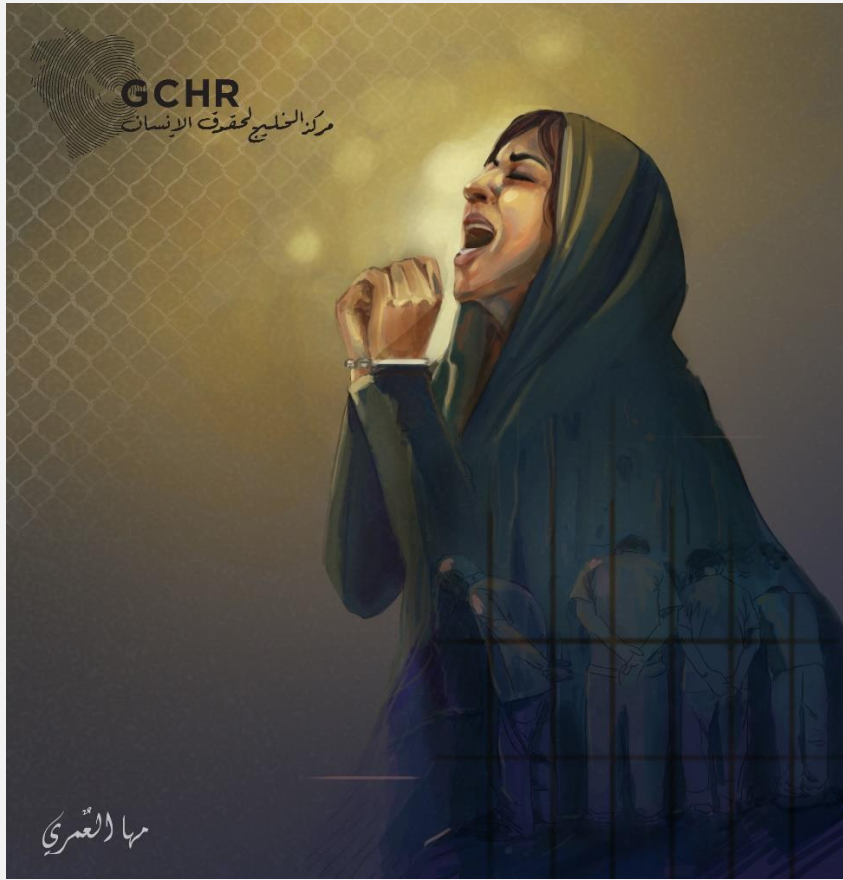


Patterns of Torture in Bahrain: Perpetrators must Face Justice



A Report by the
Gulf Centre for Human Rights (GCHR)

March 2021



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I. Executive Summary

This report provides a comprehensive overview of the specific ways and means by which torture is perpetrated in Bahrain, with a particular focus on the period since the 2011 popular movement and the violent crackdown that followed. The report documents the widespread use of forms of torture including blindfolding and handcuffing, forced standing, sleep deprivation, severe beatings, the use of electro-shock devices and cigarette burns, beating soles of feet, verbal abuse and threats of rape, sexual abuse and rape, hanging, solitary confinement, exposure to extreme temperatures and other humiliating and degrading techniques.¹ The Gulf Centre for Human Rights (GCHR) has examined how these patterns of torture have become an intrinsic part of the Bahraini justice system, where torture is used to extract forced confessions for vague and spurious charges. These confessions are then routinely used as admissible, incriminating evidence in trials marred by gross violations of due process and fair trial rights.

Any discussion on the systematic use of torture in Bahrain would be incomplete without also identifying and critiquing the national and international systems that facilitate the use of torture and perpetuate a culture of impunity for perpetrators. Domestic mechanisms such as the Ombudsman of the Ministry of the Interior and the Special Investigations Unit have failed to independently investigate allegations of torture and ensure redress and reparations for victims. In light of the lack of effective domestic mechanisms for ensuring accountability and redress, the report considers the potential of legal avenues such as universal jurisdiction in tackling the longstanding culture of impunity that allows perpetrators of torture in Bahrain to escape punishment.

GCHR's research also sheds a light on the failings and, in certain circumstances, the complicity of the international community in facilitating the use of torture to silence dissenting voices including those of human rights defenders, political activists, online activists, journalists, lawyers and religious leaders. In particular, the report highlights the key role of the United Kingdom (from 1880–1971, Bahrain was a British colonial protectorate) in continuing to supply arms, spyware and military training to Bahrain. We examine the legality of this support in light of international human rights and humanitarian law and the obligations of state parties to the Wassenaar Arrangement to restrict the export of technology or the provision of technical support that may be used to commit human rights violations.

¹ Report of the Bahrain Independent Commission of Inquiry, 23 November 2011, pp. 288-290, <http://www.bici.org.bh/>.

II. Methodology

As human rights defenders, NGOs and the international community mark the 10th anniversary of the 2011 popular movement, our collective attention naturally turns to reflecting on how the human rights situation in Bahrain has developed in the interim. This report is specifically focused on patterns of torture and demonstrates the centrality of torture in maintaining the authoritarian style of governance and its chilling effect on the exercise and protection of human rights in Bahrain.

This analysis of the patterns of torture considers Bahrain's legal obligations under domestic and international law, starting with the results and recommendations laid out in the Report of the Bahrain Independent Commission of Inquiry (BICI), published in November 2011. It identifies the main patterns of torture in Bahrain based on a number of confidential witness statements provided to GCHR by survivors, as well as reports and urgent appeals on specific cases from human rights organisations including the Bahrain Centre for Human Rights (BCHR), Amnesty International, Human Rights Watch, the Bahrain Institute for Rights and Democracy (BIRD) and Americans for Democracy & Human Rights in Bahrain (ADHRB).

The final section of the report considers how the culture of impunity enjoyed by perpetrators of torture in Bahrain can be remedied both domestically and internationally. It is hoped that this exploration of the potential legal avenues for ensuring accountability for the perpetration of torture in Bahrain will serve as a useful signpost for survivors, human rights organisations, lawyers and the international community in their collective work in ensuring that the perpetrators of these crimes inevitably face justice.

