

One Year Later

ASSESSING BAHRAIN'S IMPLEMENTATION
of the BICI REPORT

NOVEMBER 2012



POMED

PROJECT
ON MIDDLE EAST
DEMOCRACY

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On November 23, 2011, the Bahrain Independent Commission of Inquiry (BICI) issued a 500-page report summarizing its findings regarding the February-March 2011 popular uprising and the government's heavy-handed response. The BICI report described in detail frequent use of excessive force by security forces, systemic abuse and torture of detainees, mass discrimination and dismissals of workers and students, and grave violations of medical neutrality. The report highlighted a culture of impunity prevalent among government officials at all levels, concluding that many abuses "could not have happened without the knowledge of higher echelons of the command structure."

The BICI report was welcomed by the international community as a potentially critical step toward resolving the country's escalating political crisis. One of the most common criticisms of the report was that while the documentation of the events of February and March 2011 was extremely thorough, the report's mandate and its 26 recommendations to the Government of Bahrain did not extend far enough to resolve the country's political crisis. Nonetheless, observers in Bahrain and the international community were hopeful these recommendations – if implemented swiftly, sincerely, and thoroughly – could set the stage for genuine national reconciliation and a process of meaningful political reform.

One year later, as tensions in Bahrain continue to escalate, any understanding of the current crisis must include an honest, accurate assessment of the progress in implementation of the BICI recommendations. In this report, we have strived to carefully carry out such an assessment, although the task was made considerably more difficult by the lack of transparent, relevant information from Bahraini government officials, as well as the very limited access provided to independent organizations, researchers, and journalists. If the government is making substantially more progress on implementing the BICI recommendations than it appears based on publicly available information, then they must more transparently provide evidence to support such claims and allow access for outside observers to confirm such claims independently.

We have found that the Government of Bahrain has fully implemented three of the BICI report's 26 recommendations. Two other recommendations were impossible for us to properly evaluate due to a lack of available information, and 15 recommendations have only been partially implemented. Finally, the government has made no meaningful progress toward six of the recommendations, which are precisely the most important steps that need to be taken – accountability for officials responsible for torture and severe human rights violations, the release of political prisoners, prevention of sectarian incitement, and the relaxation of censorship and controls on free expression.

Nearly as troubling as the failure to address key areas has been the unrealistic assessment by the Government of Bahrain of its own progress. Bahraini government officials, including the Ambassador to the United States, have claimed in public statements to have fully implemented 18 of the 26 recommendations. It is difficult to expect the government to make significant progress on the many unfulfilled recommendations while it maintains that most of those steps have already been completed.

The Government of Bahrain has announced that it will soon issue its own report regarding the implementation of the BICI recommendations. We welcome this announcement and hope that the government will seize this opportunity to offer a more frank assessment of its own progress, to adopt greater transparency about its accountability mechanisms, and to recommit to the swift implementation of the numerous steps yet to be taken.

If this proves not to be the case, then we urge international actors, particularly the U.S. government, to pressure Bahrain to move quickly in this direction. As noted above, even the full implementation of the BICI recommendations would fall well short of resolving the current political impasse in Bahrain. But such moves are essential to national reconciliation and genuine political reform. Meaningful reform that fully addresses the legitimate democratic aspirations of the Bahraini people remains the only path to lift the country out of its current crisis. As such, it is also the only approach that will stabilize the country and secure Bahrain as an ally of the United States in the long-term.



Stephen McNerney
Executive Director, Project on Middle East Democracy



Summary

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- 1

1715

Establish independent, impartial commission consisting of personalities representing the Government of Bahrain, opposition political parties, and civil society to implement BICI recommendations and recommend legislative reform.
 - 2

1716

Establish independent, impartial mechanism to determine accountability of those in government, including those in the chain of civil and military command, who have committed unlawful or negligent acts resulting in the deaths, torture and mistreatment of civilians to bring legal and disciplinary action against those found to be responsible under international standards of superior responsibility.
 - 3

1717

Make the Inspector General's office a separate entity independent of the Ministry of Interior's hierarchical control. Tasks should include those of an internal "ombudsman's office," including protecting complainants, independently investigating complaints, and conducting disciplinary and criminal proceedings. The office should also enforce professional police conduct and carry out legal and sensitivity training for police officers.
 - 4

1718

Ensure NSA is an intelligence gathering agency without law enforcement capabilities or powers of arrest. Establish independent office of inspector general to carry out same internal "ombudsman" functions mentioned in recommendation 1717. Legislate so that power of arrest is in accordance with the Code of Criminal Procedure even under State of National Safety.
 - 5

1719

Legislate to require the Attorney General to investigate claims of torture and other forms of inhuman treatment and use independent forensic experts. Guarantee safety of claimants and provide them remedies if they also claim retribution for raising claims of torture or inhuman treatment.
 - 6

