 – stipulates that “the right to litigate is guaranteed under the law.” Articles 104 to 106 of the Bahraini Constitution also regulate the Judicial Authority and state that the Bahraini judiciary shall be independent and may not be interfered with, no authority shall prevail over the judgment of a judge, and everything related to regulating the judiciary is conducted under the law.

Moreover, several laws that regulate the work of the judiciary were issued, including: Code of Criminal Procedure of 1966, Civil and Commercial Procedures Act promulgated by Legislative Decree No. 12 of 1971 and Legislative Decree No. 13 of 1971 on the organization of the judiciary, and finally Legislative Decree No. 42 of 2002⁵ on promulgating the judicial authority, which stipulates the same principles referred to in the principles of independence

5- Legislative Decree No. 42 of 2002 on issuing the Law of Judicial Authority



of the judiciary, enshrined in the United Nations Conference. In addition to the aforesaid constitutional articles, some texts of Bahrain's Constitution state certain guarantees and provisions related to criminal procedures, most important of which are the provisions related to the guarantees of regulating arrest, detention, imprisonment, inspection, determination of residence, restriction of freedom in residence and movement⁶, assumption of innocence, guarantees of fair legal trial, the right to litigation, and the defendant's right to an attorney⁷. Moreover, Legislative Decree No.46 of 2002 on promulgating the Code of Criminal Procedures regulates the different stages of criminal proceedings, which include the stages of collection of evidence, investigation by the Public Prosecution or by a magistrate, trial procedures, and finally contesting judgments.

Despite these constitutional articles and laws, which regulate the judiciary and litigation procedures and stages in Bahrain, the reality indicates the absence of the principle of independence of the judiciary in Bahrain, especially in cases related to politics and security or associated with the activities which oppose or criticize the

6- Article 19 of the Bahraini Constitution stipulates: "a. Personal freedom is guaranteed under the law. b. A person cannot be arrested, detained, imprisoned or searched, or his place of residence specified or his freedom of residence or movement restricted, except under the provisions of the law and under judicial supervision. c. A person cannot be detained or imprisoned in locations other than those designated in the prison regulations covered by health and social care and subject to control by the judicial authority. d. No person shall be subjected to physical or mental torture, or inducement, or undignified treatment, and the penalty for so doing shall be specified by law. Any statement or confession proved to have been made under torture, inducement, or such treatment, or the threat thereof, shall be null and void."

7- Article 20 of the Bahraini Constitution stipulates: "a. There shall be no crime and no punishment except under a law, and punishment only for acts committed subsequent to the effective date of the law providing for the same. b. Punishment is personal. c. An accused person is innocent until proved guilty in a legal trial in which he is assured of the necessary guarantees to exercise the right of defense at all stages of the investigation and trial in accordance with the law. d. It is forbidden to harm an accused person physically or mentally. e. Every person accused of an offense must have lawyer to defend him with his consent. f. The right to litigate is guaranteed under the law."



government's policy. All of the aforementioned will be confirmed through presenting some cases and situations, through which many unfair trials can be recorded, which prove the absence of the principle of independence of the judiciary in Bahrain.



مملكة البحرين
وزارة العدل
والشئون الإسلامية

Judicial Appointments



Perhaps one of the most important reasons why the principle of independence of the judiciary is absent in Bahrain and is subject to the regime, is that the system of judicial appointments is exclusively in the hands of the ruling authorities since the start of the judicial system in Bahrain decades ago, with some changes in consecutive years. The appointment of the judicial authority is exclusively in the hands of the king. He appoints the Supreme Judicial Council by a royal decree, and the judges are appointed by royal orders in accordance with Article 24 of the Law of Judicial Authority, which states, “Judges are appointed by royal decree, based on the recommendation of the Supreme Judicial Council.”⁸

The same applies to the appointments in the public prosecution. Article 58 of the Law of Judicial Authority states that “The appointing of the prosecutor general and other members of the prosecution is done by royal decree based on the recommendation of the Supreme Judicial Council...” According to the Law of Judicial Authority, the Public Prosecution is one of the integral branches of the judicial authority, and is headed by a public prosecutor. It alone advances and prosecutes criminal cases, it directs the investigation and the accusation, it is responsible for the supervision of prisons and other places in which criminal laws are implemented, and its members are subject to the Supreme Judicial Council.

It should be noted that the Public Prosecutor’s Office was established to undertake the task of public prosecution in Bahrain under the Code of Criminal Procedures promulgated by Legislative Decree No. 46 of 2002. Before the issuance of this law, the task of public prosecution was conducted by the Public Prosecution De-

8- Law of judicial Authority, Legislative Decree No. 42 of 2002



partment of the Ministry of Interior. This department was one of the security apparatuses accused of subjecting the defendants to torture, and some of its employees were transferred to the Public Prosecution. These and other reasons related to appointments make the principle of independence absent from the public prosecution and the judicial authority.

Moreover, Al Khalifa, the ruling family in Bahrain, has occupied the first rank in judicial appointments for more than a hundred years, in addition to a small number of foreign judges and some judges from other families who are often loyal to the ruling family. The following are the names of the most famous judges in the history of the judiciary in Bahrain since its establishment more than a hundred years ago, according to the website of the Ministry of Justice and Islamic Affairs⁹:

Shaikh Mubarak Bin Hamad Bin
Isa Al-Khalifa

Shaikh Mohammed bin Ali bin
Mohammed Al Khalifa

Shaikh Abdullah bin Hamad bin
Isa Al Khalifa

Shaikh Ali Bin Khalifa bin Duajj
Al Khalifa

Shaikh Duajj bin Hamad bin Isa
Al Khalifa

Shaikh Ali bin Ahmed bin Abdul-
lah Al Khalifa,

Shaikh Ahmed bin Hamad bin Isa
Al Khalifa

Shaikh Rashid Bin Khalifa Bin
Salman Al-Khalifa

Shaikh Rashid bin Mohammed
bin Khalifa Al Khalifa

Shaikh Hamad bin Abdullah bin
Ibrahim Al-Khalifa

9- See the website of the Ministry of Justice and Islamic Affairs, <http://www.moj.gov.bh/default101c.html>



Shaikh Khalid bin Mohammed
bin Abdullah Al Khalifa

Shaikh Muhammad Bin Mubarak
Bin Hamad Al-Khalifa

Shaikh Salman bin Mohammed
bin Isa Al Khalifa

Shaikh Ibrahim bin Hamad bin
Abdullah Al Khalifa

As for the appointments in the Judicial Authority in recent years – with the exception of judicial appointments in Sharia Courts where the sect is a condition for the appointment – we notice that the figures reveal severe sectarian discrimination at all levels. In fact, the figures indicate that Shiites constitute 9.7% of the total judicial appointments, and they mostly account for zero percent. The following table shows the size of sectarian discrimination in appointments in the Judicial Authority and the Public Prosecution.¹⁰

Sunnis	Shiites	Number	Job
12	0	12	Deputy Attorney General
4	0	4	President at the High Civil Court
7	0	7	Procurator at the High Civil Court
1	0	1	Judge of category (b) at the High Civil Court
3	0	3	Procurator at the Court of Cassation
9	0	9	President at the Supreme Civil Court of Appeal and attorney general
12	1	13	Procurator at the Supreme Civil Court of Appeal
24	1	25	Judge at the Supreme Civil Court of Appeal and attorney general

10- See “the Missing Justice” report, Bahrain Forum for Human Rights, July 2016



Sunnis	Shiites	Number	Job
14	2	16	President at the High Civil Court and President of the Public Prosecution of category (a)
10	2	12	Procurator at the High Civil Court and President of the Public Prosecution of category (b)
21	7	28	Judge of category (a) at the High Civil Court and President of the Public Prosecution of category (b)
3	0	3	Procurator at the High Civil Court
7	1	8	First class Assistant Adviser at the Legislation and Legal Opinion Commission
1	0	1	Attorney General at the Public Prosecution in the rank of the Procurator of the Supreme Court of Appeal
2	1	3	Judge at the Court of Cassation
9	0	9	The Chief and members of the Terror Crimes Prosecution
139	15	154	Total
	9.7%		Percentage

Moreover, when the Terror Crimes Prosecution was established by Royal Decree No. 64 of 2014 as a result of the crisis Bahrain has been witnessing since 2011, the appointments in it were from one sect. It was also the first time that members of the military prosecution were appointed in the Public Prosecution, which has a clear political significance that makes this prosecution biased, completely subject to the ruling authorities, and restricted by government views.



Thus, we can say that the most important guarantees that ensure independence of the judiciary are absent from many sections and components of the judiciary. In addition, other factors will be addressed that confirm the absence of the principle of independence of the judiciary and that the judiciary in Bahrain is controlled by the State. These factors include the executive authority's interference in the work of the judicial authority, the employment of the judiciary to prosecute anti-government activists, and making the judiciary a helping factor in the policy of impunity, which provides protection to those involved in the violations and the use of excessive force against citizens.



Interference of the Executive Authority



Perhaps one of the most important factors that limit the independence of the judiciary is the interference of the executive authority and government agencies, especially security agencies, in the work of the judicial authority and the investigations of the public prosecution, which largely applies to Bahrain.

There are many cases and evidence that confirm the interference of the executive authority and government agencies in the lawsuits and judgments, which leads to issuing many sentences against activists, politicians, dissidents, human rights activists, journalists, and others who participate and support anti-government protests in Bahrain.

At a time when opposition political societies emphasize their peaceful approach in calling for reform and change, the government used – through a media, political and diplomatic campaign of several aspects – the term “terrorism” to label all forms of protest in Bahrain, including the protests associated with political opposition and peaceful protesters.

This comes in conjunction with the uncertainty, which surrounds defining terrorism and identifying terror crimes according to the law. In fact, according to the Law on Protecting Society from Terrorism Acts, the definition of terrorism is very wide and gives those utilizing the law, the right to classify any crimes as terror crimes even if they were related to freedom of opinion and expression, which is exactly what the Bahraini government intended to do.

Here are some events and measures – taken by the Bahraini government – that directly affected the lawsuits and sentences issued by courts in Bahrain since 2012 until the issuance of this report:



1. Bahraini courts have issued many sentences against those involved in pro-democracy protests in Bahrain using the Law on Protecting Society from Terrorism Acts on the pretext of using violence or calling for violence during demonstrations. Before 2012, the majority of verdicts were issued under the Law on Public Gatherings and the Bahraini Penal Code, and although these laws received international and local criticism, the Bahraini courts escalated the situation by employing the Anti-Terrorism Law instead of protecting the exercise of rights and freedoms.

2. On July 10, 2013, the first hearings of the “Fourth Criminal Court” began. This court issued sentences in many lawsuits associated with the political movement in Bahrain, and later on many cases that were labeled as terrorism-related were referred to it.

3. In an unprecedented step, the Ministry of Interior issued a legal explanatory statement about Law No. 58 of 2006 on Protecting Society from Terrorism Acts¹¹, on Monday, July 22, 2013, saying:

“Based on the fact that the policemen are still doing their jobs in the legal frame, it is to notice that pursuant to law No. 58 of 2006 on Protecting Society from Terrorism Acts, the terrorist crime is of the felonies stipulated in the Penal Code or any other code, if its purpose was a terrorist one.” It added, “This definition is based on a

11- Bahraini Al-Wasat Newspaper, issue 3971, <http://www.alwasatnews.com/news/794970.html>



specific definition of terrorism. Terrorism means the use of force or threats to use it or any other unlawful means constituting a crime legally punishable by law, resorted to by a perpetrator for the execution of an individual or collective criminal plan, with the aim of disrupting public order or threatening the Kingdom's safety and security, or damaging national unity or security of the international community if this would result in harming persons, terrorizing and intimidating them and endangering their lives, freedoms or security or causing damage to the environment, public health, national economy or public utilities, facilities or properties or seizing them and obstructing the performance of their business activities, preventing or obstructing the government authorities, places of worship or academic institutions from carrying out their activities».

It said, "Law No. 58 of 2006 on Protecting Society from Terrorism Acts states:

Article 1:

In the application of the provision of this Law, the following words shall have the meanings assigned against each:

"Terrorism" means the use of force or threats to use it or any other unlawful means constituting a crime legally punishable by law, resorted to by a perpetrator for the execution of an individual or collective criminal plan,



with the aim of disrupting public order or threatening the Kingdom's safety and security or damaging national unity or security of the international community if this would result in harming persons, terrorizing and intimidating them and endangering their lives, freedoms or security or causing damage to the environment, public health, national economy or public utilities, facilities or properties or seizing them and obstructing the performance of their business activities, preventing or obstructing the government authorities, places of worship or academic institutions from carrying out their activities.

“Terrorist Crimes” mean the crimes provided for in the Penal Code or any other law if the purpose of committing them is a terrorist one.

“Public Properties” mean properties and movables owned by the government, public institutions or public corporate entities, which are intended for the benefit of the public.

“Public Utilities” mean the projects established by the Government or whose management is supervised thereby and the services and activities provided with the intent to achieve any of the purpose of public benefit.

“Property/Money” means all the items of value regardless of the type, description or nature thereof whether they are movable or immovable, tangible or intangible and include but are not limited to the following:

a) National and foreign currencies, bills of exchange, se-



curities, negotiable or payable instruments or endorsed for the bearer.

b) Currency notes, deposits and accounts with banks and other financial institutions.

c) Works of art, jewelry, precious metals and other property.

d) Real estate, funds and rights related thereto whether they are personal or in-kind.

Article 2:

The penalties provided for in Article (3) of this Law shall be applicable to any of the following crimes if they are deliberately committed for the implementation of a terrorist purpose:

1. Assault against persons' lives, safety or freedoms.
2. Imitating common seals and marks or forging currencies, promoting forged currencies or forging checks or any other payment vehicle.
3. Sabotage, destruction or setting fires.
4. Theft or stealing moneys.
5. Manufacture, import, possession, transport or use of conventional and non-conventional weapons, explosives or ammunition in branch of the provisions of the Penal Code and the Law with respect to Explosives, Weapons and Ammunition.



6. Trespass against information technologies automated processing systems.
7. Forging official or legal documents or the use thereof.
8. Money laundering crimes.
9. Concealing items acquired from a terrorist crime.
10. Crimes related to religions.

Article 3:

The crimes provided for in Article (2) of this Law shall be punishable by the following penalties instead of the penalties prescribed in other laws unless this Law provides for another penalty:

1. Death or life sentence if the penalty set for the crime is a life sentence.
2. Life sentence or temporary imprisonment if the penalty set for the crime is a temporary imprisonment.
3. Imprisonment for a period of no less than 15 years if the penalty set for the crime is imprisonment for a period of no less than 10 years.
4. Maximum limit of the penalty set for the crime if such penalty is imprisonment for a period of no less than 10 years.
5. The maximum limit of the penalty set for the crime shall be doubled if the penalty is imprisonment.



The previous statement was a part of the Executive Authority's policy of describing the majority of the opposing political, human rights, and media activities as terrorist activities. Although the judiciary is the competent authority to consider laws and their interpretation, the Ministry of Interior issued this statement to explain the law and asked the Bahraini judiciary to employ this law to punish dissidents and protesters.

This statement included loose legal interpretations, which can be used to describe many acts as terrorist ones, although these acts are not related to terrorism and do not harm the community, including misdemeanors and some crimes that fall under freedom of opinion and expression. This confirms the Bahraini government's intention to punish all political and popular activities and restrict the exercise of political and civil rights and freedoms.

After this statement, every action that opposes or criticizes the government's policy – including marches and rallies, which are banned by security authorities in Bahrain even in case a notification was submitted – was classified as “breach of public order” which could jeopardize the kingdom and undermine national unity.