III. Introduction

In January 2011, as mass demonstrations were occurring in Tunisia and Egypt, calls for similar protests demanding democratic, economic and social reform began circulating in Bahrain. Facebook and Twitter were the principal forums by which Bahrainis organised and coordinated their collective actions and over the space of a month, an online community emerged under the banner “Youth of the February 14th Revolution.” In early February 2011, the coalition issued a statement calling for demonstrations on 14-15 February to mark the tenth anniversary of the referendum on the National Action Charter and the ninth anniversary of the adoption of the 2001 Constitution. The aim of the demonstrations was to call for “change and radical reforms in the system of government and the management of Bahrain, the absence of which caused continuous unease in the relationship between the people and the regime.”² It is estimated that out of a population of just over 1000,000 people, 100,000 Bahrainis participated in the February 2011 demonstrations, meaning that, *per capita*, Bahrain’s popular movement was the largest of the Arab Spring demonstrations.³

However, this momentous democratic surge for reform was met with brutal repression by the Bahraini authorities. On 18 March 2011, the Government of Bahrain banned demonstrations and protests, and began a coordinated campaign of mass arrests, mistreatment and torture of prisoners. This violent crackdown in the immediate aftermath of the 2011 popular movement ushered in a period of increasingly authoritarian rule in a de-facto police state, which continues to the present day.

Following the February 2011 popular movement, King Hamad Isa Al-Khalifa, established the Bahrain Independent Commission of Inquiry (BICI), in cooperation with the United Nations Commission on Human Rights. The BICI was composed of independent international experts whose task was to investigate and report on the events that took place in Bahrain from February 2011. In November 2011, the BICI reported its conclusions, which included findings that the heavy-handed use of lethal force by the Public Security Forces resulted in the death of many civilians and that detainees were subjected to torture and other forms of physical and psychological ill-treatment whilst in custody. Importantly, for GCHR’s purposes, the report concluded that the use of torture and ill-treatment was “systematic”. Furthermore, the BICI concluded that there was a lack of accountability of officials within Bahrain’s security system that facilitated a culture of impunity.⁴

² Report of the Bahrain Independent Commission of Inquiry, 23 November 2011, pp 67-66.

³ “Bahrain Human Rights Report 2021 – Events of 2020: Special Edition Marking the Bahraini Uprising 10 Years On”, Bahrain Institute for Rights and Democracy, February 2021, p.1, https://issuu.com/birdbh/docs/bird_annual_hr_report_2021.

⁴ Report of the Bahrain Independent Commission of Inquiry, 23 November 2011, p.299.

1. Patterns of Torture

Torture is widely recognised as one of the most serious human rights violations and, as such, is illegal under international law. The non-derogable and absolute prohibition on torture is set out in the 1948 Universal Declaration of Human Rights, the Geneva Conventions of 1949 and its Additional Protocols of 1977. The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Bahrain has been a party since 18 February 1998, defines “torture” as:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.⁵

Since the findings of the BICI were published, and in direct contravention of Bahrain’s aforementioned obligations under international law, the situation in Bahrain concerning the “systematic” use of torture has demonstrably deteriorated. In a 2019 report entitled *Anatomy of a Police State: Systematic Repression, Brutality and Bahrain’s Ministry of the Interior*, Americans for Democracy & Human Rights in Bahrain (ADHRB) concluded that torture is “the single most common human rights abuse” in Bahrain.⁶ The report also highlighted the systems that facilitate the widespread perpetration of this crime and a culture of impunity for perpetrators.

1.1 The Prevalence of Torture in the Bahraini Justice System and Extraction of Confessions by Torture

On consulting and analysing a wide range of reports by human rights organisations and the testimonies of torture survivors in Bahrain, one key pattern that emerges is the centrality of torture in the Bahraini justice system. Torture is systematically perpetrated by Bahraini officials in government buildings and prisons, with human rights defenders, political activists, online activists, journalists and other dissenting voices bearing the brunt of the Kingdom’s reliance on torture to maintain its oppressive sectarian and authoritarian rule.

⁵ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Part I, Article 1, UN General Assembly resolution 39/46 of 10 December 1984.

⁶ “Anatomy of a Police State: Systematic Repression, Brutality and Bahrain’s Ministry of the Interior”, Americans for Democracy & Human Rights in Bahrain, 2019 p.43, <https://www.adhrb.org/2019/04/anatomy-of-a-police-state-systematic-repression-brutality-and-bahrains-ministry-of-interior/>.

Bahrain is amongst the most heavily policed countries in the world, with approximately 46 Ministry of Interior (MOI) personnel for every 1,000 citizens. The Ministry of Interior police force is described as the single most abusive government agency in Bahrain, with more than 1,000 incidents of severe abuse documented within a seven-year period. ADHRB estimates that as many as one in every 635 Bahrainis has been arbitrarily detained, disappeared, tortured, raped, killed, or otherwise abused by the police, with the MOI directly implicated in 570 cases of torture and 517 arbitrary detentions.⁷

Furthermore, the widespread practice of torture in Bahrain intersects with and reinforces an oppressive legal system, where overly broad anti-terror legislation is used to incriminate peaceful activists, journalists and human rights defenders, many of whom “confess” to vague and spurious charges extracted by torture. A recent report by the Bahrain Institute for Rights and Democracy (BIRD) documented that at least five of the six individuals who were executed since Bahrain ended the moratorium on the death penalty in 2017, were convicted on the basis of confessions obtained under torture in trials marred with serious due process violations. Moreover, of the 12 individuals currently on death row for terrorism-related charges, all but one were reported to have been tortured.⁸

The systematic tendency towards extracting confessions through torture in prisons and MOI premises, is reflected in a number of confidential testimonials provided to GCHR by survivors of torture. Former BCHR employee, Mohammed Sultan, described his arrest, detention and the torture he suffered after participating in the February 2011 popular movement.

According to Mohammed Sultan, the period following the brutal government crackdown on protesters and its subsequent imposition of martial law beginning in March 2011 was “the worst period of my life.” In March 2011, ten officers believed to be from the Bahrain Criminal Investigations Department (CID) raided his house, threatening him and his family with guns. He described how officers threatened, beat him, forced his arms behind his back to handcuff him, blindfolded him and dragged him away and into a police vehicle, which transported him to the CID in Adliyah.

Upon arrival at the CID, the officers removed him from the car, with one officer kicking him hard in the stomach. He was then taken to a room to be interrogated. Sultan remained blindfolded and was spun around, slapped in the face and beaten all over his body before being asked to confess without any specification as to what exactly he was being asked to confess. He was then taken out of the room in order to “think” and was warned that he would be beaten again if he did not confess. Upon re-entering the room, he was asked where he had hidden the weapons and when he could not answer or did not answer to the interrogating officer’s satisfaction, was beaten and kicked again all over his body.