1720

Make subject to full review in ordinary courts all convictions and sentences from National Security Courts where fundamental principles of fair trial were not respected.
 - 7

1722a

Investigate all deaths attributed to security forces and all allegations of torture and similar treatment under the applicable principles. Investigate and prosecute individuals at all levels of responsibility, ensuring punishment is consistent with the gravity of the offense.
 - 8

1722b

Establish standing independent body to examine all claims of torture, ill-treatment, excessive use of force, or other abuses at the hands of the authorities. The burden of proof for treatment complying with the prohibition of torture and other ill-treatment should be on the State.
 - 9

1722c

Implement extensive public order training for the public security forces, the NSA, and the BDF and their private security companies in accordance with UN best practices. Train security forces in the human rights dimensions of detention and interrogation, including the obligation not to participate in torture or other prohibited treatment.
 - 10

1722d

Avoid detention without prompt access to lawyers or to the outside world for more than two or three days. Subject all detentions to effective monitoring by an independent body. Give a copy of the arrest warrant to every arrestee. Do not hold any person incommunicado. Arrestees should have access to their legal counsel and family visits as provided by Bahraini law.

FULLY IMPLEMENTED

the Government of Bahrain has fulfilled stipulations of the recommendation

PARTIALLY IMPLEMENTED

some progress or reforms have been carried out, but not all terms of the recommendation have been met and in their entirety

UNCLEAR

lack of sufficient evidence to determine whether the Government of Bahrain has carried out a recommendation or to what degree

NOT IMPLEMENTED

the Government of Bahrain has ignored the recommendation or acted contrary to its terms

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|-------|--------------|--|
| 11 | 1722e | Urgently establish program for integrating personnel from all communities in Bahrain into the security forces. |
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| 12 | 1722f | Train judiciary and prosecutors on preventing and eradicating torture and ill-treatment. |
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| 13 | 1722g | Make audiovisual recording of all official interviews with detainees. |
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| 14 | 1722h | Review all convictions, commute all sentences, and drop all pending charges for offenses involving political expression that do not involve advocacy of violence. |
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| 15 | 1722i | Commute the death sentence imposed for murder arising out of the events of February/March 2011. |
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| 16 | 1722j | Compensate families of deceased victims in a manner commensurate with the gravity of their loss. |
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| 17 | 1722k | Compensate victims of torture, ill-treatment or prolonged incommunicado detention. |
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| 18 | 1723a | Ensure government employees have not been dismissed because of the exercise of their right to freedom of expression, opinion, association, or assembly. |
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| 19 | 1723b | Ensure private sector workers who were dismissed for failure to appear to work at the time of the demonstrations are reinstated to same extent as public sector employees. |
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| 20 | 1723c | Reinstate all students not criminally charged with an act of violence. Allow expelled students to apply for reinstatement. Adopt clear and fair standards for disciplinary measures against students and ensure they are applied fairly. |
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| 21 | 1723d | Consider, at the earliest possible time, rebuilding some of the demolished religious structures at the government's expense. |
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| 22 | 1724a | Relax censorship and allow the opposition greater access to television broadcasts, radio broadcasts and print media. |
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| 23 | 1724b | Establish professional standards and an ethical code for the media with an enforcement mechanism in order to avoid incitement to hatred, violence, and intolerance. |
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| 24 | 1724c | Undertake measures to prevent incitement to violence, hatred, and sectarianism in violation of human rights, regardless of whether the source is public or private. |
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| 25 | 1725a | Develop educational programs at the primary, secondary, high school, and university levels to promote tolerance, human rights, and rule of law. |
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| 26 | 1725b | Develop national reconciliation program addressing political, social and economic inequalities across all segments of Bahrain's population. |
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Note: For the sake of brevity, the text of each recommendation has been summarized with care to capture the intent of the full text. For the full text of the BICI recommendations, [click here](#). For access to the full BICI report, [click here](#).

1

1715

PARTIALLY IMPLEMENTED

Establish independent, impartial commission consisting of personalities representing the Government of Bahrain, opposition political parties, and civil society to implement BICI recommendations and recommend legislative reform.

Royal Decrees No. 45 and No. 48 of 2011 established the National Commission to consist of 19 members that, in the words of the Bahraini government, “represent all segments of society.” King Hamad invited four individuals to represent opposition political parties and civil society organizations on the commission. Two members of al-Wefaq, the largest opposition political society, were asked to join, but refused their nominations because the group claimed it had not been allowed to select its own representatives and because the Commission lacked power to implement reform and was heavily composed of government officials. Hassan Abdulla Madan, a member of the opposition Progressive Democratic Tribune party, and Abdulla Ahmed al-Durazi, a former member of the Bahrain Human Rights Society, accepted their nominations to the commission. The King decreed that Ali bin Saleh al-Saleh would chair the commission. Al-Saleh is the chairman of the Shura Council, the National Assembly’s upper house, whose members are all appointees of the King, and his public remarks are consistently filled with effusive praise for the King and descriptions of Bahrain as a paragon of democracy.¹ On March 20, 2012, the National Commission issued a progress report on the implementation of the BICI recommendations, fulfilling the limited mandate given to the commission by the government.

