



# General Assembly

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## Human Rights Council

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Agenda item 4

Human rights situations that require the Council's attention

### **Written statement\* submitted by the Kham Rehabilitation Center for Victims of Torture, non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2016]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-15659(E)



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## Bahrain Judicial System

It is significant that the Bahraini Constitution, ratified in 1973, laid the groundwork for judicial independence. Article 101 (a,b) offers that:

“(a) The honour of the judiciary and the integrity and impartiality of judges are the bases of rule and a guarantee of rights and liberties. (b) In the administration of justice judges shall not be subject to any authority.”

Despite these provisions, the Bahraini judiciary has typically been subject to inappropriate Governmental influence. In the past, some attorneys and family members involved in politically sensitive criminal cases have argued that the Government intervenes in court proceedings to induce the result or to obstruct rulings from being carried out. There are also occasional allegations of corruption in the judicial system.

According to the Kingdom of Bahrain Constitution, the King appoints all judges by Royal Decree, upon recommendation of the Ministry of Justice and Islamic Affairs, headed currently by a member of the ruling Al-Khalifa family. Article 102 (d), which has been suspended since 1975, provides for the establishment of a Supreme Council of the Judiciary, which shall supervise the functions of the courts and the offices relating thereto. "The law shall specify the jurisdiction of the said Council over the functional affairs of both the judiciary and the public prosecution".

Once appointed, judges are civil servants who may work for the Government until the mandatory age of retirement (60 years). The King also serves as chairman of the Supreme Judicial Council, the body responsible for supervising the work of the courts and the Public Prosecution office. The Constitution does not provide a legislative branch confirmation process for judicial appointees nor does it establish an impeachment process. Article 106 provides for the establishment of a Constitutional Court to rule on the constitutionality of laws and statutes.

The King may present draft laws to this court before their implementation to determine the extent of their agreement with the Constitution, providing rudimentary judicial review. The Court's determination is "binding on all state authorities and on everyone."

Judges of the middle and lower courts are nominated by the Ministry of Justice and appointed by decree by the prime minister. The Supreme Judicial Council, chaired by the King, appoints the members of the Constitutional Court.<sup>1</sup>

Many of the high-ranking judges in Bahrain are either members of the ruling family or non-Bahrainis (mainly Egyptians) with 2-year renewable contracts. To secure renewal of these contracts, judges may be prone to consider it necessary to take decisions not unfavourable to the wishes or interests of the Government<sup>2</sup>

### The Shia in Criminal Justice System

Even though Bahrain's Shia is a majority, they are represented as a minority in all constitutional and administrative branches. They occupy a proportion of only 15% of the executive branch, 12% of the judiciary, 10% of government bodies and companies, and only 1% of the King's guard and security apparatus, which includes the army. Between 2011 and 2013, positions for public office like judges, ministers and advisers have been directly appointed by the orders of the King. On the flipside, thousands of Shia has been made redundant from 2011, with discrimination against them evident in many facets of Bahrain's society, including employment, teaching, health, and housing.

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<sup>1</sup>[https://en.wikipedia.org/wiki/Judiciary\\_of\\_Bahrain](https://en.wikipedia.org/wiki/Judiciary_of_Bahrain) - cite\_note-POGAR-1

<sup>2</sup>[https://en.wikipedia.org/wiki/Judiciary\\_of\\_Bahrain#cite\\_note-POGAR-1](https://en.wikipedia.org/wiki/Judiciary_of_Bahrain#cite_note-POGAR-1)

The unequal treatment of Bahraini Shias in the criminal justice system begins at the very first stage of that system: the investigation of suspected criminal activity by law enforcement agents. Police departments disproportionately target Shias as criminal suspects, and too often the police employ tactics against Shias that simply shock the conscience.

One of many examples of such targeting was “State of National Safety” SNS in 2011 during the uprising in Bahrain. The government overwhelmingly targeted members of the Shia community during the SNS, including activists and clerics. The government and parastatal companies suspended or dismissed scores of Shia civil servants, as well as parastatal employees, although some were reinstated by year’s end.