⁷ Ibid p.5.

⁸ “Bahrain Human Rights Report 2021 – Events of 2020: Special Edition Marking the Bahraini popular movement 10 Years On”, The Bahrain Institute for Rights and Democracy, p.5, https://issuu.com/birdbh_/docs/bird_annual_hr_report_2021.

Mohammed Sultan stated that he was repeatedly subjected to torture on a daily basis over the course of several weeks. On one occasion, he was tortured for so long that he passed out. He also described a further incident whereby he was taken by officers to a room for interrogation while blindfolded. He was brought before a person he identified as Lt-Col Mubarak Bin Huwail, who, at that time, was the Director of the Anti-Narcotics Department of the CID. Bin Huwail allegedly admitted to having been “the person who beat you in the office” and told him that unless he signed a confession, he would continue to be tortured. He was then subjected to yet another beating all over his body, where he was kicked and slapped in the face by as many as three officers.

Sultan recalled that the majority of the questions related to false allegations that he had hidden weapons. When he refused to admit to this or to possessing direct knowledge that protesters had weapons, he was deprived of sleep until he lost consciousness, was prohibited from sitting down and spent most of his time standing up facing the wall in handcuffs. Eventually, he was forced to sign a false confession and other documents, the contents of which were never disclosed to the witness.

After approximately two weeks at the CID, Sultan was transferred to Dry Dock Prison where he was placed in a ward which held political prisoners. He described the experience of being placed in a cell that had no windows and of being blindfolded for most of the day as “terrifying.” Police officers regularly came to the cell at night to beat the prisoners while they remained blindfolded. Whilst beating the prisoners, the perpetrators were reported to continuously scream, “what is your name?” and the prisoners would be tortured even more severely if they responded with their real names instead of referring to themselves as “mother fuckers.”

Sultan described one particularly harrowing incident where, whilst blindfolded, he heard one of his cellmates being beaten, noises that suggested newspapers or plastic bags were being stuffed in his mouth and gagging and choking until the victim went silent and Sultan understood that he had been murdered. The night of his cellmate’s murder, Mohammed Sultan was deprived of his evening meal, blindfolded and forced to sleep on the floor with his hands handcuffed behind his back.

Another testimony provided to GCHR tells a similar story. Yunus Ahmed Sultan, Mohammed Sultan’s brother, recounted the severe torture he suffered by officers allegedly under the command of General Sheikh Rashid bin Abdullah Al Khalifa. He also identified the 2011 popular movement as a catalyst for the intensification of the Kingdom’s targeting of protesters, human rights and civil and political leaders through arrest, imprisonment and torture.

In 2017, Yunus Ahmed Sultan received a call from an officer, summoning him to attend a police station immediately. He was given no further information or any reasons for the summons. Upon arrival at the police station, he was brought to a room where a male officer in blue military uniform received him. He was interrogated about his brother, Mohammed’s activism and when he stated he did not know anything about his brother’s human rights work, the officer ordered him not to call it “human rights work” but “terrorism.”

The officer then accused Yunus Ahmed Sultan of colluding with his brother in conspiring with the State of Qatar and Iran to overthrow the ruling family in Bahrain. He was informed that this amounted to treason, an offence punishable by life in prison or decapitation. These threats were followed by a statement that Yunus could choose to work with them in order to save himself.

Yunus Ahmed Sultan responded to these threats by informing the officers that he would report the officer's false accusations to the court. In a clear indication of the culture of impunity and the complete lack of accountability enjoyed by perpetrators of torture in Bahrain, the officers responded that they were "not scared of the court" and that Yunus would be tortured by beatings and sexual abuse. Yunus was then allowed to leave the police station.

Approximately one week later, he received a call from the same police station asking him to immediately attend the station to meet an officer called Taher Al Alawi. When he arrived at the station, he was brought to Al Alawi's office and recalled that Al Alawi was dressed in blue military uniform and wore an official metal badge. He was forced to choose between water or tea, despite his protestations that he wanted neither as he was in a rush to return to work. Upon choosing water, Al Alawi threw the water in his face stating that this was to "purify the children of temporary marriage," which Yunus understood to be a derogatory term used for Shia Muslims.

The situation escalated as the officer started screaming at him, accusing him of being a traitor and demanding that he provide the information requested by the officers. He was further accused of being involved in protests and Al Alawi ordered two officers who were in the room to "do whatever they want" to the witness. The officers then grabbed him, pinned him against the wall, slapped and beat him and forced his head between an officer's legs. He struggled to breathe and another officer pulled his pants off, leaving Yunus Ahmed Sultan completely naked. The officers, including Al Alawi, then took turns to spit into his anus and one of the officers grabbed a large wooden stick which he used to anally rape him.

Yunus Ahmed Sultan was then subjected to further beatings including kicking in the stomach, penis and chest. He described feeling "humiliated" and being in "excruciating pain." When the officers finished torturing him, Taher Al Alawi is reported to have said that their orders had come from "high above," called Yunus a "terrorist" who cooperates with Iran and Qatar and threatened that if he did not provide the officers with information, they would bring false charges against him under anti-terrorism legislation.

These two testimonies are emblematic of what our research has identified as amongst the main patterns of torture in Bahrain; dissenting voices, particularly those calling for democratic reform and greater respect for human rights and fundamental freedoms, are frequently summoned to police stations and Ministry of Interior Premises where they are harassed and tortured into confessing to vague and fabricated allegations.

It follows that the BICI's findings in 2011 that torture in Bahrain is "systematic," remains just as, if not more, relevant today. Years of reporting and compelling evidence from human rights organisations and survivors strongly suggests that the use of torture in Bahrain amounts to an official government policy that is strongly integrated into the daily functioning of the security and police forces, the judiciary and the CID of the Ministry of the Interior.

1.2 Gross Violations of Fair Trial Rights and Due Process: The Admissibility of Confessions Extracted by Torture in Criminal Proceedings

The corrosive impact of the widespread use of torture in Bahrain can be seen from the extent to which it intersects with and facilitates other gross violations of human rights and fundamental freedoms. Chief amongst these are the rights to a fair trial and the rights to freedom of expression and peaceful association and assembly.