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Following that report, a second commission was established to continue monitoring the implementation of the BICI recommendations and coordinate among various government officials and agencies. The cabinet selected the Minister of Justice Khalid bin Ali Al Khalifa, who had also been a member of the initial National Commission, to establish the second BICI follow-up commission. In the BICI Follow-Up Report of June 2012, the Minister of Justice is also tasked with directly supervising this commission, and in an addendum to its September 2012 submission to the UN UPR process, the Government of Bahrain described the second commission as being “headed” by the Minister of Justice.² Khalid bin Ali Al Khalifa has been serving as minister since 2004 and as such, oversaw the Ministry of Justice during the events of 2011 and provided legal justification for the demolition of mosques, dissolution of civil society organizations, and persecution protesters on dubious charges of “incitement to violence.” The second BICI follow-up commission, for which a list of all members has not been released, appears to be controlled by figures within the ruling family and the government, casting doubts on its impartiality. A press statement from the Information Affairs Authority on May 29, 2012 says that Dana Al-Zayani, a former employee of the Crown Prince’s Economic Development Board, will “head” the commission and Hussein Alam of the Foreign Ministry will be the “director.” This commission does not appear to fulfill the stipulations of independence and impartiality as required by recommendation 1715 any more than the original National Commission did.

POMED finds recommendation 1715 to have only been partially implemented, as the original commission and its derivative appear to lack both the independence and impartiality specified by the BICI. These criteria are called into question by the predominance of government officials and their supporters on the commission, including officials complicit in crimes and abuses identified in the BICI report. If further efforts to implement remaining recommendations and undertake other reforms are to be successful, it is crucial that credible opposition actors and human rights voices be incorporated into reform bodies.

¹ For example, in his speech opening the third legislative term in November 2011, Al-Saleh described the environment of Bahrain’s recent elections as “an atmosphere satiated by democracy, marked by good organization, integrity and transparency, and characterized by wide participation, making it the subject of admiration and praise from around the world...”

² An earlier version of this report incorrectly identified Minister of Justice Khalid bin Ali Al Khalifa as the head of the National Commission, when he was in fact a member of that commission, but not its head.

2 1716 PARTIALLY IMPLEMENTED

Establish independent, impartial mechanism to determine accountability of those in government, including those in the chain of civil and military command, who have committed unlawful or negligent acts resulting in the deaths, torture and mistreatment of civilians to bring legal and disciplinary action against those found to be responsible under international standards of superior responsibility.

On February 28, 2012, Attorney General Abdul-Rahman al-Sayed, who has both oversight and administrative authority over the Public Prosecution, issued Attorney General Decision No. 8 of 2012 that established a Special Investigations Unit (SIU) within the Public Prosecution headed by Ali bin Fadhl Al Buainain. The SIU was tasked with investigating and determining the accountability of government officials in cases of death, torture, and ill-treatment of civilians. One of the chiefs in Public Prosecution, Nawaf Abdulla Hamza, heads the SIU and is assisted by “independent [and] well-experienced criminal investigators and forensic experts.” The government has also said that it has amended the investigation process of the Public Prosecution to comply with the Istanbul Principles and United Nations Criminal Justice Standards. The government claims that there are domestic guarantees in the independent judicial system of Bahrain that make it possible for citizens to bring grievances to the Public Prosecution.

The government points to its consultation with international legal specialists to justify keeping the SIU within the Public Prosecution, a move the experts said would “facilitate the long-term development of expertise.” However, it is fair to call the prosecution and the SIU’s independence and impartiality into question given the minimal effort to hold high-level government officials accountable thus far. Additionally, ongoing prosecutions of opposition and human rights leaders on spurious charges and the reported use of confessions extracted under torture further undermine the credibility of the Public Prosecution. For a further assessment of the SIU and Public Prosecution, see our response to recommendation 1722a.

POMED finds recommendation 1716 to be *partially implemented*. In theory, the SIU—and even the Public Prosecution—could act as independent and impartial bodies that determine the accountability

of officials in government. But, until much greater progress related to government accountability is made, it would be extremely difficult to consider the SIU and the Public Prosecution credible and impartial.

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3 1717 PARTIALLY IMPLEMENTED

Make the Inspector General’s office a separate entity independent of the Ministry of Interior’s hierarchical control. Tasks should include those of an internal “ombudsman’s office,” including protecting complainants, independently investigating complaints, and conducting disciplinary and criminal proceedings. The office should also enforce professional police conduct and carry out legal and sensitivity training for police officers.