In case some protesters tried to exercise the right to assembly, it would be considered “causing damage to the environment, public health, national economy or public utilities, facilities or properties, seizing them and obstructing the performance of their business activities, preventing or obstructing the government authorities, places of worship or academic institutions from carrying out their activities”. This is considered an unequal application of the law since it violates the basic principles relating to the exercise of rights and freedoms.



4. The issuance of the previous statement, which vowed to use the Anti-Terrorism Law, by the Ministry of Interior coincided with some steps and measures, for example, the Interior Minister met with the President of the Council of Representatives. In their meeting, they discussed changing what they called the laws that may need to be reviewed, which was an intervention by the Executive Authority in the work of the Legislative Authority. What resulted from that meeting was holding a session for the National Council, as well as other events.

5. On July 28, 2013, in an unprecedented event, a special session for the National Assembly was held with its two chambers, the appointed Consultative Council and the elected Council of Representatives, at the request of the Executive Authority. This emergency session resulted in issuing 22 recommendations, most of which can be described as a concession of powers in issuing and amending laws by the Legislative Authority to the Executive Authority. The recommendations asked the King and the Executive Authority to amend laws and issue decrees – notably decree laws to counter terrorism – take urgent measures to protect national security and stability, strip the citizenship of those who are involved in terrorist crimes and those who instigate terrorism, inflict severe punishment on all kinds of violence and terror crimes, dry up “all sources of terrorism”, ban sit-ins and rallies in the capital Manama, and take all necessary measures to impose civil security and peace. The session also called for taking legal actions against some political societies, which encourage acts of violence and terrorism, in reference to some opposition political societies.¹²

12- The recommendations of the urgent session, <http://bhmirror.myftp.biz/news/10446.html>



6. Meanwhile in August 2013, Prime Minister Khalifa bin Salman Al Khalifa made an intensive series of visits and meetings with official and private pro-government bodies in order to label dissidents with the terms “terrorism” and “terrorists”, in conjunction with a media campaign to provoke the public against dissidents and justify the tough sanctions which the Bahraini courts intend to impose on them in response to the recommendations of the National Council. The Prime Minister’s visits included:

- On August 2, 2013, the Prime Minister visited the Bahrain Chamber of Commerce and Industry, where he urged the traders to protect their trade by standing with the government’s policy of tightening sanctions against the political movement¹³.
- On August 6, 2013, the Prime Minister visited the National Unity Assembly headquarters and gave similar instructions saying, “As we foiled the conspiracy together, we have to stand together now in one trench with our loyal people to eradicate terrorism. As you supported your country before to prevent its abduction, support it today to stop terrorism through solidarity with the government in combating terrorism and toughening up punishments to protect the society from terrorism and its instigators by implementing the recommendations of the National Council.”¹⁴ In saying ‘foil the conspiracy’ he means the measures taken by the government in 2011, though those measures received international criti-

13- The Bahraini Alayam Newspaper, issue 8880, <http://www.alayam.com/newsdetails.aspx?id=55612>

14- Bahrain News Agency, <http://www.bna.bh/portal/news/574299>



cism due to many violations and abuses, including the ones mentioned in the report of the Bahrain Independent Commission of Inquiry.

- On August 16, 2013, he visited the Special Unit Camp in Safra, and stressed that “the government will not wait for a group who lack the sense of responsibility and political experience at the expense of security and national sovereignty. We have learnt enough from lessons of the past, and first of which has to be applied is eradicating any impediment to stability.”

- On August 17, 2013, he visited the members of community councils in Hamad Town, a number of deputies, and the town’s figures. The PM said in a statement that, “In Bahrain, we mostly suffer from people of sick mentalities who wear the mask of reform to execute foreign agendas.” He added, “When any of them faces a dead end, he resorts to terrorism to achieve his evil goals to break the community up without taking into consideration the history of his country and the nature of its people, who history stands witness to their historic and heroic stances in refuting conspiracies.”¹⁵

- In addition, there were other events and official statements, which coincided with the security and media campaign witnessed by Bahrain and led to the trials of many activists, some of whom will be indicated later.

7. After the aforementioned series of events and other unmentioned procedures, the authorities in Bahrain took advantage of the exceptional power granted to them for exercising the

15- The Bahraini Al-Wasat Newspaper, issue 3998, <http://www.alwasatnews.com/news/801464.html>



functions of the Legislative Authority while the latter stopped exercising its functions during the 2014 elections that took place for its reformation. On November 26, 2014, the authorities issued amendments to Law No. 58 of 2006 on the Protection of the Community Against Terrorist Acts, under Decree Law No. 68 of 2014. This decree was issued shortly before the Legislative Authority resumed its functions in its new formation.

8. On December 14, 2014, one of the first sessions of the Council of Representatives was held, and the aforementioned Decree Law was passed although it included many human rights violations to international standards.

9. Before that, on December 11, 2014, Royal Order No. 64 of 2014 was issued to establish Bahrain's Terror Crimes Prosecution¹⁶, which led to many lawsuits against political and human rights activists. The appointments in this prosecution have an obvious political implication, which can be read in the context of the current crisis as a revival of the State Security Law. Moreover, the fact that all the members of this prosecution are of one sect that supports the government completely, makes the principle of independence absent from the lawsuits and files handled by this prosecution.

After or during the above sequence of events as well as other events, political and human rights activists – some of whom will be mentioned later – were targeted, and the government filed lawsuits against anti-government political, cultural, and human rights parties. This resulted in issuing unfair verdicts against many of them

16- Bahrain News Agency, <http://www.bna.bh/portal/news/645264>



and closing some civil society institutions such as Al-Wefaq National Islamic Society, Islamic Action Society, Islamic Enlightenment Society (Al-Tawiya), and others.

All of that came at the request of the Executive Authority, and the role of the judiciary was to execute its wishes without regard to the legal procedures and the law, which guarantees rights and freedoms. This confirms the absence of the principle of independence of the judiciary in Bahrain and confirms that the judiciary is in the hands of the Executive Authority.



Prosecutions of Dissidents and Activists



Between 2011 and 2016, the Bahraini courts issued many sentences with political and human rights backgrounds, after trials that were described as lacking the standards of fair trials. A number of those trials were conducted under the Law on Protecting Society from Terrorism Acts.

Despite the human rights and political claims, which called for an impartial investigation in some of the events that the Bahraini government described as terrorist incidents, the Bahraini judiciary ignored those claims and tried the defendants in many cases under the Anti-Terrorism Law, even though the charges, such as arson and the use of violence during protests, cannot be linked to terrorism.

In many cases, the law is adapted, and the defendants are tried according to the Anti-Terrorism Law and not the Bahraini Penal Code. Article 178 of the Bahraini Penal Code stipulates that “Every person who takes part in a demonstration in a public place where at least five persons are assembled with the aim of committing crimes or acts intended to prepare or facilitate the commission of such crimes or aimed at undermining public security, even though for the realization of a legitimate objective, shall be liable for imprisonment for a period of no more than two years and a fine not exceeding BD 200, or either penalty.”¹⁷

Article 179 of the same law stipulates that “If one demonstrator or several demonstrators attempt to use violence for the realization of the purpose for which they have assembled, their action shall be deemed as a riot. The penalty for each person who knowingly takes part in such riot shall be a prison sentence and a fine not exceeding BD 500, or either penalty.”

17- The Bahrain Penal Code promulgated by Decree Law No. 15 of 1976



Although there is human rights criticism against the articles that restrict the exercise of rights and freedoms, including the aforementioned articles, the Bahraini courts ignore those articles of the Penal Code despite their direct connection to many cases related to illegal assembly and protests. In addition, they employ the Anti-Terrorism Law in many cases – even though the charges do not correspond to the law – through adapting and interpreting the law loosely and using terms as: “intention, purpose, or terrorist pretext”. Thus, the protest is transformed into a terrorist act in order to issue harsh judgments against protesters and supporters or advocates of protests.

This came with the escalation of protests in Bahrain, and the charges of most protesters, which coincided with the events of 2011, were classified as misdemeanors and judged according to the Law on Public Gatherings and the Bahraini Penal Code, because those charges were: unlicensed marches, burning tires, closing down streets, possession and use of Molotov cocktails, and so on.

In general, this type of charges constituted the highest percentage of lawsuits against protesters in Bahrain. However, due to the increasingly large number of such lawsuits in Misdemeanor Courts, the number of Lower Courts increased from 6 courts before the 2011 events to 10 courts at the end of that same year.

With the aforementioned series of events, which aimed to tighten sentences against all forms of protests and political opposition, the Bahraini judiciary and various laws were employed to punish the political movement in Bahrain, and therefore many politicians, rights activists, and journalists were prosecuted.

Before presenting some cases regarding targeting activists and pro-



testers, we will point out some principles that regulate the work of the judiciary, the legal description of the crime, and the legal adaptation of the crime. For example, the constitutional principle which states that “there shall be no crime and no punishment except under a law” prohibits a judge from creating crimes and punishments from his own, and limits his job to the application of the legal text specified by the legislator for the incident before him.

This constitutional principle is directly linked to the other constitutional principle of separation of powers, which states that every authority has a specific function. The Legislative Authority establishes laws, the Executive Authority implements laws, while the Judicial Authority applies the laws established by the Legislative Authority. This highlights the importance of the principle of separation of powers and the principle of independence of the judiciary.

In Bahrain, the Executive Authority interferes in all of that. Many facts and evidences confirm that the Executive Authority in Bahrain interferes in the work of the Judicial Authority even with respect to adapting the law. While the judge should adapt the law specified by the legislator for the incident before him, and determine the appropriate text for the punishment before him, we find that the judiciary in Bahrain adapts the Law on Protecting Society from Terrorism Acts for crimes that do not include actions and proceedings that can be described as terrorist crimes, and their punishment should be determined in accordance with the Anti-terrorism Law. The legal description of the crime is missing and the legal adaptation of the crime does not fit the legal text, especially since the Law on Protecting Society from Terrorism Acts is loose regarding the identification of terrorist acts that can be accurately criminalized, and this will be illustrated by some examples and cases.



First: Trials of Protesters



Case 1:

Mr. Yasser Khamdan from the city of Manama was sentenced on May 16, 2013 to 10 years in prison pursuant to the Law on Protecting Society from Terrorism Acts over the charge of arson, after a trial that lacked the most basic standards of fair trials. According to the charges against him, the things that he burnt are a barrel of water and a car tire, which cannot be considered – if it was proven – a terrorist act, and therefore he cannot be prosecuted under that law.

The case of Khamdan was adapted so that he is tried according to the Terrorism Law, and not according to the Bahraini Penal Code articles on illegal gathering and riot, i.e. Articles 178 and 179. This also applies to many cases in which protesters or participants in demonstrations were tried under the Terrorism Law.



Case 2:

Cleric Sayed Ahmed Al-Majed: After an unfair trial, in which physical evidence was absent, he, along with another person were sentenced to 15 years in prison under the Law on Protecting Society from Terrorism Acts on May 20, 2013. Also, seven others were sentenced to 10 years in prison over the same lawsuit. The court convicted them with the charge of establishing a group for the purpose of “disrupting the provisions of the law,” which is a loose charge that does not contain criminal acts punishable by the law and contradicts with freedom of opinion and expression.

Case 3:

On March 22, 2013, the Third High Criminal Court sentenced 16 citizens to 15 years in prison after being convicted of charges including “performing terrorist acts”. The prosecutor in the Northern Governorate, Mohammed Al-Maliki, said that the 16 citizens were convicted of “attempted murder of a number of police officers while performing their job, setting a car owned by the Ministry of Interior on fire, participating in an illegal assembly of more than 5 people in a public place with the purpose of disturbing public order, assaulting police officers, and possessing and acquiring flammable explosives.” All the defendants were obliged to pay BD 10,508 in compensation for the police car, according to the statement.



Case 4:

On June 3, 2013, the First High Criminal Court sentenced three defendants to punishments ranging between 5 to 15 years in prison under the Law on Protecting Society from Terrorism Acts. It sentenced the first defendant to 15 years, the second to 10 years, and the third to 5 years in prison over attempted murder of police officers and illegal assembly in Al-Dair area.

The prosecutor Hamad Shaheen said that the First High Criminal Court sentenced them to those punishments over charges related to the attempted murder of a public official while and due to carrying out his job, and the possession and acquisition of flammable materials. He added, according to the statement, that in December 2012 the convicts, along with others attempted to intentionally murder a public official, who is a police officer, by trying to run him over, and the impact of the crime disappeared for reasons beyond their control. He noted that they participated along with unknown individuals in an illegal gathering in a public place with the purpose of disrupting public security, and used violence to achieve the purpose which they met for, and they possessed and acquired flammable materials with the intention of using them to expose people's lives and property to danger.¹⁸

18- The Bahraini Al-Wasat Newspaper, issue 3922, <http://www.alwasatnews.com/news/777886.html>



Case 5:

On October 23, 2013, the First High Criminal Court sentenced six citizens to ten years in prison. The prosecution claimed that they committed “attempted murder of security men, burning of a patrol car, and illegal gathering” near Jidhafs area just before Seef Bridge. The prosecution said that “according to what was written in the documents, the defendants agreed with unknown individuals to attack the security patrols which are stationed near Jidhafs village just before Seef Bridge, in an attempt to kill the policemen.¹⁹”

Case 6:

On April 23, 2014, in a trial that lacked physical evidence and was based on confessions which may have been extracted under torture, the Third High Criminal Court sentenced four defendants to seven years in prison over the charges of illegal gathering and assaulting security men in Al-Dair area.

The Public Prosecution claimed that “the defendants agreed among each other using social media network, BlackBerry devices, and private meetings to get out in an unauthorized march in Al-Dair area; the protesters were about 80 people, some of whom were wearing veils, and they began chanting political slogans.” The Public Prosecution said that “another group blocked the road with stones to prevent the security forces from entering the area, while others carried stones and iron bars and used them against security officers, then fled through passages in the region.”

19- Bahrain News Agency, <http://bna.bh/portal/news/584967>



Case 7:

On February 7, 2015, the Fourth High Criminal Court, presided over by Judge Ali bin Khalifa Al-Zahrani along with the two member judges, Mohammed Jamal and Sheikh Hamad bin Salman Al Khalifa, and secretary Ahmed Suleiman, sentenced seven defendants accused of assaulting a police officer to ten years in prison, and sentenced the third defendant in the same case to three years in prison due to his young age.

The prosecution said that the defendants along with about 80 unknown individuals went out in an illegal gathering in Bilad Al-Qadeem area, and were in two groups of protesters, each group consisting of 40 people. They were carrying Molotov cocktails, iron bars, stones, and locally-made tear gas canisters, and they threw Molotov cocktails at policemen, which caused damage to a police patrol and superficial burns to a policeman's face. The defendants, from the first until the fourth, were caught through secret investigations conducted by the research and investigation officer, while the rest of the defendants were not caught.

The public prosecution said that on March 20, 2014 at night, the defendants along with unknowns, assaulted a police officer and caused him the injuries indicated in the medical report attached with the documents, during and as a result of performing his job, for purposes of terrorism. In addition, they, along with other unknown individuals destroyed a car owned by the Ministry of Interior for purposes of terrorism, participated in an illegal gathering, and acquired flammable containers.²⁰

20- The Bahraini Akhbar Al Khaleej Newspaper, issue 13469 <http://www.akhbar-alkhaleej.com/13469/article/5955.html>



Case 8:

On March 23, 2015, the Fourth High Criminal Court, chaired by Judge Ali bin Khalifa Al-Zahrani, sentenced six defendants to 15 years in prison over a lawsuit which include 31 defendants accused of attempted murder of a police officer, illegal gathering, and possession of a firearm, ammunition and Molotov cocktails. The court also sentenced 24 defendants to ten years in prison over the charges of participating with the former defendants, illegally gathering, and possessing Molotov cocktails. The sixth defendant, who has not yet turned eighteen, was sentenced to five years in prison, and the court ordered to confiscate the materials found with the defendants.