In 2015, Human Rights Watch released a report based on interviews with ten detainees who reported having endured coercive interrogations at the Ministry of Interior's CID and in police stations. All reported being subjected to physical assault with many describing torture, including electric shocks, suspension in painful position, forced standing, extreme cold and sexual abuse. Human Rights Watch stated that the abuses, "while differing in detail, followed a general pattern, from the moment of arrest, through detention and interrogation, culminating in an interrogation with a public prosecutor."⁹

This echoes GCHR's observations that the courts and overall justice system in Bahrain not only fail to investigate the torture testimonies of defendants, but admit and allow the court to rely on "confessions" extracted by torture. For example, on 13 July 2020, the Court of Cassation in Bahrain reaffirmed the death sentences of Mohamed Ramadhan and Hussain Moosa, despite evidence that the men were tortured during their interrogations.¹⁰

The Bahrain Center for Human Rights (BCHR) has documented thousands of political prisoners over the past ten years. In March 2020, 1,486 prisoners were released on compassionate grounds due to Covid-19, including 394 detainees who were imprisoned on political charges.¹¹ BCHR estimates that prior to the release, approximately 4,000 of Bahrain's current prison population were political prisoners.¹² Prisoners of conscience are often held on specious charges and coerced through torture into confessing to criminalised political activity or "terrorist" activities, based on their legitimate human rights activism.

⁹ "The Blood of People who Don't Cooperate: Continuing Torture and Mistreatment of Detainees in Bahrain", Human Rights Watch, 22 November 2015, <https://www.hrw.org/report/2015/11/22/blood-people-who-dont-cooperate/continuing-torture-and-mistreatment-detainees>.

¹⁰ "Bahrain: Further Information: Highest Court Upholds Death Sentences", Amnesty International, 15 July 2020, <https://www.amnesty.org/en/documents/mde11/2734/2020/en/>.

¹¹ "Bahrain: Free imprisoned rights defenders and activists; extend releases to those at special risk of Covid-19", 06 April 2020, <https://www.gc4hr.org/news/view/2355>.

¹² Submission to Bahrain's UPR, May 2017, ADHRB and BCHR https://www.upr-info.org/sites/default/files/document/bahrain/session_27_-_may_2017/js15_upr27_bhr_e_main.pdf.

1.3 The Use of Torture and its Chilling Effect on Exercising the Rights to Freedom of Expression, Assembly and Association

The arrest, detention, torture and grossly unfair trial of the “Bahrain Thirteen” is a seminal example of the use of torture to specifically target human rights defenders and political activists. The Bahrain Thirteen are thirteen Bahraini opposition leaders, rights activists, bloggers and Shia clerics arrested in connection with their role in the 2011 popular movement. In June 2011, they were tried by a special military court, the National Safety Court, and convicted of “setting up terror groups to topple the royal regime and change the constitution”; they received sentences ranging from two years to life in prison. Their convictions have been upheld, despite evidence being based on confessions extracted under torture.¹³

Abdul-Hadi Al-Khawaja, a prominent human rights defender and co-founder of the Bahrain Center for Human Rights (BCHR) and the Gulf Centre for Human Rights (GCHR), is amongst the Bahrain Thirteen. Al-Khawaja will shortly mark his tenth year in prison after his arrest on 09 April 2011 and subsequent sentence of life imprisonment for organising peaceful protests demanding political reform during the popular movement in Bahrain which began in February 2011. The BICI detailed the circumstances of Al-Khawaja’s arrest and subsequent treatment in its report from 2011. The report details how security forces violently arrested Al-Khawaja, inflicting “a hard blow to the side of his face, which broke his jaw and knocked him to the ground. He was taken to the Ministry of Interior (MoI) clinic and then the Bahrain Defence Forces (BDF) Hospital where he had major jaw surgery for four broken bones in his face.”¹⁴

The report further describes the extent of the severe physical, psychological and sexual torture inflicted on Al-Khawaja. A particularly harrowing example documents how despite the pleas of Al-Khawaja’s doctor for them to stop, security officers tortured Al-Khawaja directly after he underwent major jaw surgery, while blindfolded and restrained in a military hospital bed.¹⁵ Almost ten years later, he still suffers from chronic pain and requires additional surgery to remove the metal plates and screws that were inserted in his jaw during surgery.¹⁶

In January 2021, Al-Khawaja complained of restrictions on phone calls with his family, whom he hasn’t seen since January 2020, the confiscation of hundreds of his books and reading materials and the prison authorities’ continuing refusal to grant him necessary medical treatment. Denying a prisoner adequate medical care violates the United Nations Standard Minimum Rules for the Treatment of Prisoners, known as the Nelson Mandela Rules.

¹³The names of the Bahraini Thirteen are: Abdulhadi al-Khawaja, Abdulhadi al-Mukhodher, Abduljalil al-Miqdad, Abduljalil al- Singace, Abdulla al-Mahroos, Abdulwahab Hussain, Hasan Mushaima, Ibrahim Sharif, Mohamed Habib al-Miqdad, Mohamed Hasan Jawad, Mohamed Ismail, Sa’eed al-Nuri and Salah al-Khawaja.

¹⁴ Report of the Bahrain Independent Commission of Inquiry, 23 November 2011, p.438.

¹⁵ Ibid.

¹⁶ “Bahrain: Open Letter to Danish Prime Minister to Take Immediate Action to Free Abdul-Hadi Al-Khawaja”, 22 January 2021, <https://www.gc4hr.org/news/view/2579>.

The specific and targeted use of detention and torture as a means of silencing and punishing human rights defenders, journalists, political activists and other dissenting voices has been increasingly laid bare by the response of the Bahraini authorities to the Covid-19 pandemic. In March 2020, at the start of the Covid-19 pandemic, Bahrain released 1,486 prisoners, 901 of whom received royal pardons on “humanitarian grounds.”¹⁷ In a joint letter by 21 NGOs including BCHR, GCHR and Human Rights Watch protested that none of them were high-profile cases. For example, Al-Khawaja and other prominent human rights defenders and activists - many of whom are older and/or suffer from underlying medical conditions - were not among those released. They include Naji Fateel and Dr. Abduljalil Al-Singace, both of whom have also been tortured in prison.

In a striking exception to the rule, on 09 June 2020, prominent human rights defender, Nabeel Rajab, Founding Director of GCHR and Co-Founder and former President of BCHR, was conditionally released from prison to carry out the remaining three years of his sentence at home through community service.¹⁸ Rajab had been detained since 2016 for his tweets alleging torture in Bahrain’s Jaw Prison and criticising the Saudi and United Arab Emirates-led military campaign in Yemen.