The Ministry of Interior is the primary government agency responsible for maintaining order and enforcing security in Bahrain. Recommendation 1717 is concerned with establishing an oversight component for the ministry to avoid abuses of power in the future. In response to the recommendation, Royal Decree No. 27 of 2012 established two bodies within the ministry: the Office of the Secretary General of Grievances and the Department of Internal Affairs. The former was set up as an office outside of hierarchical control to receive complaints, conduct investigations into allegations made against the police, and handle any other issue that affects confidence in the ministry’s institutions. Royal Decree No. 18 of 2012 appointed Major General Ibrahim Habib al-Ghaith Inspector General and Undersecretary of the Interior Ministry to lead the new Office of Grievances. This position was designed to perform supervisory duties for the Interior Ministry. In a subsequent decree, the King appointed the publications director of Bahrain’s

state information agency, Nawaf Mohammed al-Maawda, as ombudsman for the Interior Minister.³ The Department of Internal Affairs is responsible for the Ministry of Interior's "first order disciplinary review," which led to the establishment of a police code of conduct and a detailed handbook of duties and procedures for arresting suspects. The police code of conduct was drafted in conjunction with two international advisors⁴ and is based on the UN Code of Conduct for Law Enforcement Officials and the European Code of Police Conduct. Bahrain has signed and ratified the International Covenant on Civil and Political Rights, which also contains stipulations on a code of conduct for police. In addition, the government has said that they will consult with the United Nations Office on Drugs and Crime for technical assistance in implementing this recommendation, although a formal agreement has not yet been reached. According to the government, there are three police training programs in development: one for new security personnel on human rights and law procedures, a second for current security personnel based on the code of conduct and the handbook issued by the Ministry of Interior, and a third on law enforcement "sensitivity." The latter two programs remain in development, and while the government claims that the first training program for new personnel is being carried out, details on its content are not publicly available.

The ongoing human rights abuses, perpetrated by security services with impunity, suggests that the Inspector General's office is not yet effective...

The government has shown little will to translate these positive institutional reforms into real accountability and enforcement of new codes of conduct. The Interior Ministry has reportedly opened investigations into the conduct of more than one hundred police officers, but the investigations have lacked transparency. The government recently put seven police officers on trial for the well-documented torture of medical personnel, but international human rights organizations have highlighted scores of additional examples of police abuses that have not been investigated by the Interior Ministry. Additionally, there is good reason to question Inspector General al-Ghaith's impartiality and effectiveness. Al-Ghaith served as Inspector General for the Ministry of Interior before the beginning of protests in 2011, during which time he denied documented human rights abuses and held meetings with detainees that their families called "futile." Al-Ghaith also publicly claimed that prominent human rights detainee Abdulhadi Al-Khawaja "is in good health" in facilities that "[conform] to all international human rights standards." Al-Ghaith made those comments days before the UN's Special Rapporteur on Torture Juan E. Mendez noted that "the Government of Bahrain has failed to take necessary measures to ensure the physical and mental integrity of Mr. Al-Khawaja in accordance with the Standard Minimum Rules for the Treatment of Prisoners." Assistant Secretary of State Michael Posner also expressed concern in August 2012 about investigations into police conduct, saying "little information has been made public about how these investigations were [carried out]."

POMED finds recommendation 1717 to have been *partially implemented*. The government has made important strides in establishing a newly-empowered Inspector General's office that retains some independence from the Interior Ministry's hierarchy, although the appointment of a minister sympathetic to the government's party line is concerning. There is evidence that the office is receiving and reviewing complaints, and a satisfactory police code of conduct has been issued and enacted into law. However, recommendation 1717 specifically calls for the enforcement of a code of conduct. The ongoing human rights abuses, perpetrated by security services with impunity, suggest that the Inspector General's office is not yet effective and the recommendation has yet to be fully implemented. Additionally, most sensitivity training programs for security personnel remain in the planning stages.

³ Al-Maawda was appointed ombudsman by Royal Decree No. 59 of 2012 in August. The creation of the ombudsman's office was based on international consultations and best practices, but the ombudsman's website (<http://www.ombudsman.bh>) remains under construction and al-Maawda's work to date is unclear.

⁴ The international advisors are John Timoney, former Philadelphia Police Commissioner and Miami-Dade police chief, and John Yates, former assistant commissioner of the metropolitan police in London. The advisors are responsible for drafting the decree that established the two oversight offices, as well as developing sensitivity training for security personnel. Both advisors have checkered professional backgrounds. As police commissioner of Philadelphia, Timoney led the police response to demonstrations at the 2000 Republican National Convention, conducting raids of warehouses where activists organized prior to the convention and arresting 420 demonstrators, charging 43 of them with felonies. Not a single demonstrator was sentenced to jail time. John Yates resigned from his role as assistant commissioner just months prior to accepting his position as advisor to the Bahraini government over his handling of an investigation into a News Corp phone-hacking scandal, although he was cleared of wrongdoing by the Independent Police Complaints Commission.