The prosecutors said in their lawsuit that a group of outlaws ranging between 300 and 400 people started an illegal assembly in Diraz area. As soon as the police started dealing with them, they responded by throwing Molotov cocktails, stones and iron bars using launchers made of fire extinguishers, and then entered narrow paths. At that time, the police officers were fired at, and three of them were injured. Investigations were conducted to uncover the participants in the incident, which led to the accused. The police arrested the fourth suspect, who admitted being involved in the incident along with the rest of the defendants, and he led the police to two shotguns he had hidden in a cemetery in Diraz, where he found 2 shots, 3 unused envelopes, 2 tear gas canisters, and 10 shotgun pellets, in addition to tools used in riots. The second defendant admitted during interrogations that he met the first defendant, who told him about participating in the assault on the police using shotguns, and brought a weapon and went near a funeral in Diraz, where he saw about 100 masked people carrying extinguishers and Molotov bottles. The first defendant asked them to split up into two



groups to throw the Molotov cocktails and then escape to lure the police into the area where the defendants, from the first until the fourth, the eighth, and the eighteenth, were hiding, and they fired at the police using shotguns.

The Public Prosecution had charged the first to the fourth defendants along with other anonymous people, on July 23, 2013 in the Northern Province police station, of killing three policemen deliberately and with prior intention. They had the intention to kill the policemen because they had prepared the weapons i.e. the shotguns, and shot them after luring them in to the place where they had set an ambush. Once they had them, they shot the policemen using many rounds, intentionally killing them with terrorism once they knew they were public figures. The crime failed and matters got out of control when the injured victims healed. Moreover, the suspects had possessed unlicensed shotguns and ammunition.

The prosecution also based its charges on the fifth to the last suspects for participating with the other four suspects – by prior arrangement and assistance – in committing the aforementioned crimes. They had arranged and assisted them by assembling and luring the policemen to the ambush and shot them. The crime occurred based on this arrangement and assistance.

The prosecution charged all defendants with partaking in an assembly of more than five people aimed at disrupting general security and possessing inflammable substances, i.e. Molotov. The court cited the grounds for judgment as the charges being one whole and do not tolerate to be separated. Therefore, it is to be considered one crime with the strictest sentence. Seeing that the sixth suspect is only fifteen years of age, and not of age, he may be provided with a



mitigating pretext. However, in actuality, there lies an aggravating factor: the victim is a member of the police, so the court favored the aggravating factor over the mitigating pretext and sentenced him to five years in jail²¹.

Case 9:

On March 25, 2015, the Fourth High Criminal Court, led by Judge Ali Khalifa al-Dahrani, sentenced four defendants to seven years in jail after being convicted of assault on four policemen during a gathering in A'ali city.

The facts of the occurrence, according to the court, detailed that at around 9:00PM, the suspects, along with around 80 other anonymous people, gathered in A'ali near Sheikh Zayed Street, and assaulted policemen and mobile patrols with Molotov bottles. The assault caused damage to one of the mobile patrols and disrupted its movement, which in turn caused its crash into the patrol in front of it. A number of policemen were injured during the accident. Due to the police's imperative investigations, they were able to reach the suspects and confiscate a number of the bottles in an abandoned house as stated by one of the suspects.

The Public Prosecution had charged the suspects with:

Assaulting the bodily safety of 4 police members due to and during performing their duty, which led the police members in question to

21- Bahraini Gulf News Newspaper, issue no. 13514, <http://www.akhbar-alkhaleej.com/13514/article/13377.html>



be ill or impotent to perform personal tasks for more than 20 days, with a terrorist aim.

Deliberately damaging two police patrols owned by the Interior Ministry.

Participating in an assembly of more than 5 people.

Possessing flammable bottles²².

Case 10:

On May 15, 2015, the First High Criminal Court, presided over by Judge Sheikh Mohammad Bin Ali Al Khalifa, membership of judges Diya'a Hareidi and Saber Jomaa, and Secretariat under Najji Abdullah, sentenced a suspect accused of burning property owned by the Interior Ministry, rallying and possessing Molotov with 5 years in prison and a 300 Dinar fine for the damage.

The case's hearings cited a notice that stated that a corporal deputy of the special security forces was on duty dealing with a fire near Al Shabab Avenue in the Juffair area. After half an hour, he received information of a group of people causing a fire near Al-Nasr club. He went there with a number of security forces, only to be surprised when they arrived to find around 30 people confronting them with Molotov cocktails; which resulted in a patrol to be set on fire. They were handled with and dispersed, then they ran away. The suspect was apprehended during investigations.

22- Bahraini al-Bilad Newspaper, <http://albiladpress.com/article2827871-.html>



The Public Prosecution charged the suspect with arson, on August 2, 2013, with other unknown individuals, on the property of the Interior Ministry, described and detailed in documents. The crime was for terrorist purposes aimed at endangering people and their money. The suspect also participated with others in a rally held in a public place of more than five people, and the purpose was to disrupt general security. They used violence to achieve the purpose they rallied for. In addition, the suspect had also carried inflammable substances with others to endanger people's lives and public and private money²³.

Case 11:

On May 22, 2015, the Third High Criminal Court, presided over by Judge Ibrahim al-Zayed, membership of judges Wajih al-Shaer and Bader al-Abdullah and General Secretariat Youssef Bouhardan, sentenced a suspect to 8 years in prison and a 500 Dinar fine for possession of a fire weapon, rallying and assaulting security patrols. They also sentenced the five perpetrators who participated in the rally and possession of Molotov to three years in jail.

The prosecution panel said in the case hearings that a group of vandalers and outlaws had left the area and attacked security patrols based near Diraz roundabout on October 14, 2014. The group threw Molotov cocktails on them, but the force dealt with them and was able to disperse them. Investigations pointed out to the accomplices

23- Bahraini Gulf News Newspaper, issue no. 13563, <http://www.akhbar-alkhaleej.com/13563/article/22117.html>



in the occurrence, which in turn led to the six suspects, and they were apprehended. The first suspect confessed in the proceedings to participating in the occurrence and carrying a weapon he disclosed its hiding place.

The second suspect confessed to have done what the first perpetrator had done and admitted to have joined suspects three to six. However, a forensic report confirmed that the weapon caught with the first suspect was a locally made and ready-to-use shotgun. When forensic investigation was conducted, it showed that four of the perpetrators were formerly convicted with similar cases.

The Public Prosecution charged the first perpetrator of carrying and possessing an unlicensed weapon according to the Ministry of Interior. While it charged all suspects to have participated on 14/10/2014 in a rally of more than 5 people with other unknown individuals, aimed at disrupting general security and endangering people's lives and money with violence to achieve the goal they gathered for. They carried and possessed inflammable bottles of Molotov with intention of use to endanger people's lives and public and private money²⁴.

Case 12:

On May 29, 2015, the Fourth High Criminal Court, presided over by Judge Ali al-Dahrani, membership of Judges Hamad Bin Sal-

24- Bahraini Gulf News Newspaper, issue no. 13573, <http://www.akhbar-alkhaleej.com/13573/article/23971.html>



man Al Khalifa and Mr. Mohammad Ezzat, and General Secretariat Ahmad al-Suleiman, sentenced five defendants to 15 years in prison and others to 5 years after accusing them of burning and injuring a police officer in Janabiyah.

The Public Prosecution claimed that people who rallied set 4 tires on fire on Janabiyah Street and blocked off the street's entrance. When the police arrived, the defendants threw inflammable bottles, which led to a burning patrol and burn injuries of two police officers.

Case 13:

On April, 28, 2016, the Fourth High Criminal Court, presided over by Judge Rashed Bin Hamad Al Khalifa and membership of judges Osama al-Shazele and Wael Ibrahim, passed judgment to 30 suspects in a bombing and rally in Diraz during 2014.

The court acquitted one suspect, ruled a life sentence for eight individuals and revoked the nationality of one of them, five years in prison for 20 perpetrators, as well as a 3,000 Dinar fine for one suspect and a 10-year sentence and revocation of another suspect's nationality.

The Public Prosecution charged the first and sixth defendants with bombing in 2014 aimed at endangering people's lives and money and terrorizing security. It also charged them with the acquisition and possession of unlicensed fireworks for purposes of terrorism. They used fireworks in a manner that endangered people's lives and money.



Moreover, the Public Prosecution charged the 8th, 20th and 29th suspects with acquisition and possession of unlicensed fireworks for purposes of terrorism. They used fireworks in a manner that threatened people's lives and money.

The Public Prosecution also accused the first suspect of practicing the use of fireworks to commit terrorist crimes. It charged the 30th defendant of practicing the use of weapons and fireworks to aid him in committing terrorist crimes. The 21st suspect was charged with promoting criminal actions for purposes of terrorism. Defendants 1 to 27 participated with other unknown people in a rally of more than 5 people for the purpose of committing crimes and disrupting general security through violence to achieve the purpose they gathered for.

The Public Prosecution's accusation regarding defendants 1 to 27 included acquisition and possession of inflammable and combustible bottles and its use to endanger people's lives and money. Also, they deliberately damaged, with other anonymous individuals, property of a men's barber shop in Diraz, and consequently threatened people's lives and security for purposes of terrorism.

Authorities claimed that during 2014, the second suspect asked the first to prepare an explosive to be detonated in Diraz, so the latter asked suspect 18 for it, and the suspect delivered it to the first suspect. The first, second and third perpetrators then went to an abandoned house and prepared the explosive, connected it to a mobile phone then planted it near a men's barber shop. More than 30 people then gathered to lure in policemen who came to the scene, and the third suspect blew up the explosive and all suspects had a hand in.



The authorities claimed that it had established the defendants' participation in the occurrence through investigations that confirmed the suspects' preparation of an explosive device and its connection to a mobile phone, which led to damages in the barbershop.

In regards to the exoneration of one of the defendants, the court mentioned in its ruling that documents did not point out to the exonerated defendant. Investigations supported the claim and indicated that the defendant was among the other perpetrators. This matter was the only one the court was not convinced of²⁵.

Case 14:

On August 26, 2016, the Court of Appeal ruled a lessening of 17 appeals regarding cases of rallying and possession of Molotov. It sentenced them to two years instead of three years in prison, and rejected two other appeals after the legal deadline of the appeal passed. The High Criminal Court convicted in this case 22 defendants ranging between the ages of 15 and 26 to 3 years in prison.

Authorities claimed that around 150 individuals partook in a demonstration on the first of December, 2014 secretly. While “dealing with them”, two police officers were injured. However, authorities said that it reached suspects through “confidential sources”²⁶.

25- Bahraini al-Wasat Newspaper, issue no. 4893, <http://www.alwasatnews.com/news/1108288.html>

26- Bahraini Gulf News Newspaper, issue no. 14035, <http://www.akhbar-alkhaleej.com/14035/article/37564.html>



Case 15:

On August 29, 2016, the High Criminal Court sentenced five defendants to five years in prison and six others to three years on charges of setting tires on fire in Al Markh area.

The court mentioned in its judgement that the six suspects, as they are 15-year-olds and are not of legal age, their sentences were reduced according to articles 70 and 71 of the Penal Code. The other suspects were treated with mercy in the limits that article 72 of the Penal Code allows.

The court convicted the defendants on charges of setting tires on fire, indicating that they “deliberately set fire to properties, which endangered people’s lives and money, and participated with others in a rally and acquired Molotov cocktails.”

Case 16:

On September 3, 2016, the High Criminal Court sentenced six defendants to 7 seven years in prison and another to three years and a fine of 500 Dinars, as well as an added two years to the seven years to become 9 years in total. It also closed a criminal case against another suspect due to his death and confiscated his properties.

The court convicted the suspects for participating with other unknown individuals in a rally of more than 5 people, setting fire to a



number of tires for purposes of terrorism, as well as acquiring and possessing inflammable bottles.

The prosecution panel claimed that the defendants and other anonymous individuals gathered on the main road near Safar roundabout in Bouri area at around 1:55 pm “to disrupt general security, threaten the lives and security of citizens and assault police officers. They had a number of inflammable bottles, Molotov, a number of car tires, a fuel canister and an oil canister. To achieve their aim, they headed towards the main road and poured oil on the road on both sides, laid a number of tires on the street, then set them on fire by the Molotov bottles they had to disrupt security, obstruct traffic and transportation and create chaos in the state. When the second witness passed by in a security patrol, he saw burning tires and around 15 of the people who assaulted him and his companions with stones. He and his escorts dispersed them until they ran away.”²⁷

Authorities said that it had reached the suspects through investigations, adding that the fourth suspect died abroad.

The aforementioned were a few cases that represent tens of cases that the judicial system in Bahrain dealt with. These are only samples of trials issued between the years 2013 to 2016, and there are hundreds of daily cases that take place to this day.

27- Bahraini al-Wasat Newspaper, <http://www.alwasatnews.com/news/1155675.html>



We notice how terms such as deliberate, purpose, aim, pretext, etc. were used against the suspects who participated in the demonstrations despite the absence of concrete evidence, and turn a demonstration into a terrorist crime, in order to aggravate the accusations against the protesters, while the authority believes that it will be the final prevention to the demonstrations.

It is noteworthy to mention that the Bahrain Forum for Human Rights and other Bahraini human rights organizations refuse violence and terrorism whatever the source. However, due to the impartiality in investigations of security authorities and public prosecution in cases related to security issues in the state; human rights organizations impugn most facts that suspects are accused of, described as homicidal or terrorist crimes. This is particularly true in the absence of the independence of Bahrain's judicial system and the issue of judicial rulings with the lack of concrete evidence, which was what the prosecution confirmed in numerous cases presented. Moreover, the judicial system presented cases with evidence extracted from confidential investigations and anonymous witnesses and relied on confessions believed to be taken under duress, especially when the Interior Ministry's account in many cases proved invalid, including cases that the Bahrain Independent Commission of Inquiry investigated in.

Many cases were directly related to the ongoing protests taking place in some regions in Bahrain due to the current political crisis that called for democratic reform. If the involvement of some protesters in acts of violence as a result of clashes with police officers could not be proved, it is unacceptable to reshape this clash or use violence as a pretext for murder or terrorism. This is chiefly true if the demonstrations carry certain demands, which is the case for most protests.



If basic assurances for fair trials had been available, in light of legal reshaping of crimes, judgement of cases stipulated by the Penal Code would be considered a felony or crime, but not that of terrorism. Although most of these cases cannot be described as crimes for its relation to the political and rights movement in Bahrain, it must be categorized in the practices directly linked to the freedom of assembly and freedom of speech.



Second: Trials of Diraz Protest Dissidents



Furthermore, among the cases linked to the practice of freedom of speech and right to assembly that the Bahraini government bans since March 2015, tens of religious figures, preachers and political and rights activists were summoned by security authorities. These summons were based on the protests in Diraz outside Sheikh Isa Qassim's house, which have been staged since Sheikh Isa's citizenship revocation on June, 20, 2016. In this light, Bahraini courts issued rulings against a number of activists who participated in the rallies. Among these cases are the following:

- On Saturday July, 30, 2016, security authorities apprehended Sayed Majid al-Mashaal, Chairman of the Shiite Olama Council, from his house. He was charged with accusations regarding rallying and incitement to break the law. After a trial that lacked the standards of fair trials, the Third Minor Criminal Court sentenced Sayed al-Mashaal on August 31, 2016, to two years in prison, while it ruled the detention of two other



religious figures: Sheikh Aziz al-Khadran and Sayed Yassine al-Moussawi, each for a year. Later on, on October 6, 2016, the same court sentenced Sayed al-Mashaal to one year in jail on grounds of rallying in Diraz; the total of his sentence three years.