The absence of human rights defenders and other “prisoners of conscience” from the list of royal pardons and the prolongation of their arbitrary detention in prisons rife with torture and ill-treatment, is a glaring indictment of Bahrain’s concerted targeting of human rights defenders and dissenting voices.

1.4 Torture and Travel Bans in Reprisal against Human Rights Defenders who Interact with International Human Rights Mechanisms

In recent years, an emerging pattern in the systematic targeting of human rights defenders and political activists, has been the use of reprisals and travel bans against defenders and activists who attempt to overcome the domestic impunity for perpetrators of torture and other human rights abuses by appealing to international human rights mechanisms to ensure accountability.

Three members of the family of exiled activist Sayed Ahmed Alwadaei, of the London-based Bahrain Institute for Rights and Democracy (BIRD), were deemed arbitrarily detained by the United Nations in “reprisal” for his activism.¹⁹

¹⁷ “Bahrain: Free Imprisoned Rights Defenders and Activists”, 06 April 2020, <https://www.gc4hr.org/news/view/2355>.

¹⁸ “Bahrain: Leading Imprisoned HRD Abdulhadi Al-Khawaja releases statement on Bahrain’s ‘Alternative Punishment’ Law”, Gulf Centre for Human Rights, 31 July 2020, <https://www.gc4hr.org/news/view/2440>.

¹⁹ “Opinions adopted by the Working Group on Arbitrary Detention at its eighty-second session, 20–24 August 2018, Opinion No. 51/2018 concerning Sayed Nazar Naama Baqquer Ali Yusuf Alwadaei, Mahmood Marzooq Mansoor and Hajar Mansoor Hassan (Bahrain)”, United Nations Human Rights Council, 7 January 2019.

They include his brother-in-law, Sayed Nizar Alwadaei, who is serving an 11-year sentence, his nephew Mahmood Marzooq Mansoor, and his mother-in-law, Hajer Mansoor, who was released from prison in Bahrain on 5 March 2020 after completing a three-year sentence on fabricated charges.²⁰

While in prison, Hajer Mansoor undertook a hunger strike to protest terrible conditions in the Isa Town women's prison. In March 2019, six UN experts expressed serious concern about the treatment of Hajer Mansoor and two other women human rights defenders, Ebtisam Al-Saegh and Zainab Al-Khamis, who remain under travel ban for their activism.²¹

Torture is one of the preferred reprisal mechanisms of the Bahraini authorities against human rights defenders and activists who appeal to international human rights mechanisms. The treatment of woman human rights defender Ebtisam Al-Saegh is one of the most harrowing examples of this tendency. In 2017, a report by Front Line Defenders outlined the severe torture and interrogations to which Al-Saegh was subjected in retaliation against her participation at the UN Human Rights Council in Geneva in March 2017.

On 26 May 2017, Al-Saegh was summoned by the National Security Agency (NSA) to Muharraq police station, in the North of the country. She was sexually assaulted by the interrogators. She was also subjected to verbal abuse, and interrogators threatened to rape her if she did not put an end to her human rights activities. Al-Saegh was released at approximately 11.00pm and was immediately taken to a hospital.

On 26 May 2017, at approximately 4.00pm, Al-Saegh presented herself to the NSA building in Muharraq, responding to a summons she received the previous day. According to the defender, for seven hours, she was beaten all over her body, kicked in the head and in the stomach. She was subjected to verbal and sexual abuse by the interrogators, who threatened to rape her if she did not put an end to her human rights activities. Al-Saegh was kept blindfolded and standing the whole time. The NSA also resorted to psychological torture by trying to pressure her into publicly announcing on Twitter that she would cease her human rights work and resign from Salam for Democracy and Human Rights when they threatened to target her husband or her children. During the interrogation, Al-Saegh was asked about the work of activists inside and outside Bahrain, as well as about her participation at the UN Human rights Council in Geneva.²²

²⁰ "Woman Jailed in 'Reprisal' For Son-in-Law's Activism Freed in Bahrain", Bahrain Institute for Rights and Democracy, 05 March 2020, <http://birdbh.org/2020/03/breaking-woman-jailed-in-reprisal-for-son-in-laws-activism-freed-in-bahrain/>.

²¹ "6 UN Experts Call For Investigation Into Abuse of Three Bahraini Female Rights Defenders", Bahrain Institute for Rights and Democracy, 19 March 2019, <http://birdbh.org/2019/03/6-un-experts-call-for-investigation-into-abuse-of-three-bahraini-female-rights-defenders/>.

²² "Ebtisam Al-Saegh Tortured and Sexually Assaulted", Front Line Defenders, 01 June 2017, <https://www.frontlinedefenders.org/en/case/ebtisam-al-saegh-tortured-and-sexually-assaulted>.

2. Ending the Culture of Impunity: Ensuring that Perpetrators of Torture are Held Accountable

2.1 Tackling the Culture of Impunity within Bahrain

In response to the recommendations of the BICI that Bahrain address the serious human rights violations committed during the 2011 popular movement, the Bahraini Government created the Ombudsman of the Ministry of the Interior and the Special Investigations Unit.²³ Bodies such as the BICI Follow-Up Unit, the National Commission to review the recommendations of the BICI, the National Security Agency Ombudsman, the Prisoners and Detainees Rights Commission²⁴ and the Special Investigation Unit, all appear to either exist in name only or with minimal effectiveness, or to have ceased operations.

The Bahraini Government maintains that these bodies are effective and frequently points to their existence and operation as proof that it takes human rights and accountability seriously. This was apparent in the government's submissions to the latest United Nations Universal Periodic Review (UPR) of Bahrain in 2017.²⁵

However, the conclusions and recommendations that emerged from the UPR paint a slightly different picture. Key recommendations included that Bahrain “take steps to establish an independent, effective and well-resourced national preventive mechanism in compliance with the Optional Protocol to the Convention against Torture requirements” and that it “continue to strengthen the Office of the Ombudsman of the Ministry of the Interior, the Ombudsman of the National Security Agency and the Special Investigations Unit, so they can fulfil their mandates effectively.”²⁶

A similar pattern emerges from the recommendations made by the UN Committee against Torture in its concluding observations on the second and third periodic reports of Bahrain in May 2017. Amongst the main areas of concern cited were the “discrepancy between the legislative and institutional frameworks and their implementation in practice,” as well as the “allegations of torture and ill-treatment and related impunity.”²⁷

²³“Subservient and Unaccountable”, BIRD and ADHRB, July 2014, http://birdbh.org/wp-content/uploads/2014/10/ADHRB_Mechanism_Final-0814_Web.pdf.