4

1718

FULLY IMPLEMENTED

Ensure NSA is an intelligence gathering agency without law enforcement capabilities or power of arrest. Establish independent office of inspector general to carry out same internal “ombudsman” functions mentioned in recommendation 1717. Legislate so that power of arrest is in accordance with the Code of Criminal Procedure even under State of National Safety.

The National Security Agency (NSA), “essentially an internal intelligence and counter-espionage agency,” according to the BICI report, was established with Royal Decree No. 14 of 2002 and endowed with law enforcement and arrest powers with Royal Decree No. 117 of 2008. Reforming the NSA’s authority was a necessity in the wake of the unrest: the BICI report found that the NSA played a crucial role in 2011’s crackdown, arresting nearly 3,000 people, committing widespread torture of detainees, and playing a role in the demolition of mosques. Royal Decree No. 115 of 2011, issued on November 28, revoked the NSA’s law enforcement and arrest powers. Decree No. 28 of 2012 established an independent office of the Inspector General and Decree No. 67 of 2012 appointed long-time Interior Ministry employee Judge Mohamed Rashid Abdullah Al-Rumaihi to lead that office. As for the third stipulation of the recommendation, the government claims that the cabinet approved the necessary legislative amendments ensuring that arrests will remain in accordance with the Code of Criminal Procedure even during a State of National Safety.⁵ Notably, Human Rights Watch calls the curtailing of the NSA “one positive step” implemented by the government in accordance with the BICI recommendations.

...the BICI report found that the NSA played a crucial role in 2011’s crackdown, arresting nearly 3,000 people, committing widespread torture of detainees, and playing a role in the demolition of mosques.

POMED finds recommendation 1718 to have been *fully implemented*, as the government has taken the necessary legislative and institutional steps to satisfy the recommendation. However, there is no indication that the government has permanently limited the NSA’s power of arrest during a State of National Safety.

5

1719

NOT IMPLEMENTED

Legislate to require the Attorney General to investigate claims of torture and other forms of inhuman treatment and use independent forensic experts. Guarantee safety of claimants and provide them remedies if they also claim retribution for raising claims of torture or inhuman treatment.

According to the government, the Council of Ministers approved amendments to the criminal code on January 8, 2012 granting the Attorney General’s office exclusive jurisdiction over cases of death and torture in detention and protecting claimants against recriminations for filing charges. Yet none of the new legislation states explicitly that the Attorney General must investigate claims of torture, and therefore leaves it open to question as to whether all such cases will indeed be examined.⁶ Corroborating this concern is evidence of individuals dying under questionable circumstances with no subsequent credible investigations initiated by the Attorney General’s office. Additionally, the government reported that “all cases of cruel, inhuman or degrading treatment were referred from the Interior Ministry to the Office of the Attorney General.” However, this still lacks a mandate to the Attorney General to investigate these or any other cases.

...none of the new legislation states explicitly that the Attorney General must investigate claims of torture, and therefore leaves it open to question as to whether all such cases will indeed be examined.

⁵ The State of National Safety was implemented by Royal Decree No. 18 of 2011 on March 15, 2011 pursuant to article 36(b) of the Constitution. The State of National Safety was applied throughout the country until June 1, 2011. It granted sweeping powers of arrest, allowed the regulation or banning of public demonstrations, and permitted media censorship when deemed necessary, among other things.

⁶ The text of the amendments passed on January 8, 2012 was published in October 2012 (<http://www.akhbar-alkhaleej.com/12619/article/54522.html>).

Instances such as the case of Ali al-Singace further call into question the designated body's capacity to execute its duties. As reported by Bahrain Center for Human Rights, 16-year-old Ali al-Singace was taken on March 21, 2012 by three men in civilian clothes who he said were policemen. He was reportedly beaten, sexually assaulted, cut with a razor on various parts of his body, and dumped on a road with his hands tied behind his back. His family filed a formal police complaint, but the following day the Public Prosecution, which falls under the jurisdiction of the Attorney General, issued a statement accusing him of inflicting his injuries upon himself and making a false claim against the police. Paramedics who saw Ali said the wounds could not have been self-inflicted.

The recommendation further delineates that independent forensic experts be used to investigate all claims of torture and other forms of cruel, inhuman, or degrading treatment or punishment. Reports from human rights groups surrounding recent deaths under the Ministry of Interior's jurisdiction show no evidence of such independent forensic examinations. In at least one instance, the public prosecution has refused to assign an independent forensic specialist to the case.