- On October 6, 2016, the Third Minor Criminal Court sentenced both Sheikh Fadel al-Zaki and Sheikh Mohammad Jawad al-Shahabi to two years in prison on grounds of rallying in Diraz. The court's ruling was taken based on the prosecution's account stating that on 18 and 19 July, 2016, they participated in a rally of more than 5 people that took place in public. The prosecution said that a report was received of a gathering outside Sheikh Isa Qassim's house. The people who gathered proceeded in an unlicensed march, chanting against the political regime, among them al-Zaki and Jawad. In another incident also regarding a gathering in the same place, al-Zaki and Jawad were there shouting slogans against the regime, carrying pictures of Sheikh Isa Qassim and obstructing traffic.

- On August 14, 2016, security authorities apprehended Doctor Taha al-Darazi after investigating with him to stand in the Public Prosecution. Later that day, religious figure Mulla Hani Ali Ahmad al-Baladi was also apprehended to stand in the public prosecution. It was decided that they be taken into custody for 15 days for further investigation. On August 23, 2016, the Ninth Minor Criminal Court charged them with rallying, based on their participation in a rally held in public that consisted of more than 5 people on July 19, 2016. Al-Darazi and Mulla Hani denied all charges. Al-Darazi's at-



torney Qassem al-Ferden attended, while Mulla Hani's attorney Youssef Rabie attended and both demanded their clients' release. Al-Darazi is a brain and neurosurgeon, considered a rare specialty in Bahrain, and he was scheduled to perform a number of operations for patients that were postponed due to his incarceration. The court decided, in this light, to release them with a bail of 200 Dinars until the trial date.

- On September 21, 2016, The Third Minor Criminal Court sentenced Sheikh Ali Naji, Sheikh Imad al-Sho'la and Sheikh Mounir al-Maatouk to one year in jail after being convicted with rallying in Diraz. The Public Prosecution had accused them to have participated on July 16, 2016 with other unknown individuals in a rally of more than 5 people, aimed at disrupting security, referring to the demonstration taking place in Diraz, outside Sheikh Isa Qassim's house since the revocation of his citizenship on June 20, 2016.

- The Defence panel based accusations on a report of a rally of around 170 individuals. A group of this rally proceeded in a spontaneous procession while holding Sheikh Isa Qassim's pictures and chanting political slogans. This occurred around Sheikh Isa Qassim's house in Diraz, and caused the obstruction of traffic and people's livelihoods.

- In the same context, the Third Minor Criminal Court sentenced 19-year-old university student Mr. Habib Abbas Moftah to two years in prison on two charges of rallying in Diraz. The Public Prosecution said that on June 25 and 26, he participated in a public place of more than 5 people. The details of one of the two cases described authorities receiving



a report of a rally of 700 people outside Sheikh Isa Qassim's house; the suspect had been among them²⁸.

- On August, 30, 2016, the court ruled the imprisonment of preacher Sayed Ali Ahmad al-Moussawi for a year on charges of participating in a protest in Diraz.

- Moreover, August 31, 2016, the court sentenced TV and artistic director Yasser Nasser to one year in prison on grounds of participation in the Diraz protest.

In addition to other numerous cases that were or are, legally prosecuted based on the practice of the freedom of assembly in Diraz outside Sheikh Isa Qassim's house in protest to his prosecution after revoking his Bahraini citizenship.

The aforementioned cases and incidents are examples of how articles 178 and 179 from the Bahraini Penal Code were applied²⁹. They were aimed at targeting political activists and Shiite religious figures, who had refused the government's policy in cases related to political and religious leaderships and events, such as Sheikh Isa Qassim, the spiritual leader of the Shiite majority in Bahrain. Despite the ongoing gathering in front of Sheikh Isa Qassim's house and hundreds being banned throughout the day, the public pro-

28- Bahraini al-Wasat Newspaper, issue no. 5129, <http://www.alwasatnews.com/news/1161264.html>

29- Article 178 from Bahrain's Penal Code issued under legislative law no. 15 of 1976: "Every person who take part in a demonstration in a public place where at least five persons are assembled with the aim of committing crimes or acts intended to prepare or facilitate the commission of such crime or aimed at undermining public security, even though for the realization of a legitimate objective, shall be liable for imprisonment for a period of no more than two years and a fine not exceeding BD200, or either penalty." Article 179 of the same law: "If one demonstrator or several demonstrators attempt to use violence for the realization of the purpose for which they have assembled, their action shall be deemed as a riot. The penalty for each person who knowingly takes part in such riot shall be a prison sentence and a fine not exceeding BD 500, or either penalty."



ecution is only concerned with reports of a rally of more than 5 people aimed at disrupting security and breaking the law. This is regardless of the peacefulness of the gatherings that hold legitimate demands and rights of practicing the freedom of speech and right to assembly.

Third: **Activists' Trials**



Since 2011, Bahrain's courts flooded with tens of cases that prosecuted political and rights activists and journalists, due to their dissident activities and policies that demanded change and reform. The following are a few of the activists' trials:



Sheikh Ali Salman

He is the Secretary General for the al-Wefaq Islamic National Society, the largest political association in Bahrain. He was summoned many times between 2011 and 2014 due to his political activities, and was banned from traveling more than once. On the morning of December 28, 2014, he was arrested by an order from the Public Prosecution. This was at the same time that a statement from the Interior Minister was released to legally prosecute Sheikh Ali Salman two days after he was re-elected as Secretary General of al-Wefaq Society. He was re-elected for his stance on holding the government accountable and founding a democratic regime. The Prosecution referred him after a while to the Fourth High Criminal Court that had issued its initial ruling to 4 years of imprisonment on Tuesday June 16, 2015. On March 30, 2016, the Supreme Court of Appeal raised the sentence to 9 years, despite the absence of concrete evidence that would prove the charges pressed against him. Furthermore, the evidence the prosecution panel based its grounds on, only proved his innocence if not for its omission, distortion and use in an unlawful manner³⁰.

30- Refer to the report of Sheikh Ali Salman's trial issued by Bahrain Forum for Human Rights, December 2015



Ibrahim Sharif al-Sayed

He is one of the most distinctive opposition leaders in Bahrain, and the former Secretary General of the National Democratic Action Society (Wa'ad). He was released on June 19, 2015 after serving over four years in prison after being convicted of charges relating to freedom of speech and expression. After his release, he was rearrested on July 11, 2015 on grounds of a speech he made in al-Muharraqa city in a memorial for a victim of one of the protests (Husam Mohammad Jassem al-Haddad, 16-years-old), because he criticized the government's policy and described it as a failure.

The Public Prosecution charged Sharif of “promoting and preferring to change the country's political regime in illegal means by calling on, in a speech he made in a public event, for a revolution against the regime. He called for the confrontation of the legitimate authority and sacrifices that could lead to death in order to reach a change in the state's current regime, which is considered against the constitution and the law.” It also charged him with “publically inciting hatred and disdain of the regime. He accused the regime to have marginalized, discriminated and stole the rights of a group of people in society. He constantly called to carry on the movement and change the ruling regime depicted by the constitution.”



Sharif's criticism of the government was legitimate and a practice of freedom of speech and expression, because he demanded political reform in peaceful manners. However, the Public Prosecution interpreted the speech and criticism that Sharif addressed to the government in a way that is illegal and violates the freedom of speech and expression. His arrest led to broad global reactions demanding his release. But after an unjust trial, the Fourth High Criminal Court sentenced him on February 24, 2016, to a year in prison on charges of inciting hatred of the regime. He was exonerated of promoting to change the regime forcefully.



Fadel Abbas Mahdi

He is the former Secretary General of the Democratic Unity Gathering Society (al-Wahdawi). He is also a writer, a journalist and one of the known political oppositions in Bahrain.

He was arrested on March 27, 2015, and the Prosecution had decided to detain him at the time.

“The Prosecution, having been done with its investigations stated by the General Administration for Criminal Evidence Investigations, concluded that the General Secretary of one political organization – al-Wahdawi – had released a statement for the Society in the media, criticizing the mili-



tary procedures that Bahrain is currently conducting alongside a number of neighboring countries, in order to restore legitimacy and stability in Yemen, which aims at showing suspicions in the validity and legitimacy of the Kingdom's political stance and warfare," the General Attorney Wael Bu Alai stated.

The defendant was referred to the Fourth High Criminal Court, while the Deputy Secretary General and his assistant were released after the suspect retracted his attestation and decided that he drafted and released the statement alone. Bu Alai added that "the Prosecution charged the suspect with the felony of broadcasting false rumors that deliberately provoke at a time of war and inciting propaganda aimed at damaging the armed forces' war operations, as well as publically slandering neighboring countries. This is a felony that is punished by imprisonment that could reach 10 years³¹."

In the trial's hearing on May 21, 2015, Fadel Abbas said, "The issued statement I am being tried for, is issued by a licensed political society according to the law. The statement represents the society itself, not the Kingdom of Bahrain. Moreover, it was issued before 10 o'clock in the morning, and no statements regarding Bahrain's participation in the war on Yemen was released at that time. Also, there were not any military measures that we knew of."

31- Bahraini al-Wasat Newspaper, issue no. 4640, <http://www.alwasatnews.com/news/993331.html>



Despite the statement that represents a political opinion in the decision of war on Yemen and does not apply to the charges that the Public Prosecution led to believe; the law was reshaped in a balanced way. The court sentenced him on June 28, 2015 to prison for five years on charges of broadcasting false news and rumors at a time of war. On October 26, 2016, the Supreme Court of Appeals reduced his sentence from five to three years.



Sayed Jamil Kazem

He is a former Member of Parliament and an official in al-Wafaq National Society. The Criminal Court sentenced him to 6 months in prison and a 500 Dinar fine on charges of “disrupting and disturbing the freedom of elections by broadcasting false sayings to influence the elections.” These charges were based on a tweet he posted on Twitter, where he criticized the use of political funds in elections, in an indication to the parliamentary elections of 2014. Although his tweets were based on facts he attempted to prove in court, the court ignored the facts and defense witnesses, only to issue its ruling of imprisonment and a fine.



Majeed Milad al-Jaziri

He is an official in al-Wefaq National Society, a municipal member in the capital since 2002 and President of the Municipal Council since 2006. Up until his reassignment to a certain council based on a political decision in 2014, he was arrested on July 1, 2015. The first court session decided on July 13, 2015, to charge him with incitement to break the law.

When statements of the Public Prosecution and Defense Panel are looked into, the Public Prosecution and court's violations and lack of abiding the Penal Code are displayed. The Bahraini capital's Public Prosecutor Mohammad Abdullah stated that the Public Prosecution has done its investigations in the report it received from the capital's Police Bureau, which included the participation of an individual in a public seminar and publically inciting to break the law, especially in regards to organizing processions and not committing to legal regulations. The Public Prosecutor added that "the suspect was referred to the Criminal Court, and a court session date July 13, 2015 was set to deliberate the case at the Fourth Minor Criminal Court." He also added that the Public Prosecution had already begun its investigation in this incident. It had interrogated the defendant and confronted him with statements mentioned in his recorded speech. The Prosecution demanded that he be detained after being accused of public incitement to break the law.



On another note, the attorney had stated on behalf of Milad Sayed Abdullah al-Shamlawi that “our client was detained as a result of a speech he made. The capital’s police summoned him and asked him about some of the issues he tackled in his speech. He stayed until morning and was referred to the Public Prosecution. They informed us that investigations with our client will begin at nine o’clock in the morning, but did not actually start until four in the afternoon, although we were in the month of Ramadan. It is known in criminal jurisprudence that prolonging an investigation is a form of duress.”

“Even if all legal assurances cited in the constitution and article 14 of the International Covenant on Civil and Political Rights were available, merely prolonging the duration of the investigation with the suspect is considered defective because it is a form of coercion,” he said.

“The Public Prosecution accused Milad of two charges; the first is public incitement to breaking the law and the second is incitement to hold disdain towards the regime. However, our client denied both charges. Then, after a long wait, the Defense Panel and Majeed Milad were informed of his detainment for a week by orders from the Public Prosecution,” al-Shamlawi stated furthermore.

Al-Shamlawi commented on the Prosecution’s decision, stating that his case should have been shown to the Public Prosecution so it would deliberate whether it would release him or decide to renew his time in custody. However, the Public Prosecutor’s General Secretariat informed the De-



fense Panel that Majeed Milad will not stand in the Public Prosecution because he was referred to the Fourth Minor Criminal Court under custody. After other revisions, it turned out that the referral and charges were only limited to incitement to breaking the law, and July 13 was set as the first court session. All this occurred without the knowledge of the defense attorney or the defendant.

The trial – that lacked the standards of fair trials – carried on until November 11, 2015, where the court sentenced him to two years in prison after indicting him for incitement to break the law. This happened although all he did was encourage the audience in the seminar to continue in peaceful means and carry on with protests and demonstrations in the street. This is the fate of every person who calls for practicing the right to assembly.



MP Khaled Abed al-A'al

He is an independent member of the Bahraini Parliament. Although he has parliamentary immunity, the First Minor Criminal Court sentenced him to one year in jail on May 27, 2015 on charges of slandering the Interior Ministry based on tweets he posted on Twitter. He had allegedly criticized the Interior Ministry on its practice of torture and maltreatment, as well as other cases.



The Public Prosecution said in a statement it released that the case was opened due to a report received from the Cyber Crime Directorate that mentioned the MP posting statements of slander to the Ministry of Interior Affairs. A First lieutenant in the Cyber Crime Directorate decided, with the knowledge of the Public Prosecution, that he conduct investigations on the account on which the tweets were posted. The tweets accused the Interior Ministry of fabricating events to detain innocent people, and that people are being tortured to coerce suspects into confessing to charges. The tweets also included implications of the Ministry's attempts to create sectarian division. Investigations confirmed that the account is the MP's official Twitter account.

According to the case's documents, the former MP Abed al-A'al confessed to the Public Prosecution that he is the owner of this account and that he posted tweets himself. He said that his goal was not to slander the Interior Ministry, but to criticize some of its actions. The Prosecution charged him during April 2014 with slandering the Ministry of Interior in a public medium, and the court sentenced him to one year in prison. This ruling was supported by the Second High Criminal Court on February 2, 2016³².

32- Bahraini al-Ayyam Newspaper, <http://www.alayam.com/alayam/Courts/556884/News.html>



Mohammad Mahdi al-Akari

He is a political activist and a member of al-Wafaq Shura Council. He was arrested in Manama on January 4, 2015 by security forces that were deployed in the area to stop protests that activists called for on social media, after the arrest of al-Wafaq Secretary General Sheikh Ali Salman.

Al-Akari stated that he was passing through Manama streets near security forces that were interrogating passers-by to stop people's gatherings and protests. He was then arrested, painfully cuffed, and they squirted pepper spray on his eyes. He was beaten up and kicked and he was insulted and cursed. After putting him in a security vehicle, they squirted pepper spray on his eyes and mouth again. Then after two days of his arrest, he was referred to the Public Prosecution that ordered his arrest under custody for seven days for investigation on charges of rallying and rioting to damage public and private properties. This is despite the absence of any demonstration or gathering at the time he was arrested.

He then stood in court on January 21, 2015, by which he was sentenced to six months in prison for the same charges the Public Prosecution accused him of. This was on the second session of his trial, and his attorney was not allowed to present his defense. On June 14, 2015, the Court of Appeals decided to release him with a secure residence while



the trial continues, although there was only a few days of his sentence left.