The Minister of the royal court, Nasser bin Khalid Bin Ahmed Al Khalifa, who is an officer in the Bahraini Army and the chairman of East Riffa club, gave another sample that shows Salafi incursion inside the ruling family. His twitter account @nasser\_khalid is full of clear indications that reveal a fundamentalist configuration of the same national ideology adopted by “the SalafiaJihadia”.

Nasser bin Khalid Bin Ahmed Al Khalifa says in one of the comments, "Bahrain is not for all, it is an Arab Muslim country pursuant to the Constitution" adding that, "We don't force the Magi (the Shiites) to monotheism, yet refusing their shirk (disbelief) is a duty and helping them to shirk in Allah is a great injustice". He continues in this context, "Not calling Sunnis and Shiites, but only Bahrainis is a Jahiliyyah(backwards) naming set by those calling for shirk."

The government runs state television station broadcast programmes that accuse Shia citizens of targeting Sunni citizens and questioned the allegiance of Shia citizens, and some political figures use anti-Shia rhetoric and epithets in social media posts.

The government specifically limited and controlled the use of mosques or matams (Shia religious community centers) for political gatherings.<sup>3</sup>

An example would be during a broadcast of a TVprogramme called AlRassed (The Observer), the hosts argued that Shia were targeting the Sunni sect in order to divide society into two groups: loyal and honest (pro-government) and agent and traitor (anti-government). The HewanMaftooh“Open Dialogue” programme attempted to highlight alleged personal scandals of Shia opposition journalists, activists, and students.

*Report of the Bahrain Independent Commission of Inquiry (BICI ) section 1188 stated: The majority of the detainees alleged that they were subjected to verbal abuse and insults while in detention. All of the detainees, apart from one Sunni in detention in Al Qurain Prison, made allegations of routine sectarian insults, which included insults relating to Shia religious practices and their religious and political leader.<sup>4</sup>*

All detainees alleged that they were subjected to some form of verbal abuse during detention. The majority of detainees were Shia and the alleged insults frequently related to Shia practices and religious or political figures. There were reports of the following insulting terms being used: ibn/bint al muta’aa (son/daughter of a temporary marriage); rafidi/a (deserters); safawi/a (relating to the Safavid dynasty); filth; animal; spy; and traitor. In addition, detainees alleged that insults relating to female family members were often used during interrogations.

The current controversy surrounding secret profiling in Bahrain and issue of racial bias by the police.

We find that attitudes toward the occurrence and adequacy of these practices are largely shaped by citizens' race, personal experiences with police discrimination, and exposure to news media reporting on incidents of police misconduct. The findings lend support to the group-position theory of race relations. Racial bias by the police includes such things as racial profiling of motorists, racial prejudice among police officers, and discriminatory treatment of minority individuals and minority neighborhoods. Little research exists on public perceptions of racially biased policing, though such perceptions may have important consequences. The perception of police practices as unfair or as

<sup>3</sup> <http://www.state.gov/documents/organization/193091.pdf>

<sup>4</sup> <http://www.bici.org.bh/BICIREportEN.pdf>

racially motivated may lead to more frequent and severe confrontations between police and citizens and to greater distrust of the police.

Recommendations

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- Build accountability into the Exercise of Discretion by Police and Prosecutors.
- The development of national standards for accrediting law enforcement agencies. No such national standard currently exists, leading to a patchwork of law enforcement guidelines throughout the nation. The national standards should include specific guidance on traffic stop procedures; the use of force; and interaction between police officers, prosecutors, and multi-cultural communities. The standards should expressly prohibit racial profiling of any kind.
- Improved training of current and incoming police officers and prosecutors to bring departments into compliance with the national standards.
- Improve the diversity of law enforcement personnel.
- Much of the hostility between Shia communities and the police and prosecutors can be traced to the under-representation of Shias in law enforcement and judiciary. In too many neighborhoods, the police are seen as an occupying force rather than a community resource. Police departments and prosecutors' offices should redouble their efforts to recruit Shias. Police departments should encourage, and perhaps require, that officers live in the cities they patrol.

SALAM for Democracy and Human Rights (SALAMDHR), an NGO without consultative status, also shares the views expressed in this statement.

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