²⁴ “Fundamentally Flawed: Bahrain’s Prisoners and Detainees Rights Commission”, BIRD and ADHRB, September 2015, <https://www.adhrb.org/2015/09/bird-and-adhrb-publish-report-on-prisoners-and-detainees-rights-commission-fundamentally-flawed/>.

²⁵ Report of the Working Group on the Universal Periodic Review: Bahrain, Thirty-Sixth Session of the United Nations Human Rights Council, 11-29 September 2017, pp.2-4.

²⁶ Ibid pp. 11-22.

²⁷ Concluding Observations on the Second and Third Periodic Reports of Bahrain, the United Nations Committee against Torture, CAT/C/BHR/CO/2-3, 29 May 2017, p.2.

GCHR echoes the recent calls emerging from the UPR and CAT reviews for Bahrain to develop and strengthen truly independent and effective legislative and institutional frameworks and mechanisms that will put an end to the culture of impunity in Bahrain. Crucially, torture survivors, human rights defenders and other relevant stakeholders must be consulted on the mandate and composition of such mechanisms. In September 2020, the Bahraini Government announced that it had held a workshop²⁸ on its “National Action Plan for Human Rights.” However, it is unclear what this plan will do to address ongoing human rights violations, such as torture, since the Bahrain News Agency only reported on the Kingdom’s “human rights achievements” and local human rights organisations have not been consulted. GCHR is of the view that if the government is serious about human rights and democratic reform, as it purports to be, and is committed to ensuring that independent and effective mechanisms are in place, it will develop the aforementioned plan in close and transparent consultation with survivors, human rights defenders and relevant stakeholders.

2.2 Ensuring International Accountability by Moving Away from a Culture of Complicity in the International Community

The aforementioned domestic reforms are sorely needed and will be central to ensuring a meaningful and enduring end to the culture of impunity enjoyed by perpetrators of torture in Bahrain. However, the benefit of experience in the aftermath of the BICI and the worsening of the situation in Bahrain since 2011 dictates that merely waiting for the Bahraini Government to guarantee accountability at the domestic level will not result in the necessary and urgent actions that are required to ensure that perpetrators face justice in a timely manner.

Furthermore, Bahrain’s failure, despite repeated calls from UN Special Procedures and human rights organisations, to facilitate a visit by UN Special Rapporteurs indicates the government’s hesitancy to engage with international accountability mechanisms. The difficulties in ensuring Bahrain’s meaningful engagement and willingness to be held accountable for human rights violations at an international level is further evidenced by Bahrain’s failure, thus far, to ratify the Optional Protocol to the Convention against Torture. The Optional Protocol provides for international and national mechanisms for the prevention of torture in places where persons are deprived of their liberty.

The deeply engrained culture of impunity within Bahrain and its hesitancy to engage meaningfully with international accountability and human rights mechanisms necessitates a more concerted and robust response from the international community to ensure that perpetrators of torture and other human rights violations face justice. GCHR advocates for greater political will and legal initiative amongst the international community in order to achieve this.

²⁸ “Bahrain’s human rights achievements stressed at National Action Plan for Human Rights workshop”, 02 September 2020, Bahrain News Agency, <https://www.bna.bh/en/BahrainshumanrightssachievementsstressedatNationalActionPlanforHumanRightshworkshop.aspx?cms=q8FmFJgiscL2fwIzON1%2BDt05ODpfcrcr%2B3Tvc0gAUxkg%3D>.

In terms of the concrete measures that could be taken by the international community to ensure accountability for the perpetration of torture in Bahrain, GCHR proposes the following: greater compliance with the *obligation* of state parties to the CAT to use universal jurisdiction to prosecute perpetrators of torture before national courts; ceasing technical and technological support to Bahrain that facilitates torture and other human rights violations; and greater respect for human rights due diligence and corporate social responsibility in the dealings of states and companies with Bahrain. GCHR believes that the implementation of these measures would greatly contribute to ending the international complacency and in some instances, complicity, that allows the culture of impunity in Bahrain to continue unabated.

Universal jurisdiction is the ability of domestic judicial systems of a state to investigate and prosecute certain crimes, even if they were not committed on its territory, by one of its nationals, or against one of its nationals (i.e. a crime beyond other bases of jurisdiction, such as territoriality or active/passive personality). Universal jurisdiction can be used to prosecute a limited number of grave crimes in violation of international law. These include war crimes, torture, crimes against humanity, genocide, piracy, hijacking, acts of terrorism, and attacks on UN personnel. International treaties that *oblige* state parties to use universal jurisdiction include: the 1949 Geneva Conventions, the 1973 Convention against Apartheid, the 1984 Convention against Torture, and the 2006 Convention against Enforced Disappearance. It is also generally agreed that international customary law allows the use of universal jurisdiction with regard to crimes considered particularly heinous by the international community, such as crimes against humanity and genocide.²⁹

Universal jurisdiction is a particularly useful tool for ensuring that victims of serious human rights violations have access to justice, especially if a culture of impunity in their home country renders this an unrealistic aspiration before their own domestic courts. It also helps fill a loophole in the landscape of international justice, whereby the International Criminal Court (ICC) only has jurisdiction over the state parties to the Rome Statute of the ICC.

The effectiveness of universal jurisdiction in ensuring accountability for the perpetration of torture, in circumstances where justice would otherwise elude victims, has most recently been demonstrated in an historic first victory in Germany for international efforts to bring legal accountability for atrocities, including torture, which were committed during the war in Syria in one of President Bashar Al-Assad's notorious prisons.

In February 2021, a German court exercising its universal jurisdiction found Eyad al-Gharib, a 44-year-old former low-ranking officer in the Syrian intelligence service, guilty of "aiding and abetting a crime against humanity in the form of torture and deprivation of liberty." The accused was sentenced to four years and six months in prison.³⁰

²⁹ "Basic Facts on Universal Jurisdiction", Human Rights Watch, 19 October 2009, <https://www.hrw.org/news/2009/10/19/basic-facts-universal-jurisdiction>.

³⁰ "Germany convicts former Assad regime agent in historic Syria torture verdict", *The Guardian*, 24 February 2021, <https://www.theguardian.com/world/2021/feb/24/germany-convicts-former-assad-regime-agent-in-historic-syria-torture-verdict>.