Sayed Ahmad al-Moussawi

His is a professional photographer with 127 international awards in photography from numerous organizations such as The International Federation of Photographic Art (FIAP), the Photographic Society of America (PSA) and United Press International (UPI). He is also a member of these organizations and others related to journalists.

Due to his activities in covering protests in Bahrain since 2011, security forces arrested him on the dawn of February 10, 2014, along with his brother Mohammad al-Moussawi of 22 years old, after raiding their house in Diraz. Civil agents and security forces had their house thoroughly searched. Ahmad's photography equipment was confiscated as a result. Forces then took him and his brother to an unknown place, later revealed to be the criminal investigations building according to a phone call they made to their family hours after their arrest. The matter that made the brothers' arrest arbitrary, was that an arrest warrant was not issued for Sayed Ahmad, but he was coincidentally present in his house at the time of the raid, and his brother was beaten during his arrest.



After five days of his arrest, his family stated that he was tortured and abused the whole time he was interrogated. He complained of being electrocuted in his whole body, hanged, stripped of his clothes and forced to stand up for long hours for four days blindfolded while being hit in sensitive areas of his body.

Al-Moussawi was held in custody many times for 10 months, and he was accused after being referred to court of supporting protesters by providing them with sim cards, seeing that he works in a telecommunications company, and covering protests and demonstrations opposing the government.

On November 22, 2015, the court sentenced him, under the law that protects society from terrorist acts (the law on terrorism), to 10 years in prison, and ruled the revocation of his citizenship, along with others.



OTHER CASES

These cases come alongside many other similar cases, to be mentioned below as examples:

- Nabil Rajab, the president of The Bahrain Centre for Human Rights and founding director of Gulf's Centre on Human Rights. He also occupies the post



of Deputy Secretary General of the International Federation for Human Rights. Nabil was arrested many times, and he was charged legally twice for practicing the freedom of expression and speech. To the moment this report is issued, Nabil Rajab is currently held under custody during his trial after he was arrested in his house on June 13, 2016 on charges of broadcasting false news and rumours on the domestic situation as an attempt to slander Bahrain. These charges were based on statements Rajab presented during televised interviews since the beginning of 2015 up to the moment of his arrest in June 2016.

- Sheikh Hassan Isa, a former Bahrain MP, and among the people who resigned from the Parliament due to the violations that the Bahraini government practiced in 2011. He was arrested on August 18, 2015, due to his political, religious and social activities, including financial aid that he offered poor families. The Public Prosecution charged him with “funding terrorism by allotting cash amounts to wanted terrorists, as well as others who participated in terrorist acts.” Sheikh Hassan is still detained under trial, although he denied all charges against him.

- Hamid al-Khatem was arrested from his house in Samaheej on July 25, 2016. Authorities accused him of tweets he posted on twitter that allegedly slandered the king. This accusation is directed to many twitter users in Bahrain. The court sentenced him to two years of prison effective immediately on August



31, 2016, on charges of insulting the King and inciting hatred of the regime.

- Taybeh Ismail, who was sentenced to one year in prison and a fine of 1000 Dinars on August 31, 2016, for tweets she posted on twitter, causing accusations against her of slandering the King and inciting hatred against the regime³³.

The aforesaid cases, as well as many other similar cases that Bahraini courts are infested with, merely portray Bahrain's failure in committing to its legal obligations related to the practice of rights and political and civil freedoms, as well as its failure in achieving the principle of judiciary independence and fair trials. According to all the cases given, it is evident that the legal arrests and harassments are arbitrary as a result of practicing political and human rights, recognized by international laws and Bahraini legislations.

When looking into the legal articles in the Bahraini law and constitution, the International Declaration on Human Rights, and the International Covenant on Political and Civil Rights; it would be evident that the true goal of these legal pursuits and indictment of many activists is an unjust punishment to political, rights, and media activities that opposes the government's policy.

Although Bahrain had received many recommendations; whether from the Bahrain Independent Commission of Inquiry, also known

33- More cases related to the judicial prosecutions of journalists and politicians on charges of tweets; refer to a report for the Bahraini Journalists Association, <http://www.bahrainpa.org/?cat=5>



as the Bassiouni Commission, the Human Rights Council, the High Commissioner for Human Rights, or other organizations, especially regarding the laws that limit the freedom of expression and speech; Bahraini courts continue to apply laws in an inadequate way to limit rights and freedoms, using it as a tool to punish activities held by the opposition of the government and its policy.

For example, the Bahraini Independent Commission of Inquiry recommended to make the Bahraini laws more compatible with international covenants and charters in the field of human rights, mainly the freedom of speech and expression.

In turn, the Bahraini government said that the amendments to the Penal Code by updating article 69 bis³⁴, shall be executed with integrity based on these recommendations, and adding this article shall be considered the qualitative move undeniably differentiating between crime and freedom of speech and expression.

However, when displaying the accusations in the cases mentioned in this report and other cases that the Bahraini judiciary deals with; mainly the charges pressed against Sheikh Ali Salman, Ibrahim Sharif, Jamil Kazim, Majeed Milad, and Fadel Abbas etc; and the statements the accusations were based on and their application; it indicates the opposite of what the government claims in differentiating between crime and freedom of speech and expression.

The judgement that article 69 bis stipulates, when rightly applied, forms an essential factor in understanding organizational or puni-

34- Article 69 bis of Law no. 51 of 2012, with amendments on the Penal Code issued by law no. 15 of 1976: "Restrictions defined in this or any other law on the freedom of expression shall be construed as limited to those which are compatible with the values of a democratic society. The exercise of the freedom of expression can only be punished through restrictions that are so limited."



tive legislations related to freedom of speech and expression. The judicial system is not allowed to interpret a meaning incompatible with this factor.

The concept of a democratic society that article 69 bis specifies is a concept defined in a frame that distinguishes it from others. It is a concept that expresses a state of tangible external appearance. This frame is within minimum threshold that when achieved, we would live in a democratic society. However, when neglected, we would live in a non-democratic society.

If practicing political actions and adopting and broadcasting political opinions through the freedom of speech and expression through political speeches, statements, seminars etc. are the main components of a democratic society, interpretation otherwise should be prohibited.

Bahraini courts' inadequate use and adaptation of the law, incompatible with the charges the suspects were accused of, makes it an unfair court. It does not respect rights and freedoms depicted in international laws and Bahraini legislations, although Bahrain had ratified the International Covenant on Civil and Political Rights in 2006. It is subsequently obliged by article 2 to respect the rights mentioned in the Covenant³⁵. However, the disregard of Bahraini courts is noticed through the cases of violations and absence of

35- Article 2 of the International Covenant on Civil and Political Rights stipulates: "1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant."



assurances that guarantee citizens the rights and freedom of speech and expression.

Fourth: Civil Society Trials (Example: Dissolving al-Wafaq Society)



Just as the judicial system in Bahrain practices laws and regulations to punish activists and dissidents, it also punishes the civil society's organizations by practicing the same laws and regulations, despite its incompatibility with international laws. For example, the law of political associations³⁶ places extreme restrictions on the work of the civil society institutions. It intervenes with the affairs of civil and political associations in a manner that violates the right to founding associations and non-governmental organizations protected by the International Covenant on Civil and Political Rights,

36- Law no. 26 of 2005 on political associations



and that of social and economic rights. In addition, the judicial system supports the government in its policy that violates the work of civil society organizations and takes on the role of executing the government's policies and wishes. Also, the law on political associations violates political work in Bahrain instead of organizing political associations and civil society organizations to protect the right to practice political activities. It puts many restrictions depicted in international and local laws. This law provides governmental authorities in Bahrain the power to prohibit political work, stipulating that opposition associations violating the 2002 constitution shall not be registered or shall be suspended. Although the amended 2002 constitution brought about a lot of controversy for being an amended constitution that was ratified by the king without any legislative procedure that promises the people's approval.

The law on political associations was exploited by the Bahraini government to oppress the civil society and curb the right to establish associations through: arbitrary refusal of registration applications, direct intervention in non-governmental organizations, suspension and requisition of organizations with no legal justifications to criticize its leaders by. [They also apply] tight restrictions on associations when gathering donations and receiving funds from abroad, and many more procedures and measures that limit associations of every kind. Of all the cases that the government has targeted, the Bahraini judicial system took a negative and supportive stance to the government's decisions in targeting these associations and non-governmental organizations³⁷.

37- Refer to al-Wefaq's suspension report: Political work is prohibited outside the government's frame, Bahrain's Forum for Human Rights, September 2016.



For example, one may refer to the suspension of al-Wefaq National Society, which was based on a judicial ruling that lacked the simplest standards of fair courts. The judicial system was used in a negative manner to punish political practices in Bahrain. Since 2011, the Bahraini government executed many administrative procedures and judicial proceedings on al-Wefaq Society, particularly the 2014 elections that al-Wefaq had refused to take part in. It had demanded serious political and rights reforms in order to participate in these elections, to which the Bahraini authorities did not respond.

On July 20, 2014, the Ministry of Justice had filed a lawsuit to suspend the activities of al-Wefaq Society for three months until it corrects its illegal situation; the invalidity of four seminars because its quorum was achieved and its non-commitment to the publicity and transparency of its assembly. This is despite that, according to the original law and system, quorum is calculated according to the full-time paying members, and that was ignored by the Ministry of Justice.

On October 28, 2014, the High Administrative Court had ruled to suspend the activity of al-Wefaq Society for three months, which was supported by the High Civil Court of Appeal. On June 14, 2016, the Society had received a notice from the First High Civil Administrative Court at 10 o'clock in the morning of an urgent lawsuit filed against it by the Minister of Justice, summoning them to court at 11 o'clock in the morning, an hour after receiving the notice.

The Society's lawyer, Abdullah al-Shamlawe, attended court hastily at 11 o'clock, and he was not allowed to even know the lawsuit's grounds and prohibited to attend deliberation or present his defense. The court had also refused to give him a delay, even for



a day, to be able to present his defense on the urgent affair in the lawsuit, i.e. suspending the Society's work. The court had ruled in the same hearing, only an hour after it commenced, to suspend al-Wefaq Society's activities and shut down its headquarters. The judge had recited the ruling on a printed paper, which indicates that the sentence was prepared beforehand before the hearing was held.

Until looking into the case was confirmed, the trial has gone through numerous measures and events, which confirm the absence of guarantees and standards of a fair trial. The High Administrative Court had issued, on July 17, 2016, its decision to dissolve al-Wefaq Society, transferring its monies to the state's treasury, and holding it liable for all expenses and costs of the trial. This sentence was made without the defense panel being able to present what could refute all charges. When reading the justifications of the verdict, and revising all evidence the court accepted as indicting, along with the legal articles used as a basis for the ruling, as well as the procedures of the trial; one would find that this trial is unfair and was based on political grounds due to the political and opposing activities of al-Wefaq National Society.



A Judiciary that Mistreats Lawyers



Albeit the principle of judiciary independence guarantees equality of defense, respect of parties' rights in trials, particularly enabling lawyers/attorneys to perform their jobs; however, the judicial system in Bahrain, especially in courts with political and security backgrounds, abuses lawyers without any legal justifications. These maltreatments led to many complaints filed by lawyers to the Supreme Judicial Council, but the council did nothing.

With the cases of lawyers being mistreated on a rise, 90 lawyers filed on February 20, 2014, complaints to the Supreme Judicial Council, explaining the abuse, force and mistreatment they are subjected to in the courts by some judges and officials in the Interior Ministry, and the state of despair they feel for the absence of the minimum guarantees for defense.

The lawyers condemned "the indecent treatment" that is happening to them in their complaint, describing it as "an abuse to the judicial authority as much as to the lawyers". They referred to what their colleague attorney Jassem Serhan faced on February 17, 2014, when a security officer poked him from the back during one of his hearings, demanding him to shut up. This happened in front of everyone in court, including the judge panel that did not intervene to stop the assault. "This is counted as a misconduct to the authority of the judicial system and an abuse to lawyers," according to the complaint. The lawyers also expressed their dissatisfaction on the dismissal of colleague Abdullah Zeineddine in the same hearing, without any justification. "When our colleague asked about the reason behind his dismissal from the hearing, the judge shouted at him, telling the police to take him out of the court. Indeed he was dragged by the police and taken out by force."



The lawyers, on February 18, 2014, during a case presented to the Fourth High Criminal Court, mentioned, “The Chief Judge refused – as usual in this court – to validate attorney Mohsen Al-Alawi’s demands during the hearing, claiming that the Chief Judge has the right to refuse validation. And when our colleague objected and insisted on validating his demands as his right by law, the Chief Judge looked away from him and moved on to another attorney, ignoring his right to record his demands. This represents a violation to the law, particularly article 226 from the Law of Criminal Procedures, and an abuse to an attorney and his client’s right to defense.”

The lawyers expressed their grief to what they are facing in court, reiterating that this is not the first time that this kind of behavior happens. That incident ended by the Chief Judge issuing an order to dismiss Al-Alawi from court, then someone grabbed his arm to take him out forcibly, which al-Alawi refused and obliged him to withdraw from the case.

“This is besides what we are facing in cases of suspects being treated by security officers during trials and in front of judges in an inhumane, undignified and cruel manner. All of the aforementioned demeans lawyers and their reputation, degrades the lawyers and their profession’s dignity, demeans the judicial system’s authority and its status in the eyes of people and lawyers, and gives them a sense of justice being lost,” the complaint added.

“Even lawyers entering courts has become an opportunity for policemen to mistreat them even more. This happens by placing metal barriers prohibiting people from moving from one court to the other, or by locking the courtroom doors from the inside as soon as the judge enters, forcing lawyers to repeatedly go to the courtroom



while waiting for the session to be held because they are prohibited from actually entering the courtroom,” the lawyers said. They also added that “what is worse, is security men’s use of force to ban lawyers from entering courtrooms and kicking them out.”

“It is important that we point out the reason behind the misunderstandings being repeated between lawyers and judges is that lawyers have lost hope sometimes for their inability to provide the bare minimum of defense guarantees, especially that the police and the prosecutor refuse for them to attend investigations with detainees in political cases, as well as court judges refuse for them to present any serious defense, listen to the detained or expose, speak of or investigate the evidence of torture. They also do not notice that many judges have the desire to listen to their requests, which makes their job in defending suspects in these cases meaningless and futile. Trials have decisions without presenting witnesses or a written statement despite the defense’s persistence in presenting them,” the complaint continues.

This complaint that the lawyers petitioned clearly confirms the absence of assurances to a just trial and a balance in the opportunities of defense in political and security cases. It includes details that expose the prejudice the Bahraini judicial system practices against suspects in such cases and similarly against their lawyers; facts that courts of other criminal and civil cases do not face.

Moreover, in regards to the trial of Sheikh Ali Salman, Secretary General of al-Wefaq National Society, who is serving his 9-year sentence in prison; the Defense Council presented a letter to the Higher Judicial Council, “according to what was mentioned in previous hearings, they became powerless – as a Defense Council –



from serving a case professionally, in a way they have never seen in their comprehensive history, and was also shocking that the court would refuse to even hear the Defense Council's defense or take its written statements."

The letter also reiterated that the procedures undertaken during the trial of Sheikh Ali Salman were only formalities, which includes listening to testimonial of a witness, forbidding most of the defense's questions that could expose the truth and seizing the right to defense. The court lacks the standards and principles of a fair trial, especially in the right to defend, the principle of innocence, as well as other standards and rights that assure a just trial.

The Defense Council referred to many notes in its speech that was included in the trial sessions, confirming the court's lack of fair standards and violation of sound legal procedures. It mentioned what had occurred in court on May 20, 2015, which was, according to the Defense Council, shocking. The court ruled firstly to present the Defense's statement in denying the charges, which included videos of speeches that negate the charges and expose the malicious prosecution. It refused to hear any word from Sheikh Ali Salman, and the court was adjourned in a reactive manner. It decided that the trial gives its ruling on June 16, 2015, without allowing the Defense panel to present its defense, memos or files it possesses.