In addressing the last two stipulations of recommendation 1719, the government has posted three pieces of draft legislation on the National Commission website, but only two of those have been passed into law.⁷ None of the legislation appears to provide a guarantee of the safety of those raising claims of torture or inhuman treatment. The language addressing the rights of persons who claim retribution fails to make clear how such persons would be provided remedies to address such claims.

POMED finds 1719 to be a recommendation *not implemented*. Although the Government of Bahrain appears to have taken steps toward assigning jurisdiction on cases of torture and other inhuman treatment to the Attorney General, the language of these amendments does not obligate the Attorney General to investigate those allegations, as explicitly required by the recommendation. Moreover, several cases have gone without investigation. Finally, both the government's use of independent forensic experts to certify claims of torture and its obligation to protect those claiming a mishandling of torture claims remains very much in question.

6 **1720** **PARTIALLY IMPLEMENTED**

Make subject to full review in ordinary courts all convictions and sentences from National Security Courts where fundamental principles of fair trial were not respected.

The Government of Bahrain's response to recommendation 1720 was to establish a panel in January 2012 to evaluate convictions issued by the National Security Court (NSC).⁸ Both non-governmental and official governmental sources have confirmed that cases heard by the NSC are currently under review by civilian courts.

POMED's key objection is that the transfer of these cases has not resulted in new trials. Instead it has led to reviews of convictions based on the trial record and evidence of the military courts, whose reliance on confessions obtained through coercion this recommendation sought to rectify. UN Special Rapporteur Maina Kiai has also noted that "evidence obtained under torture was reportedly not excluded from [the trial of opposition leaders]." Additionally, the vast majority of the guilty verdicts issued by the NSC — some 135 out of 165 cases as reported by Bahrain News Agency—linger in the lengthy appeals process, while individuals remain in detention. For instance, Mahdi Abu Deeb, president of the Bahrain Teachers Association, was sentenced to 10 years' imprisonment by the NSC

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⁷ The legislation that has passed into law has become Law Decree No. 50 of 2012 and Law Decree No. 52 of 2012.

⁸ As defined by the United Nations, Bahrain's National Safety Courts were "headed by a military judge, along with two civilian judges. All three judges are directly appointed by the Bahrain Defense Force commander-in-chief, while the cases are prosecuted by the military public prosecutor."

and was tortured while being held in detention. While appealing his charges, Abu Deeb has remained in prison for more than a year.

POMED finds recommendation 1720 to be only *partially implemented*. Insofar as the Bahraini courts continue to uphold charges based on evidence and confessions obtained through torture, the government has not adhered to the ultimate intent of recommendation 1720.

7 **1722a** **PARTIALLY IMPLEMENTED**

Investigate all deaths attributed to security forces and all allegations of torture and similar treatment under the applicable principles.⁹ Investigate and prosecute individuals at all levels of responsibility, ensuring punishment is consistent with the gravity of the offense.

The full text of recommendation 1722a stipulates that investigations conducted by an independent, impartial body “should be capable of leading to the prosecution of the implicated individuals, both direct and at all levels of responsibility...ensuring that punishment be consistent with the gravity of the offense.” The Government of Bahrain has amended its penal code on torture, defining and criminalizing such acts and clarifying that the statute of limitations does not apply to crimes of torture. The government sought the counsel of external legal experts in actualizing recommendation 1722a, and they recommended that the Attorney General play the role of an independent, impartial body provided that there is adequate training on conducting fair and effective investigations (more can be found on the training in recommendation 1722f). Concerning recommendation 1716, POMED expresses its reservations that the current Attorney General and Public Prosecutor serve in an impartial manner, referring specifically to the case of Ali al-Singace (mentioned in the section on recommendation 1719), which was not investigated.

...the lack of prosecutions at the highest levels of the security forces raises questions about the execution of the recommendation.

Although the Special Investigations Unit affirms in response to recommendation 1716 that it is questioning officers at all levels of responsibility and has brought torture charges against several low-ranking officers, little evidence exists to illustrate a willingness on the part of the government to prosecute security officials at the highest levels of command. The BICI pointed out that systematic abuses “could not have happened without the knowledge of higher echelons of the command structure.” While the recent appeal by the Public Prosecution of a decision acquitting a lieutenant of torture charges in the case of journalist Nazeeha Saeeda is welcome, it remains pending.

POMED finds recommendation 1722a to have only been *partially implemented*. The laws appear to have been amended to meet international standards and some investigations have been conducted, but the lack of prosecutions at the highest levels of the security forces raises questions about the execution of the recommendation. If the culture of impunity prevalent among Bahraini security forces is to be reformed, it is essential that high-level officials be held accountable for their actions, as required by this recommendation.

8 **1722b** **NOT IMPLEMENTED**

Establish standing independent body to examine all claims of torture, ill-treatment, excessive use of force, or other abuses at the hands of the authorities. The burden of proof for treatment complying with the prohibition of torture and other ill-treatment should be on the State.