In light of the institutional and legal deficiencies for ensuring accountability in Bahrain (see Part 1), combined with the fact that Bahrain is not a state party to the Rome Statute of the ICC, GCHR encourages state parties to the CAT to emulate this important precedent in exercising universal jurisdiction to prosecute alleged perpetrators of torture in Bahrain.

This was attempted on 15 September 2016 when Bahraini national Jaafar Alhasabi made an application in the Irish Criminal Courts of Justice for a summons requiring the attendance before the court of the Attorney General of Bahrain, Ali Bin Fadhul Al Buainain. Al Buainain was due to visit Dublin for the annual conference of the International Association of Prosecutors in his capacity as Vice-President of that organisation. Alhasabi accused Al Buainain of aiding and abetting his torture in late 2010. Under the Criminal Justice (UN Convention Against Torture) Act, 2000, Irish courts are vested with universal jurisdiction over acts of torture committed by public officials and, by the application of the principles of common law accessory liability, this jurisdiction extends to persons who have aided or abetted the commission of such an act. To the applicant's extreme disappointment, the presiding judge refused to issue the summons sought by him. She stated that he had not established a "sufficient nexus" between his torture and the conduct of Al Buainain.³¹

Bahrain's culture of impunity for torture and other serious human rights abuses is facilitated by the complicity of countries which provide technical and technological support to Bahrain. This support sanitises Bahrain's reputation abroad and gives undue credence to claims that the country is undergoing a period of democratic reform and greater human rights compliance. Indeed, the substantial evidence of torture and other serious abuses points to the opposite. GCHR maintains that it is imperative for states and companies to exercise greater due diligence and corporate social responsibility in their dealings with Bahrain.

The United Kingdom, in particular, continues to be one of Bahrain's main supporters, with the government lifting a 2019 ban on arms sales to Bahrain and hosting several delegations of Bahraini officials in Westminster.

In the past year alone, the UK received a number of high-profile diplomatic visits from Bahraini officials including Prince Nasser bin Hamad Al Khalifa, National Security Advisor and fourth son of King Hamad, and Bahrain's Foreign Minister, Dr Abdullatif bin Rashid Al Zayani, who visited the UK in March and September 2020 respectively.

In receiving Prince Nassar, the UK arguably failed to respect its obligation under universal jurisdiction to prosecute individuals accused of torture. Prince Nassar has been accused of torturing prisoners involved in the 2011 popular movement and in 2014, was the subject of a UK High Court ruling which found that he is not immune from prosecution in the UK.³²

³¹ "Universal Jurisdiction invoked before Dublin District Court in Bahrain torture case", Global Legal Action Network, 09 November 2016, <https://www.glanlaw.org/single-post/2016/11/10/universal-jurisdiction-invoked-before-dublin-district-court-in-bahrain-torture-case>.

³² "Prince Nasser of Bahrain torture ruling quashed", *BBC News*, 07 October 2014, <https://www.bbc.com/news/uk-29521420>.

The UK has further obligations under domestic regulations to implement sanctions, including asset freezes and immigration controls, to “deter and provide accountability for” activities occurring outside or in the UK that would amount to a serious violation of the right to life and “the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment” (The Global Human Rights Sanctions Regulations 2020).³³

Since 2011, the UK has provided substantial funding and technical assistance to Bahrain, including funding and training the Special Investigations Unit and the Ministry of Interior Ombudsman.³⁴ The growing, incontrovertible evidence that bodies receiving technical and financial assistance from the UK have been implicated in torture and other human rights violations has led to calls for greater human rights due diligence and accountability on the specific uses of this technical support.

The Royal College of Surgeons in Ireland (RCSI) has also been the subject of a recent complaint detailing allegations of human rights abuses, including torture, in Bahraini medical facilities that benefit from Irish Medical Council accreditation.³⁵

In addition, the UK has played a key role in providing military support to Bahrain through the sale of arms, despite the government’s participation in the Saudi-led war on Yemen, in addition to trainings and courses on explosive devices and marksmanship.³⁶ For example, since 2018, the University of Huddersfield in Yorkshire, has provided officers from Bahrain’s Royal Academy of Policing with an exclusive MSc course in Security Science.

According to information divulged to BIRD from Freedom of Information requests, the University management failed to conduct adequate human rights due diligence before signing the contract with Bahrain’s Royal Academy of Policing.³⁷

The failure to conduct adequate human rights due diligence before developing an exclusive MSc in security science for a body accused of torturing political dissidents was recently criticised by a group of forty cross-party UK MPs and peers who urged the University of Huddersfield to close the Master’s course.³⁸

³³ “The Global Human Rights Sanctions Regulations 2020,”

<https://www.legislation.gov.uk/ukxi/2020/680/made>.

³⁴ “Bahrain Human Rights Report 2021 – Events of 2020: Special Edition Marking the Bahraini Uprising 10 Years On”, p.10, https://issuu.com/birdbh/docs/bird_annual_hr_report_2021.

³⁵ “Training Sites used by RCSI Bahrain under spotlight in new human rights complaint”, *The Medical Independent*, 10 December 2020, <https://www.medicalindependent.ie/training-sites-used-by-rcsi-bahrain-under-spotlight-in-new-human-rights-complaint/>.

³⁶ Ibid.

³⁷ “Bahrain Human Rights Report 2021 – Events of 2020: Special Edition Marking the Bahraini Uprising 10 Years On”, p.19, https://issuu.com/birdbh/docs/bird_annual_hr_report_2021.

³⁸ “Huddersfield University’s Bahrain degree ‘providing torture hub with legitimacy,” *The Guardian*, 05 February 2021, <https://www.theguardian.com/education/2021/feb/05/huddersfield-universitys-bahrain-degree-providing-torture-hub-with-legitimacy>.

It is important to acknowledge the significant role of companies and states in preventing the exportation of software and technology that will be used to perpetrate serious human rights violations. States and companies must respect their obligations to engage in human rights due diligence and corporate social responsibility when selling and exporting technology to countries with poor human rights records.

These obligations are enshrined in the UN Guiding Principles on Business and Human Rights and international agreements such as the Wassenaar Arrangement.