At an earlier date, the court had also banned the Defense to question the only eyewitness. It rejected the Defense to recite the attestations that the witness mentioned in interrogation sessions, in a way that prevented the truth to come out and exposed the weakness of the interrogations, claiming it of being forged. In addition, the court banned the witness from watching segments of the speeches. Ac-



According to the Defense panel, the court failed in honoring evidence that would assure a just trial.

Moreover, in the appeal session on October 14, 2015, during Sheikh Ali Salman's trial, observers noticed the court's impartiality to the Public Prosecution's representative and its abuse of lawyers. The judge had dismissed the attorney Mohsen al-Alawi after attempting to speak to the judge. This came after al-Alawi responded to the Public Prosecution's representative who had interrupted the Defense panel during their oral plea.

Attorney Jalilah al-Sayed had pushed to disregard the investigations of an officer, stating, "The Public Prosecution supported the investigations officer in his accusations against the defendant, as if the Public Prosecution is an infallible entity." The Prosecution's representative interrupted her with "it is, indeed". Al-Alawi then replied, "Yes, it is infallible," then the judge dismissed him, despite him trying to clarify his opinion to the court, while she allowed the Prosecution's representative to interrupt.

Numerous similar incidents occur, which only reiterates that the judicial system deals with government representatives and the Prosecution panel differently than it does with lawyers. This does not make the judiciary in Bahrain independent, especially with the absence of defense equality and objectiveness. This merely makes the judicial system a tool in the state's hands that curbs its independence.



The Judiciary and Impunity



According to the aforementioned material, the absence of Bahraini judiciary independence is confirmed, which caused the judicial system to become the state's tool that it uses to punish any political opposition and rights movements taking place in Bahrain since 2011. This also made the system a contributing factor in oppressing citizens who demand political change in the way they practice their rights. All kinds of violations and forms of torture in prisons and detention centers carry on, responded to by the judiciary's silence, despite the privileges it has in monitoring prisons and investigating torture and abuse allegations. If only this system uses its privileges, it would have been able to put a stop to these violations.

By monitoring the rights situation in Bahrain, we can indicate various situations where the judicial system had a negative stance on, which only made it a factor to its regularity. For example:

- **Violation of residence's privacy,**
- **Torture and sexual abuse,**
- **Physical abuse,**
- **Verbal abuse,**
- **Psychological abuse,**
- **Misuse of authority,**
- **Excessive use of force,**
- **Excessive use of tear gases,**
- **Arbitrary arrest,**
- **Compulsory disappearance,**
- **Attainment of confessions and statements under duress,**
- **Destruction of private property,**

- **Misuse of religious institutions,**
- **Restriction and confiscation of freedoms,**
- **And many more.**

Rather than defending the law and supporting rights and freedoms, the judicial system is noticed to play the role of an investigator to the government and security body's wishes. It is thus considered an essential factor in the continuance of such violations and a breaker of constitutional principles that protect the citizens from all kinds of violations and provide them with freedom.

The law provides protection from all forms of tangible and moral torture and undignified treatment and the invalidity of all confessions extracted from it³⁸. Also, it must forbid any physical or psychological harm on the suspect³⁹, as well as respect the privacy of residences and abide by the rules of entry and search them without the permission of their owners in the most exceptional cases and utmost urgency⁴⁰.

On this note, the Bahrain Independent Commission of Inquiry had recommended – based on the negligent role the judiciary and prosecution play in not investigating violations and protecting the parties involved – the significance of the judiciary's role in preventing torture and violations. In the list of recommendations, paragraph 1722f, the Commission stated, "To train the judiciary and prosecutorial personnel on the need to ensure that their activities contribute to the prevention and eradication of torture and ill-treatment." How-

38- Article 19d of the Kingdom of Bahrain's Constitution.

39- Article 19d and 20d of the Kingdom of Bahrain's Constitution.

40- Article 25 of the Kingdom of Bahrain's Constitution.



ever, the judicial system still plays the same role, which in turn contributes to the continuation of such violations. Senior officials were not summoned for accountability regarding the torture and other violations that were committed since 2011. Rather investigations were merely limited to some legal pursuits for a few low-ranking policemen, who were eventually relieved with reduced sentences or exonerations in most cases.

Among the cases that reiterate that the judicial system and Public Prosecution both play a negative role in protecting parties involved in torture, ill-treatment and excessive use of force that has caused many deaths, and who were acquitted, condemned to reduced sentences or were not even pursued legally for torture and ill-treatment, **are as follows:**

- The Court of Appeal acquitted a security officer who was sentenced to two months in jail and a fine of 50 Dinars on June 18, 2013, and suspension of any promotion for a year, after being convicted with physical assault and battering of a citizen in A'ali area. The assistant attorney for legal affairs at the Ministry of Interior stated after the video was broadcasted in some websites, showing a policeman assaulting a citizen in A'ali on December 23, 2012, that the officer was arrested and referred to a military court.
- On June 23, 2013, the Higher Court of Appeal supported the ruling of the Court of First Instance that exonerated the police officer accused of torturing the journalist Nazeeha Saeed. The court had acquitted on November 22, 2012 a female police officer from charges of torturing Nazeeha during her arrest in the period of National Safety. The case went through a num-



ber of phases, starting with looking into the case in military court, in which Nazeeha's attorney, Hamid al-Mulla, stated that the military judicial system sentenced the defendant to a 200 Dinar fine on charges of physical assault on the journalist's body, and another 200 Dinars for slandering the accuser. The court also sentenced to suspend her raise for a year, after being convicted of not performing her job accurately and loyally, and not maintaining the honour of service and good reputation.

- On July 1st, 2013, the High Criminal Court acquitted a male and female officers accused of torturing 6 people from medical personnel during their arrest. The court had rejected the civil lawsuit. The Public Prosecution accused officer Mubarak Bin Howeil in March and April 2011 – as a public officer – of using means of torture, force and threats himself and through other, on Doctors: Sayed Marhoun al-Wadaei, Ahmad Omran, Ghassan Dayf and Bassem Dayf. The Public Prosecution also charged the female police officer, Sheikha Noura Al Khalifa, as a public officer, of using means of torture, force and threats with Doctors Zehra al-Sammak and Khouloud al-Derazi.

- It is noteworthy to mention that the Bahraini Prime Minister paid a visit to officer Mubarak Bin Howeil after the acquittal was issued to congratulate and support him. He had made statements at the time that aggravated legal and political crowds.

- On July, 3, 2013, the First High Criminal Court acquitted a police officer of assault charges on a citizen in a police sta-



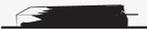
tion. The Public Prosecution charged the officer, since he is a public officer of the Ministry of Interior, of assault with other unknown individuals on the safety of the victim, causing injuries described by the medical examiner. The injuries led to an unintentional chronic disability; a weakness in chewing and breathing, fatigue, and relative weakness in the lower right side of his body.

- On June 26, 2014, the Higher Court of Appeal amended the judgment on a policeman to fine him with 50 Dinars instead of 6 months in prison, on an offence of shooting and posting a video of a person in custody without the Prosecution's permission. The First High Criminal Court exonerated him from charges of assault to extract a confession, and rather convicted him with publically broadcasting a picture of the suspect without the Prosecution's permission. The Court ruled a sentence of 6 months in jail, and estimated a fine of 100 Dinars to suspend the ruling's execution.

- Moreover, on September 15, 2013, The First High Criminal Court decided to release the policeman convicted of torturing Hussein Jamil Jaafar Ali Marhoun to extract a confession from him while naked, referring to a video broadcasted on June 11, 2013, on social media. What seemed to be a supposed investigation with a Bahraini man, showed that the man was undressed from the top, blood traces visible on his back⁴¹.

- This reduced sentence was ruled despite the announcement that the Chief of General Security General Tarek al-Hassan

41- The video: <https://youtu.be/1iBrRtKxDGc>



made on the Ministry of Interior's Twitter account. The announcement mentioned "opening an immediate investigation on the widespread video that showed a confession from a detained person that he was incited to kill policemen," and indicated "taking the required legal action regarding the incident and suspending the culprits from work and referring them to interrogation."

•On July 9, 2014, the Minor Criminal Court exonerated a policeman in two cases of assault on two brothers during their arrest after the 2011 events. The case details that the victims petitioned a complaint to the Public Prosecution's special unit about them being subjected to torture by a policeman. After investigations, the policeman was referred to court on charges of assault on the victims' bodily safety.

A bit of reduced sentences, and a lot of exonerations to culprits in tortures and major violations. This is besides the absence of serious action regarding just legal pursuits towards the majority of culprits in cases of torture and ill-treatment. This has made the Bahraini judiciary an accomplice to impunity.

Furthermore, regarding the excessive use of force, some bringing about murder, the Bahrain Independent Commission of Inquiry recorded numerous cases, reiterating that the cause of death was the use of unjustified and unsolicited force by security forces. This resulted in the death of a number of protesters. This is besides the tens of other cases that carried on after the report issued by the Bahrain Independent Commission of Inquiry and documented by rights or-

ganizations and political and civil groups. The following mentions some of these cases, although there are tens of other cases that are not mentioned, most of them did not reach legal pursuit:



Case 1:

Ali Abdulhadi Saleh Jaafar Almeshaima

Age: 22 years old

Died on February 14, 2011.

He is Case no. 1 in the Bahrain Independent Commission of Inquiry in paragraphs nos. 896 – 900, in which the Commission summarized the cause of death as: “Use of excessive force by police officers. At the time of the shooting, there were no reports of any disturbances in the Daih area. Furthermore, the fact that Mr Almeshaima was shot in the back at close range indicates that there was no justification for the use of lethal force.” (Paragraph 900)

On January 21, 2013, the court convicted a security man to seven years of jail on charges of direct shooting and assault that resulted in unintentional death instead of deliberate murder. On October 21, 2013, the Court of Appeal reduced the sentence to 3 years. Then on May 27, 2015, an official pardon was issued for the rest of the sentence.

**Case 2:****Fadhel Salman Ali Salman Ali Matrook**

Age: 32 years old

Died on February 15, 2011

He is case no. 2 in the Bahrain Independent Commission of Inquiry, mentioned in paragraphs 901 – 905, and summarized the cause of death to be: “Use of excessive force by police officers. One police officer has admitted that he fired a shotgun round in the direction of the demonstrators. The MoI [Ministry of Interior] has initiated an investigation into this case. The Commission has not received any information on the recent progress of this investigation.” (Paragraph 905)

On another note, eyewitness Mohammad al-Mahasena was legally pursued due to his testimonial in court that pointed out the policeman who killed Fadhel Matrook. The eyewitness denied any clash occurring with security forces or police vehicles, in contrary to what the MoI claimed. The Bahrain Independent Commission of Inquiry presented this information, and submitted it to the court panel. Al-Mahasena provided legal groups a video that shows how martyr Fadhel Matrook was killed. The court refused to consider this as evidence. This led to the eyewitness being targeted, and was charged by the same court that had not taken his testimonial into consideration.

Al-Mahasena now serves a 15-year sentence in prison on questionable charges from 2007, although he worked for the MoI until 2011.

Regarding the policeman who was the reason behind Maatook's death, the court acquitted him of all charges on February 26, 2013 based on self-defense. On May 26, 2013, the acquittal was confirmed from the Court of Appeal, while the Public Prosecution did not impugn the ruling in the Court of Cassation.



Case 3:

Isa Abdulhasan Ali Hussain

Age: 61 years old

Died on February 17, 2011

He is case no. 5 in the Bahrain Independent Commission of Inquiry report, mentioned in paragraphs 916 – 920.

The report mentioned that the cause of death was from a shotgun injury to the head causing a fractured skull and laceration of the brain. A forensic report confirmed the cause of death and concluded that the deceased was standing when he was shot and that the shot was fired from a very close distance, possibly as close as a few centimeters. According to the report, the death of Mr Hussain can be attributed to the use of excessive force by police officers. The fact that the deceased was unarmed and was shot at close



range in the head indicates that there was no justification for the use of lethal force.

Despite this, the Third High Criminal Court acquitted the policeman involved in Isa's murder on September 27, 2012.

The Public Prosecution stated that on February 17, 2011, being a public member (a policeman) in the Ministry of Interior and while performing his duty, he assailed the bodily safety of the victim Isa Abdulhussain by shotgun injury in his head, leading to the injuries the forensic report described. However, his death was not intentional, but led to his death.

One may notice that the Public Prosecution's description of the incident in the hearings is contrary to reality and to the report mentioned in the Bahrain Independent Commission of Inquiry. The distance of the shot was short-distanced, and cannot be interpreted but by unjustified use of force and intention to kill. The court ignored all previous evidence that indicated intentional murder, and supported the Public Prosecution in its description of the incident. On this basis, the acquittal of the culprit policeman behind Isa Abdulhussain's murder was issued.

**Case 4:****Ali Ahmed Abdulla Moumen**

Age: 23 years old

Died on February 17, 2011.

He is case no. 6 in the Bahrain Independent Commission of Inquiry's report, mentioned in paragraphs 921 – 924.

It specified that the cause of death was a shotgun injury to the thighs resulting in damage to blood vessels. A forensic report confirmed the cause of death and concluded that the deceased's injuries were caused by at least three shots fired from a distance of between one and five meters. According to the report, the death of Mr Moumen can be attributed to the use of excessive force by police officers. The fact that the deceased was unarmed and was shot at close range in the thigh indicates that there was no justification for the use of lethal force.

Despite this, the Third Higher Criminal Court ruled on September 27, 2012 the policeman responsible for the death of Ali Moumen, innocent of all charges.

The Public Prosecution stated that on the same date, as a public worker (policeman) in the Ministry of Interior while he was on duty, he attacked the bodily safety of the victim Ali Ahmed Abdulla Moumen by a shotgun injury in his thigh, leading to the injuries the forensic report described. However, his death was not intentional, but led to his death.

This was the same description the Public Prosecution presented in the previous case. The Court had supported the Public Prosecution, ignoring all previous evidence that indicates intentional murder. On this basis, the acquittal of the culprit policeman behind Moumen's murder was issued.



Case 5:

Hani Abdulaziz Abdulla Jumaa

Age: 32 years old

Died on March 19, 2011.

He is case no. 11 in the Bahrain Independent Commission of Inquiry's report mentioned in paragraphs 945 – 949.

The death certificate states that the cause of death was gunshot injuries to the right leg, left leg and left arm. A forensic report confirmed the cause of death and concluded that the wounds were caused by three or more shots at a distance of no more than one meter. The deceased also had many bruises on his head, face, chest and shoulders, although these injuries were not causative of death. The death of Mr Jumaa can be attributed to the use of excessive force by police. The fact that the deceased was unarmed and was shot three times while running away indicates that there was no justification for the use of lethal force.

The Third Higher Criminal Court convicted on September 27, 2012, a Lieutenant of the Ministry of Interior to 7 years

in jail for the murder of Hani Abdulaziz, after being charged with battering to death, instead of first degree murder.

This sentence is considered a reduced one, especially that the court indicated in its ruling that it was content with the convicting evidence. The evidence had indicated that the perpetrator, on March 19, 2011, as a Lieutenant in the Ministry of Interior while performing his duty, killed the victim Hani Abdulaziz by 3 shots from a shotgun with an intent of murder. The court decided to refer the claim to the special civil court at no cost.

In light of what was mentioned above, and instead of a strict punishment for the policeman, the Court of Appeal reduced the policeman's sentence on May 26, 2013 to 6 months in jail.



Case 6:

Abdulkarim Ali Ahmed Fakhrawi

Age: 49 years old

Died on April 11, 2011.