Recommendation 1722b and recommendation 1716 each call for an independent body to investigate cases of mistreatment, torture, or excessive use of force perpetrated by authorities against civilians. In response

⁹ The full text of the recommendation refers to the Istanbul Protocol and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions as applicable international standards.

to recommendation 1716, the government established the SIU within the Public Prosecution to serve as this independent body; POMED's assessment of the SIU can be found in that section. In response to recommendation 1722b, the government has also highlighted the work of its National Human Rights Institution (NHRI). Bahrain's NHRI is a government-funded organization that was established in 2009 to "protect and reinforce" human rights in Bahrain. Bahrain's NHRI is not an accredited member of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, the global oversight organization that evaluates the work of NHRIs around the world and bestows legitimacy on each country's NHRI. As such, it appears to lack the independence necessary to comply with this recommendation.

Despite the government's repeated references to the importance of the NHRI, there is little evidence that the organization has any power to defend human rights in Bahrain.

King Hamad amended NHRI's provisions in a royal decree in September 2012 to require it to comply with the Paris Principles, the UN's comprehensive guide for all NHRIs. Despite the government's repeated references to the importance of the NHRI, there is little evidence that the organization has any power to defend human rights in Bahrain. Opposition members have called for a more expansive mandate for the NHRI and were not granted the opportunity to submit feedback on the amended decree. Due to its narrow scope and lack of accreditation, the NHRI has not yet lived up to international standards.

POMED finds 1722b to be a recommendation *not implemented*. First, there is no indication that the NHRI satisfies the intent of this directive, which is to establish a standing independent body to examine claims of torture and abuse. Moreover, this recommendation explicitly asserts that the burden of proof that torture and mistreatment have been effectively prohibited lies with the State of Bahrain, which has certainly not provided such proof as of now.

9

1722c FULLY IMPLEMENTED

Implement extensive public order training for the public security forces, the NSA, and the BDF and their private security companies in accordance with UN best practices. Train security forces in the human rights dimensions of detention and interrogation, including the obligation not to participate in torture or other prohibited treatment.

In response to this recommendation, the government has initiated several training programs that aim to set standards and improve police conduct. The programs are in line with internationally accepted agreements, namely the Code of Conduct for Law Enforcement Officials¹⁰ and the Basic Principles on the Use of Force and Firearms by Law Enforcement.¹¹

The Interior Minister requested international consultation in assisting with reforms to the Bahrain Public Security Forces (PSF), and hired John Timoney and John Yates (mentioned in recommendation 1717). In collaboration with the Royal Academy of Police, Timoney and Yates designed an 11-session training program for leadership on human rights and police work, as well as a separate program on human and detainee rights for personnel who deal with arrest, detention, and demonstrations. According to the Royal Academy of Police's Twitter account, a human rights program was completed in February 2012, though no further details were provided. Additionally, the Interior Ministry's Inspector General has been tasked with ensuring PSF compliance with the Code of Criminal Procedures, and a program is reportedly being developed to train officers on the procedures.

In collaboration with the Royal Academy of Police, Timoney and Yates designed an 11-session training program for leadership on human rights and police work, as well as a separate program on human and detainee rights for personnel who deal with arrest, detention, and demonstrations.

¹⁰ (UNGA Res. 34/169 of 1979)

¹¹ Officials (Eighth UN Congress of Prevention of Crime and the Treatment of Offenders 1990)

The Bahrain Defense Force (BDF) has also enacted a number of reforms, working with the Royal College of Command and General Staff to incorporate the aforementioned UN codes into its training programs. Likewise, the National Security Agency (NSA) initiated a six-month human rights training program in January 2012.¹² Given that the NSA's power to enforce law and conduct arrests has been revoked as noted in recommendation 1718 and the government has said this recommendation "does not apply," the next steps are unclear.

Despite the spate of training programs carried out by the PSE, BDF, and NSA, police conduct has not markedly improved. In fact, the UN High Commissioner for Human Rights noted an "escalation of violence by the security forces" in the months after the release of the BICI report. At least 39 people have been killed since November 2011,¹³ including Hussam al-Haddad, a 16-year-old who died after police officers fired on him with birdshot. Physicians for Human Rights (PHR) documented numerous human rights abuses perpetrated by security forces since the release of the BICI report, including the "[failure] to exercise restraint before resorting to force," "disproportionate force when responding to protesters," and "[failure] to minimize damage and injury to demonstrators." According to PHR, "Bahraini law enforcement officials routinely violate every UN principle of [chemical agent] use," adding that the Government of Bahrain's "transformation of toxic chemical agents into weapons used methodically to attack Shi'a civilians" is "unprecedented." US Assistant Secretary of State Michael Posner also noted in September 2012 that the United States government "continue[s] to receive credible reports of excessive force by police."