The Wassenaar Arrangement, of which the UK is a member, is a voluntary export control regime which seeks to promote “greater responsibility” in the export of weapons and dual-use goods and technologies.³⁹ State parties to the Wassenaar Arrangement commit to exerting effective due diligence controls when issuing export licences in relation to such goods. In October 2018, the British spyware manufacturer, Gamma Group, was sued in the UK Courts for selling the Bahraini Government software allegedly used to target human rights defenders and dissidents.⁴⁰

The campaigning group, Privacy International, previously filed a complaint with the British Government in 2013, alleging that Gamma had violated OECD guidelines on responsible business conduct. In response, the UK Government concluded that the OECD guidelines had been breached.⁴¹ However, there are no penalties for breaches of the Guidelines and Gamma never responded to the Government’s report.

GCHR aligns itself with the position of the former UN Special Rapporteur on Freedom of Expression, David Kaye, who stated that in order to combat the lack of accountability for the global surveillance industry in providing governments with low-cost software that is used to perpetrate torture and other human rights abuses, the Wassenaar Arrangement should be updated to “go beyond ‘dual-use’ technology, and cover spyware that is used to attack human rights. In turn, all governments will have to commit to implement globally agreed expert controls.”⁴²

³⁹ “The Wassenaar Arrangement at a Glance,” Arms Control Association, December 2017,

<https://www.armscontrol.org/factsheets/wassenaar>.

⁴⁰ “Bahraini Arab spring dissidents sue UK spyware maker”, *The Guardian*, 11 October 2018,

<https://www.theguardian.com/world/2018/oct/11/bahraini-arab-spring-dissidents-sue-uk-spyware-maker>.

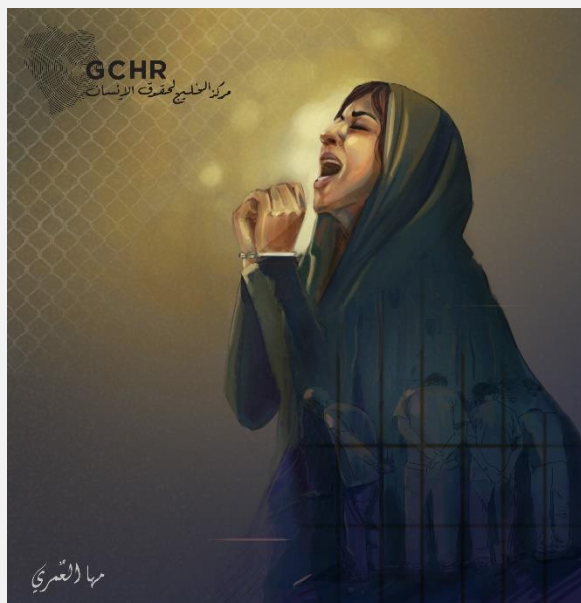
⁴¹ Privacy International complaint to UK NCP about Gamma International UK Ltd,

<https://www.gov.uk/government/publications/privacy-international-complaint-to-uk-ncp-about-gamma-international-uk-ltd>.

⁴² “The surveillance industry is assisting state suppression. It must be stopped,” *The Guardian*, 26 November

2019, available at <https://www.theguardian.com/commentisfree/2019/nov/26/surveillance-industry-suppression-spyware>.

3. Conclusion



This report has sought to expose the main patterns of torture in Bahrain, with a specific focus on the domestic and international dynamics and systems that facilitate a culture of impunity and allow perpetrators to evade justice. Part 1 provided an overview of the specific ways in which torture is perpetrated in Bahrain and which groups are particularly targeted. GCHR had access to comprehensive and detailed witness statements that, when analysed alongside other testimonies and reports, demonstrate the systematic and concerted use of torture as an instrument to stifle political dissent and the peaceful activities of human rights defenders. Torture is

an intrinsic part of the Bahraini justice system, from the start of criminal investigations (often on vague and trumped-up charges), where torture is frequently used to extract confessions, right through to trial where confessions based on torture are commonly allowed as admissible, incriminating evidence.

Part 2 undertook a critical analysis of the interplay between domestic and international frameworks and systems that facilitate the use of torture in Bahrain and the culture of impunity. Bahrain has failed to meaningfully implement the recommendations of the 2011 Bahrain Independent Commission of Investigation; and the narrative of reform and greater human rights compliance that it propagates on the international stage is far removed from the reality. GCHR is of the view that ensuring that perpetrators inevitably face justice is dependent on international legal action and political will to break the cycle of complicity that allows the pattern of systematic torture to continue unabated in Bahrain. We believe that ending impunity and ensuring accountability for the perpetration of torture in Bahrain ultimately depends on the greater use of universal jurisdiction, the tightening up of export controls on spyware and other dual-use goods and weapons and proper engagement with human rights due diligence and corporate social responsibility in business dealings and the provision of technical support to Bahrain.

4. Recommendations

4.1 Recommendations to the Government of Bahrain

1. Guarantee the meaningful and transparent participation of human rights organisations and torture survivors in the formulation of the “National Action Plan for Human Rights.”
2. Fully implement the recommendations of the Bahrain Independent Commission of Inquiry, the UN Committee against Torture and the UN Universal Period Review on the creation and operation of effective and human rights-compliant national accountability and investigatory mechanisms.
3. Provide police, security forces and the judiciary with trainings on human rights compliance when arresting, detaining, interrogating and ensuring the fair trial rights of Bahraini citizens.
4. Immediately release the “Bahrain Thirteen” and all prisoners of conscience, political prisoners and human rights defenders from prison.
5. Ratify the Optional Protocol to the Convention against Torture.
6. Extend an invitation to UN Special Procedures for the visit of UN Special Rapporteurs to Bahrain and engage in constructive dialogue with international human rights organisations and mechanisms.

4.2 Recommendations to the International Community

1. Comply with the universal jurisdiction obligation to prosecute alleged perpetrators of torture in domestic courts.
2. Engage in proper human rights due diligence and corporate social responsibility when providing technical and financial assistance and training courses to Bahrain.
3. Cease all support to organisations and institutions suspected of perpetrating torture.
4. Update the Wassenaar Arrangement to go beyond “dual-use” technology, and cover spyware that is used to attack human rights.
5. Ensure that all governments are bound by globally agreed expert controls that place human rights due diligence and corporate social responsibility at the centre of licensing agreements.

The Gulf Centre for Human Rights (GCHR) is an independent, non-profit NGO that provides support and protection to human rights defenders (HRDs) in order to promote human rights, including but not limited to freedom of expression, association and peaceful assembly.

GCHR is based in Lebanon and documents the environment for HRDs in the Gulf region and neighbouring countries, specifically Bahrain, Kuwait, Iran, Iraq, Jordan, Lebanon, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates and Yemen.

GCHR was founded in 2011.

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