He is case no. 25 in the Bahrain Independent Commission of Inquiry's report, mentioned in paragraphs 1002 – 1005. The Commission's report specified that his death was attributed to torture. Commission investigators received a number of verbal and written statements from persons



alleging that they had witnessed the deceased being tortured in detention. The death certificate states that the cause of death was injuries sustained while in the custody of the NSA.

The First High Criminal Court sentenced on December 30, 2012 two policemen from the NSA to seven years in prison, and the case was referred to the special Civil Court.

On October 27, 2013, the Court of Appeal, under the presidency of Judge Issa al-Kaabi, reduced the sentence from seven years to 3 years.



Case 7:

Ali Isa Ibrahim Saqer

Age: 39 years old

Died on April 9, 2011.

He is case no. 23 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 992 to 996. A forensic report concluded that the deceased had dark red bruises across the body but mostly around the back of the hands and right eye. His wrists had red flaking marks because of handcuffing and these marks were of recent origin. The death of Mr Ali is attributed to torture at the Dry Dock Detention Centre. Mr Ali was in the custody of the MoI at the time of his death.



The Public Prosecution charged the defendants one and two of attacking the bodily safety of Ali Isa Saqer and Zakariya Rashid Hassan Al Asheri by battering with a hose in different regions of their bodies, and unintentionally killed them. This led to the injuries described in the forensic report and ultimately their deaths.

However, the Public Prosecution charged the third, fourth and fifth perpetrators of neglecting to report the crime of the assault on victims Ali Isa Saqer and Zakariya Rashid Hassan Al Asheriby the suspects.

On March 12, 2013, a sentence of 10 years in prison was issued from the First Higher Criminal Court, under the presidency of Sheikh Mohammad Bin Ali al-Khalifeh. The court convicted two security men with battering to death without intention of murder. This was the same judgement that the Public Prosecution charged them with. The court supported the Prosecution in its judgement. It also exonerated 3 policemen from negligence in reporting the two suspects mentioned above. On September 29, 2013, a ruling from the Court of Appeal declared a reduced sentenced two years. The Public Prosecution impugned this judgement in the Court of Cassation, which ruled on December 1st, 2014 to annul the judgement, in which the Court of Appeal issued a new judgement of seven years in prison.

**Case 8:**

Zakariya Rashid Hassan Al Asheri

Age: 40 years old

Died on April 9, 2011.

He is case no. 24 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 997 to 1001.

The death of Mr Asheri is attributed to torture at the Dry Dock Detention Centre. The Commission also received a statement from a witness who was detained in the same cell as the deceased. The witness heard the deceased being beaten and he heard him scream after each beating. The witness then heard a shuffling noise after which the deceased's shouts became muffled. The witness then heard a Pakistani say in Urdu, "He is dead." The death certificate states that the cause of death was severe heart failure and cessation of breathing following complications from sickle cell anemia. However, the forensic report confirmed the cause of death and concluded that the deceased had large bruises on his back and thighs and smaller bruises on his face and hands, although Mr Asheri was in the custody of the MoI at the time of his death.

The Public Prosecution acted on the same basis as Ali Saqer (the previous case), but despite that, the First Higher

Criminal Court – the same court as Ali Saqer’s – acquitted the five policemen accused of torturing Asheri on March 12, 2013. The judgement was not impugned by the Public Prosecution.



Case 9:

Salah Abbas Habib

Age: 35 years old

Died on April 31, 2012.

Salah Habib died from being shot with a shotgun in his upper body, which led the bullet to pierce his guts. He was shot in the area of his residence in Abu Saiba’a village that held peaceful protests that was oppressed by security forces. The protesters withdrew after being dispersed to the village’s alleys, where Salah Abbas was targeted in the area’s farms.

On November 24, 2013, a policeman was exonerated of charges of directly shooting the victim. The exoneration was based on the court’s doubt of the validity of the evidence presented by the Public Prosecution.

**Case 10:****Fadhel Abbas Muslim Marhoon**

Age: 20 years old

Died on January 8, 2014.

Marhoon died of a bullet in his lower body while driving his car in Al Markh village with a companion. Security forces had set an ambush for the person who was with him in the car for apprehension, in which Fadhel received the lethal bullet after changing course to avoid the police's ambush. Despite this, on April 29, 2015, the court acquitted the policeman responsible for killing Marhoon after the Public Prosecution charged him with directly shooting on the victim with an intention to kill.

**Case 11:**

One of the citizens who participated in the demonstrations in Bahrain that protested political opposition leader Sheikh Ali Salman's arrest, was shot by a shotgun in the head and at a very close range from an armored security vehicle. This led to severe injury. Although this direct shooting is considered a violation to the MoI's resolution no. 24 of 2014 regarding the chief principles to use of force and weapon-



ry, which makes this a crime according to law; the Minor Criminal Court exonerated the policeman responsible for this incident on November 8, 2015 from charges of endangering the bodily safety of others⁴².

Some of the victims' families refused to accept compensations, holding on to the importance of prosecuting the people involved in the murders, while the Ministry deposited money in the children's bank accounts without their parents' permission. Also, there are those who received compensations without giving up the right to prosecute the culprits behind the murders.

42- Link to video showing the incident: <https://www.youtube.com/watch?v=N1qG86TdgVI>



Many cases were not pursued legally, either because it is still under investigation, or the investigations were closed for the absence of criminal features, or the Public Prosecution announced opening the file for investigation without announcing its outcomes, despite more than four years of most of these cases. Some of the cases are as follows:



Case 12:

Mahmood Maki Ahmed Ali Abutaki

Age: 23 years old

Died on February 17, 2011.

He is case no. 2 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 906 to 910. The report attributed the cause of death to shotgun injuries to the chest, back and neck causing internal bleeding. The death of Mr Abutaki can be attributed to the use of excessive force by police officers. The Commission has not seen any evidence to suggest that the demonstrators were armed with weapons. Furthermore, the fact that the deceased was shot in the back at close range indicates that there was no justification for the use of lethal force.

The MoI summoned his father for his testimony, however the Public Prosecutors did not file a lawsuit so far.

**Case 13:**

Ali Mansoor Ahmed Ahmed Khudair

Age: 53 years old

Died on February 16, 2011.

He is case no. 4 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 911 to 915. The Commission's report indicated that the cause of death was shotgun injuries to the back and chest, which caused broken ribs and internal bleeding. The forensic report confirmed the cause of death and concluded that the shots were fired from a distance of five to ten meters. The number of shots was not determined. The death of Mr Khudair can be attributed to the use of excessive force by police officers. The Commission has not seen any evidence to suggest that the demonstrators were armed with weapons. Furthermore, the fact that the deceased was shot in the back at close range indicates that there was no justification for the use of lethal force.

**Case 14:****Ahmed Farhan Ali Farhan**

Age: 31 years old

Died on March 15, 2011.

He is case no. 7 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 925 to 929. The death certificate states that the cause of death was a shotgun injury to the head causing a fracture of the skull. The forensic report confirmed the cause of death and concluded that the fatal shot was fired from a distance of less than four meters. There were also numerous shotgun pellet wounds along the right side of the back and the back of the right leg. The shots that caused these wounds were fired from a distance of approximately eight meters. The death of Mr Farhan can be attributed to the use of excessive force by police officers. The fact that the deceased was unarmed and had already been shot in the right leg before being shot at close range in the head indicates that there was no justification for the use of lethal force. The Public Prosecution began its investigations in the case, but no lawsuit was filed so far.

**Case 15:****Abdul Redha Mohamed Hasan Buhamaid**

Age: 33 years old

Died on February 21, 2011.

He is case no. 8 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 930 to 934. He died from a shotgun injury to the head by the Bahraini Army Forces "Bahraini Defence Forces" during a crowded march headed towards the Pearl Roundabout under the military's control.

The Commission's report stated that the cause of death was a gunshot injury to the head. The forensic report confirmed the cause of death and concluded that the deceased suffered a severe head injury with destruction of the left carotid artery. The death of Mr Abdulredha Buhamaid may be attributed to the BDF and may have resulted from the use of excessive and unnecessary lethal force.

The Public Prosecutor did not file any lawsuit regarding this incident so far.

**Case 16:****Jaafar Mohamed Abdali Salman**

Age: 41 years old

Died on March 16, 2011.

He is case no. 9 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 935 to 939. According to the Commission's report, the death certificate states that the cause of death was a gunshot injury to the chest, which caused injuries internal organs and internal bleeding. The forensic report confirmed the cause of death and concluded that there were also shotgun wounds to the front of the right arm and one to the right side of the chest. The Commission was able to establish that Mr Salman was shot by police officers. Some evidence pointed out that he was injured while he was filming a protest being dispersed in the Pearl Roundabout.

No legal lawsuit regarding this incident was filed so far.

**Case 17:****Jaafar Abdulla Ali Hasan Mayoof**

Age: 33 years old

Died on March 16, 2011.

He is case no. 10 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 940 to 944. The death certificate states that the cause of death was a gunshot injury to the back and chest area, which caused multiple rib fractures and damage to vital organs. The forensic report confirmed the cause of death and concluded that there may have been more than one bullet and that the gunshot to the deceased's back was fired from a distance of approximately one meter. The deceased was also shot with shotgun pellets in the thigh; this shot could have been fired from a distance greater than one meter. The Commission was able to establish that Mr Mayoof was shot by security forces.

Despite this, no lawsuit was filed so far.

**Case 18:****Bahiya Abdelrasool Alaradi**

Age: 51 years old

Died on March 21, 2011.

He is case no. 12 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 950 to 954. The Commission's report stated that the cause of death was a gunshot injury to the head. The A forensic report confirmed the cause of death and concluded that the deceased was shot from behind from range of 50 to 75 meters. The forensic medical report was unable to determine the caliber of the projectile that caused the injury due to the deformation of the bullet. The death of Ms Alaradi is attributable to "BDF", or the Bahraini Army.

Alaradi's family believed that the shot came from a sniper from the Army, which the BDF denied. No lawsuit regarding the incident was filed so far.

**Case 19:****Isa Radhi Alradhi**

Age: 44 years old

Died on March 16, 2011.

He is case no. 13 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 955 to 959. His name was wrongly cited in the report as Isa Radhi Abdali Ahmed Alradhi.

His death certificate states that the cause of death was a fractured skull and internal bleeding in the brain caused by head trauma. The death certificate also states that respiratory and circulatory failure contributed to the death.

The forensic report confirmed the cause of death and concluded that bruises and wounds consistent with impact were evident on the face, head, a leg, left arm, chest, stomach, torso and back of the deceased.

The death of Mr Alradhi can be attributed to the use of excessive force by police. The fact that the deceased sustained multiple injuries consistent with impacts or beatings indicates that there was no justification for the use of lethal force.

No lawsuit was filed so far regarding the incident.

**Case 20:**

Ahmed Abdulla Hasan Ali Hasan

Age: 23 years old

Died on March 16, 2011.

He is case no. 14 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 960 to 963.

His death certificate states that the cause of death was a shotgun injury to the back, which caused damage to internal organs and bleeding. The forensic report confirmed the cause of death and concluded that the injuries were consistent with a shotgun fired from one or more guns directly at the deceased's back from an estimated distance of one meter. The death of Mr Hasan can be attributed to the use of excessive force by unknown persons. The fact that the deceased was shot three times in the back indicates that there was no justification for the use of lethal force.

No lawsuit related to the incident was filed. It is noteworthy to mention that only security forces and authorities are allowed to hold weapons in Bahrain.

**Case 21:**

Majeed Ahmed Mohamed Ali Abdulaal

Age: 31 years old

Died on June 30, 2011.

He is case no. 15 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 964 to 968.

The death certificate states that the cause of death was a shotgun injury to the right side of the head. The BDF Hospital medical report indicated that the deceased was admitted to SMC at approximately 21:00 on 14 March 2011 with a gunshot wound to the right side of the head. He was transferred to BDF Hospital on 7 April. The deceased underwent an operation on 29 June 2011 and died the following morning.

The family was summoned by the Public Prosecution to investigate the incident, but no lawsuit was filed in court so far.

**Case 22:****Sayed Ahmed Saeed Shams**

Age: 15 years old

Died on March 30, 2011.

He is case no. 16 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 969 to 971.

No autopsy was conducted and no formal cause of death has been recorded. The Commission received information that on 30 March 2011 the deceased died after being hit with a tear gas canister fired by riot police in Saar. The relatives of the deceased alleged that the deceased and his family were visiting the house of a relative in Saar. At approximately 17:00 they witnessed three police personnel, two of them masked, shooting sound bombs and shotguns at civilians. The deceased was allegedly hit in the head by a tear gas canister. He fell to the ground, at which point the police approached him and physically assaulted him. The deceased's father took him to the American Mission Hospital in Saar. The deceased died before he reached the hospital. The doctor diagnosed the cause of death as a broken neck.

The MoI has failed to conduct an effective investigation into the circumstances surrounding this death.

After an inquest done by the Public Prosecution was conducted and two witnesses summoned, it decided to retain

the case under the pretext of its failure in bringing the killer to justice. On March 5, 2013, the Public Prosecution refused to object the decision of retaining the case that the victim's family attorney, Sami Seyadi, filed. In November 2014, the Higher Court of Appeal rejected the family's impugment.



Case 23:

Alsayed Hameed Mahfoudh Ibrahim Mahfoudh

Age: 57 years old

Died on March 15, 2011.

He is case no. 19 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 977 to 980.

The Commission considers that the death of Mr Mahfoudh was an unlawful killing. The fact that the deceased was found inside a plastic bag and the evidence of suffocation are indicative of an unlawful killing. The Commission is unable to attribute this death to a particular agency or group of civilians. It is unknown if an investigation was conducted regarding the incident, but so far, no lawsuit was filed.

**Case 24:**

Abdurasool Hasan Ali Mohamed Hujair

Age: 38 years old

Died on March 20, 2011.

He is case no. 21 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 984 to 986.

The death certificate stated that the cause of death was traumatic injuries to the chest, stomach, back and limbs, which led to bleeding and shock. The death of Mr Hujair can be attributed to the use of excessive force by unknown persons. The fact that the deceased sustained multiple traumatic injuries indicates that there was no justification for the use of lethal force.

No lawsuit was filed regarding this incident, although the Ministry of Justice called the family for compensation, which the family refused. However, the Ministry deposited compensation money in the Minor Fund in the names of the victim's sons.



Case 25:

Hasan Jassim Mohamed Maki

Age: 40 years old

Died on April 3, 2011.

He is case no. 22 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 987 to 991.

The forensic medical report noted that the deceased had cylindrical bruises and a head wound, which had become infected. A witness who had been detained with the deceased in the same cell in Dry Rock Detention Centre overheard him being told by prison personnel that since he had sickle cell anaemia, they would shower him and turn on the air conditioning in his cell and that he would not be allowed any medical treatment. The death of Mr Maki is attributed to torture at Dry Dock Detention Centre. Mr Maki was in the custody of the MoI at the time of his death.

His family was contacted by the Criminal Investigation during the period of National Safety, then received another phone call from the Ministry of Justice to accept compensation. However, the family rejected the compensation, and the Ministry of Justice deposited the compensation in the Minor Fund in the names of the victim's sons, without their families' permission. No lawsuit was filed in court so far.



Case 26:

Jaber Ebrahim Yousif Mohamed Alawiyat

Age: 38 years old

Died on June 12, 2011.

He is case no. 26 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 1006 to 1008.

The death certificate states that the cause of death was injuries sustained while in the custody of the MoI. The death of Mr Alawiyat is attributed to the MoI. The evidence received by the Commission confirms that Mr Jaber was in MoI custody before his death.

An investigation was conducted by the Public Prosecution, however no lawsuit was filed in court so far. Money was deposited in his some's name in the Minor Funds as compensation, when his mother had rejected her compensation.

**Case 27:****Jawad Ali Kadhém Shamlán**

Age: 47 years old

Died on March 16, 2011.

He is case no. 34 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 1042 to 1045.

His death certificate states that the cause of death was a gunshot wound to his abdomen, which resulted in severe damage to his internal organs and internal bleeding. The Public Prosecution's forensic medical report states that the deceased's left thigh and abdomen injuries indicate that the gunshot was fired from one gun from a frontal direction. The BDF-JAG concluded that BDF personnel had conducted themselves in accordance with the applicable laws and regulations, and that there were no grounds to press charges.

His family cited a criminal report retained by the Police Station at Roundabout 17 in Hamad City. They tried to refer the report to the Public Prosecution, but the Station retained the report despite it having no authority to retain the reports.

Moreover, there is a file in the military judiciary, but his family has not looked into. Despite this, the family was contacted by the Ministry of Justice for compensation and

an amount of money was deposited in the Minor Funds in the names of his young sons. Two other sons received compensation, while the rest did not receive compensation. No lawsuit was filed so far.



Case 28:

Aziz Jumaa Ali Ayyad

Age: 38 years old

Died on March 17, 2011.

He is case no. 35 in the Bahrain Independent Commission of Inquiry's report, mentioned from paragraphs 1046 to 1048.

The exact circumstances of the death are unknown, and although there were marks on his hands, chest and stomach (including a piercing), BDF Hospital indicated that he had died due to a heart attack. There is nothing that would indicate a serious investigation being conducted by the Public Prosecution regarding the incident.



Case 29:

Ahmed Jaber alQatan

Age: 16 years old

Died on October 6, 2011,

From a bullet that came from a shotgun from a very short distance, which pierced his chest and abdomen. The MoI indicated on its account on Twitter that the report of the International Hospital of Bahrain that Ahmed was transferred to, attributed the cause of death to “a severe circulatory and respiratory deterioration, which led to heart failure.”

This statement was issued after a previous statement made by the Ministry on Twitter: “The Emergency Room received a report from the International Hospital of Bahrain of the arrival of an injured person. Soon after, the Hospital discovered that the man died. At this time, an investigation is being conducted to find out the causes of death.”

“20 people in Abu Saiba gathered at 21:18 and blocked the road and threw stones and Molotov cocktails on policemen. They were handled with tear gas,” The Ministry of Interior added on Twitter.

However, the Ministry of Interior did not mention the use of shotguns and the gathering was peaceful. The MoI had stated the calibers found in the deceased’s body were not compatible to the shotguns’ that the MoI uses, although these weapons are not used in Bahrain but by security forces.



The Public Prosecution said it had opened an investigation in the incident, but no lawsuit was filed so far.



Case 30:

Ali Jawad alSheikh

Age: 14 years old

Died on August 31, 2011,

Due to a tear gas shot directly at the back of neck. His death certificate stated that the cause of death was an injury in the neck, which led to a fracture in the upper spinal cord as well as bleeding that led to his death.

The incident occurred when security vehicles chased down a small group of protesters in Sitra area who were standing on the pavement with Ali alSheikh. Security men dispersed them and chased them down to the area's byroads, using tears gases that hit Ali alSheikh from a short distance, which caused him to fall on the ground. He died soon after that. The Public Prosecution opened an enquiry in the occurrence, but its outcome was not announced so far.

**Case 31:****Hussam Mohammad Jassem al-Hadad**

Age: 16 years old

Died on August 17, 2012,

Due to a direct shot from a shotgun that hit his upper body. The shot pierced his intestines, which led to his death. This happened when he was in an area of clashes between protesters and security men. The Public Prosecution retained the case due to a state of legitimate defense, although there was no justification to use lethal force because a mourning does not form any danger. Hussam was chased down and targeted in one of the byroads in Muharraq city, which is considered an unnecessary use of excessive force by security forces.

**Case 32:****Ali Hussein Neimeh**

Age: 17 years old

Died on September 28, 2012,

Due to a direct bullet from a shotgun that hit his upper body. This happened when security men were oppressing protests in Sadad Village. The protesters were being chased down

in the village's alleys, which resulted in many injuries, including the injury of Ali Neimeh that led to his death. The Public Prosecution retained the case due to a state of legitimate defense, although the incident is considered an unnecessary use of excessive force by security forces.



Case 33:

Sayed Hashem Saeed

Age: 15 years old

Died on December 31, 2011,

When security forces chased down protesters in Sitra, where the victim was among them. He was injured with a tear gas canister to his chest and neck, shot by security forces directly, which led to the lethal shot. No lawsuit regarding the incident was filed so far.



Case 34:

Mohammad Ibrahim Yaakoub

Age: 19 years old

Died on January 25, 2012,

While he was passing by a police patrol, in which a mem-

ber of the patrol got out of the car and arrested him after pursuing him without any reason. He was severely battered by clubs and metal bars and by kicking him while he was on the ground. He was detained at the police station for a few hours, then transferred to the hospital because he was in a bad state. He died on the same day⁴³. Despite the traces of torture on his body, the Ministry of Interior attributed the cause of death to sickle cell anemia, although he did not have any episodes since he was younger. No lawsuit regarding the incident was filed so far.



Case 35:

Montathar Saeed Fakher

Age: 37 years old

Died on January 25, 2012,

After a security vehicle crashed into his car on the evening of January 24 when it was oppressing protests in Al Daih village. Security forces forced him to get out of his car, and was battered, tortured and treated in a cruel and offensive way. He was then transferred to the Salmaniya Medical Complex, where he died the next day of his injuries. No lawsuit regarding this incident was filed so far.

43- Video showing Mohammad Yaakoub being chased: https://youtu.be/0UFy9Ai_gJM

**Case 36:****Fadhel Merza alOubeidi**

Age: 21 years old

Died on March 10, 2012,

By a tear gas canister that hit him on the back of his head, directly shot at him by security forces, which led to the lethal lesion. This occurred when forces were dispersing protests in Diraz. No lawsuit regarding this case was filed so far.

**Case 37:****Ahmad Ismail Hassan**

Age: 22 years old

Died on March 31, 2012,

When security forces chased down protesters in Salmabad. The victim had received a live bullet from a police officer when he was taking photos of the protests and pursuits. Although there were eyewitnesses of the occurrence, but no lawsuit was filed so far.

**Case 38:****Youssef Ahmad Mawali**

Age: 25 years old

Died on January 13, 2013.

A day after his disappearance, his family received a call from the police station saying that he was being detained in a police detention center, without specifying which center. The next day, his body was found floating in the sea near the area of his residence. Traces of torture and electrocution were found on his corpse, according to an international expert who was in Bahrain at the time. The expert added that he could have been drowned after being thrown into the sea while unconscious from electrocution.

The Public Prosecution said it had finished looking into the incident for the absence of criminal doubts. It also stated that the cause of death is drowning while swimming, disregarding all evidence and photos that proves the involvement of the detention center.

**Case 39:****Hussein Ali Ahmad al-Jzeiri**

Age: 16 years old

Died on February 14, 2013.

When he partook in a protest in Al Dair, security forces dispersed protesters. He received a direct hit from a shotgun security forces from a short distance. This resulted in a severe abdominal wound, in which he was transferred to the hospital. However, he died soon after due to the severity of the injury.

The Public Prosecution announced opening an investigation into the incident and interrogation of police members. It had ordered to take two policemen into custody. Moreover, the Third Higher Criminal Court ruled for their release on February 14, 2013 for a bail of 500 Dinars each. The outcome of the trial is still unknown so far.

**Case 40:****Mahmoud Issa al-Jzeiri**

Age: 20 years old

Died on February 14, 2013.

His cause of death was a shot on the head from a tear gas

canister directly shot at a low level and from a short distance by security forces. This happened during peaceful demonstrations in Nabih Saleh area on the anniversary of Bahrain's political movements. The Public Prosecution declared it opening investigations in the incident, but did not announce the results of these inquests⁴⁴.



Case 41:

Jaafar Mohammad al-Derazi

Age: 26 years old

Died on February 23, 2014.

He died when he was tortured in a detention center two months before his death. He was detained on December 29, 2013 in a case related to the political movement. He was transferred to a preventive detention center after interrogations with him were done. He was then transferred to a hospital due to the deterioration of his medical condition, knowing that he suffers from sickle cell anemia. The Ministry of Interior's General Secretariat Ombudsman stated that Jaafar al-Derazi's torture is under investigation by its special unit. However, no results were declared in this regard, and no lawsuit was filed so far.

44- Video showing the moment of al-Jzeiri's attack: <https://youtu.be/Ump2Pz7NnfM>

**Case 42:****Abdulaziz Moussa al-Abbar**

Age: 27 years old

Died on April 18, 2014.

Abdulaziz passed away after being injured during a crowded demonstration in Sar area at the end of the burial of a media man who had died abroad. While security forces dispersed the crowd, he was directly hit in the face by a tear gas canister and shot all over his body by shotguns. He fell unconscious and died of his injuries after being in a long coma. Moreover, his corpse stayed in the morgue's refrigerator for around 80 days because his family refused the death certificate that did not specify the real cause of death.

The Ministry of Health issued a statement on May 8, 2014 that stated, "The deceased Abdulaziz Moussa al-Abbar was admitted to Salmaniya Medical Complex on February 23, 2014, and spent 55 days until the time of his death, due to circulatory deterioration. This was mentioned in his death certificate that attributed the cause of death to "cessation of circulation."

Because the death certificate neglected the wound he was admitted to the hospital for, the lawyer of al-Abbar's family submitted a petition to the Public Prosecution to delegate an independent forensic expert, seeing that the forensic expert works for the MoI. The purpose is to examine the corpse and perform what is required to correct the death

certificate. Neglecting to specify the true cause of death violates the ethics and protocols of Medicine. However, the Public Prosecution rejected the petition.

On July 6, 2014, the cause of death in the forensic report was changed to “brain damage” without specifying the reasons behind this damage; a shot hit from a shotgun. Al-Abbar’s body was buried on the same day after a crowded procession despite the heat of the month of Ramadan.



Case 43:

Sayed Mahmoud Mohsen Ahmad

Age: 14 years old

Died on May 21, 2014.

During a protest in Sitra area, the deceased took photos of the event. Security forces then dispersed the crowd, by which Mahmoud Ahmad was hit by a shotgun from a short distance that pierced the left side of his body. The shot reached his heart and lungs, which resulted in his death. The Public Prosecution declared opening an investigation in this regards, but no lawsuit was filed so far.

**Case 44:****Hassan Jassim al-Hayiki**

Age: 35 years old

Died on July 30, 2016.

After 25 days of his incarceration, the deceased was tortured in the detention center. His family stated that they discovered him being severely tortured before his death in the building of Criminal Investigations. Some of his fellow detainees mentioned him having a heart attack because of the torture he was subjected to in the Dry Rock Detention Centre. The detainees had demanded the police for him to be transferred to the detention's clinic, and he was later taken to Salmaniya Medical Complex where he passed away. The deceased's father demanded an autopsy to know the circumstances of his death from the Public Prosecution.

The Prosecution, however, later accused al-Hayiki's family lawyer of "spreading false news" after the latter announced that the "wounds and bruises on the deceased's body confirms beyond doubt, criminal uncertainties regarding his death."



The Northern Province's District Attorney Adnan Fakhro stated that the Public Prosecution looked into the incident of a lawyer spreading false matters regarding the death of a detainee in the Dry Rock Detention Centre on July 30, 2016. The Special Investigation Unit concluded to retain the case for proof that the death was natural and did not contain any criminal doubts.

All this indicates that – as a part of impunity – the absence of any serious display by the Public Prosecution and the judiciary in providing effective investigations in cases related to torture, ill-treatment and use of excessive force on protesters and demonstrators, which resulted in tens of deaths. On the other hand, it proceeds with the simplest of cases against lawyers, rights activists and politicians related to political and rights movements in Bahrain.



Summary and Recommendations:



The absence of basic principles that achieves the independence of the Bahraini judiciary has made the judicial system and courts under the state's control. The judiciary was being applied in a manner that violates the law, traditions and rules of just trials, aimed at punishing activists and people who demand freedom, justice and political and democratic reform.

The manner in which judicial delegations and policies are assigned, the absence of constitutional supervision, the lack of administrative, financial and functional judicial independence, as well as the intervention of executive authorities in the judiciary's business; has curbed the independence of the judiciary in Bahrain to a great extent. This directly contributed to the pursuit of opposition and activists in rights and media and protesters to the government's policy, as well as the prosecution of civil society institutions of political and rights organizations. The judicial system and laws are being applied in an unequal manner that violates laws, legislations and principles of just trials endorsed by international laws and Bahraini legislations.

Regarding the victims of excessive force, one may state that security forces still violate laws and rules pertinent to dealing with assemblies and protests, including its lack of commitment to the Interior Minister's resolution no. 24 of 2014 regarding the basic principles of using force and weaponry.

After presenting the victims of the excessive use of force, we may come to the same conclusion that the Bahrain Independent Commission of Inquiry's report reached in paragraph 1699: "In many situations, the security forces violated the principles of necessity and proportionality, which are the generally applicable principles



in matters relating to the use of force by law enforcement officials. This is evident in both the choice of the weapons that were used by these forces during confrontations with civilians and the manner in which these weapons were used. The security forces did not, at all times, strictly comply with their legal obligation to target the individuals in a manner that would not necessary disable or incapacitate the individual. The available evidence, including forensic and ordnance reports, indicates that on a number of occasions the security forces fired their weapons without taking due care to ensure that individuals were not fatally injured.”

It is evident from the tens of cases presented, that with the occurrence of many intentional killings security men were involved in, Bahraini courts and the Public Prosecution did not initiate cases in favor of the majority. The courts ruled exonerations and reduced sentences in a great deal of cases. Legal prosecutions do not reach security officials, which makes the judiciary a major partner in the government’s adoption of impunity. This policy aims at providing protection to culprits of violations and lethal use of excessive force.

Likewise, cases linked to protests and marches, such as allegations of attempted murder of policemen, along with the absence of concrete evidence that proves the presence of criminal doubts as well as courts’ reliance on confessions suspected to be extracted under duress; Bahraini courts issues legal rulings that could reach life sentences. Meanwhile, courts issue reduced sentences or acquittals in murder cases that policemen are involved in, despite the presence of concrete evidence, testimonies of witnesses, and forensic proof.



Therefore, the reformation of the judicial system in Bahrain has become an urgent matter that would insure the judiciary's independence and provide justice for all. In this light, the Bahrain Forum recommends the following:

- Establishment of a new constitutional mechanism, wherein the Judicial Authority and the Supreme Judicial Council be designated through election, and wherein the will of the people shall be the basis of the authority, to achieve the constitutional principle of authorities held by the people.**
- Amendment of the law pertinent to judicial authority, chiefly the law concerning the designations of the judiciary and the Public Prosecution. Wherein the designations insure the attainment of the principle of independence.**
- Establishment of a mechanism that insures promises of the independence of the Bahrain judiciary represented by constitutional control over laws and administrative, financial and functional independence of the judiciary.**
- Annulment of judiciary verdicts against political and rights activists, journalists, and defendants in cases pertinent to the political and rights movement in Bahrain since 2011.**
- Establishment of a mechanism that ensures the non-interference of the executive authority and other authorities in the actions of the judicial authority, and incriminating such interference as an obstruction of justice.**



•Investigation to be conducted by Gabriela Knaul, Special Rapporteur on the Independence of Judges and Lawyers, on the Bahraini courts' non-compliance to the principles of just and independent trials.

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