POMED finds recommendation 1722c to have been *fully implemented*, because the security forces have undertaken a series of training programs that appear to be properly modeled on UN best practices and aimed at eliminating human rights abuses. However, it must be noted that despite extensive human rights training, police behavior remains brutal and excessive force pervasive. Human rights training cannot avert human rights abuses if the security forces do not implement what they have learned in practice. It seems that such trainings alone are likely insufficient to correct the behavior of security forces.

10 **1722d NOT IMPLEMENTED**

Avoid detention without prompt access to lawyers or to the outside world for more than two or three days. Subject all detentions to effective monitoring by an independent body. Give a copy of the arrest warrant to every arrestee. Do not hold any person incommunicado. Arrestees should have access to their legal counsel and family visits as provided by Bahraini law.

The goal of recommendation 1722d is to ensure that those who are arrested or detained are consistently granted their full legal rights according to international standards. To address the provision related to independent monitoring of detainees, the Supreme Judicial Council issued a decree ordering members of the judiciary and public prosecution to visit prisons to ensure procedures are being followed. There is also draft legislation that would create the National Foundation for Human Rights to monitor detention centers. In addition, the government signed a Memorandum of Understanding with the International Committee of the Red Cross (ICRC) in December 2011, which grants the ICRC visitation rights to jails to monitor the treatment of all detainees held in relation to the unrest. The ICRC has conducted regular visits to Bahraini prisons every other month since the agreement was reached, with additional visits as "special needs [are] identified," according to the head of ICRC's regional delegation Gérard Peytrignet.¹⁴ In early 2012, Ministerial Decree No. 13 established a new detention center at Dry Dock prison

The International Federation for Human Rights and Human Rights First have also received numerous reports of people being held incommunicado, including one case of a 16-year-old boy who was held for three weeks in March 2012.

¹² The class schedule is available online: http://www.biciactions.bh/wps/themes/html/BICI/pdf/1722c/nsa_training_programme_outline_en.pdf

¹³ Casualty numbers vary, but most international media and human rights organizations cite the FIDH estimate of 79 deaths between February 2011 and April 2012 (<http://www.fidh.org/Silencing-Dissent-A-Policy-of-12188>). At least three protesters have been killed by police forces since April, according to news reports.

¹⁴ The ICRC shares its findings with the Bahraini government but does not comment publicly in order to maintain a "solid and long-lasting relationship of trust" between the government and the ICRC.

for pretrial detainees under management of the Interior Ministry until its management can be transferred outside the Interior Ministry. Showing warrants, allowing access to legal counsel, and permitting family visits was also required by an Interior Ministry decree. In its response to the Universal Periodic Review (UPR) of the UN Human Rights Council, the Government of Bahrain claimed all those who have been prosecuted have been granted access to lawyers, and that the government is considering the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED).

Despite some initial steps toward implementing this recommendation, reports of serious violations have repeatedly surfaced. First, the government's employment of judicial officials to monitor detainees raises serious concerns due to questions over the judiciary's independence. Regarding police procedures, the Head of Monitoring at the Bahrain Center for Human Rights (BCHR), Said Yousef Muhafada (who was arrested by the government in November 2012), tweeted that some victims of night raids were arrested without warrants, and Human Rights First reported in May 2012 that a group of young men were chased into a home by police and beaten for hours. The International Federation for Human Rights and Human Rights First have also received numerous reports of people being held incommunicado, including one case of a 16-year-old boy who was held for three weeks in March 2012. Human Rights First asserts that numerous locations have been converted into detention centers out of the view of independent monitors. In addition, concerns persist over the Interior Ministry's Inspector General, who has previously denied well-documented human rights violations and is currently overseeing the new Dry Dock detention center until it can be transferred to another unit.¹⁵

POMED finds 1722d to be a recommendation *not implemented*, because there are persistent reports of police and security forces violating the stipulations required by the BICI. The establishment of secret detention centers, limited access to legal counsel, improper arrest without warrants, and incommunicado detention all remain serious problems within Bahrain's security and judicial apparatus.

11 **1722e** **PARTIALLY IMPLEMENTED**

Urgently establish program for integrating personnel from all communities in Bahrain into the security forces.

Sectarian discrimination in hiring has resulted in an overwhelming prevalence of Sunnis in police and security forces, especially large numbers of naturalized Sunnis of foreign origin and foreign citizenship. To address this recommendation, the Interior Ministry pledged in March 2011 to create 20,000 new jobs in the Coast Guard, Traffic Directorate, Directorate of Nationality, Passports, and Residence Affairs, and the Civil Defense (fire department). In September 2012, the Interior Ministry hired 500 new community service police officers, 100 from each of the five governorates, including 100 women. Further demographic information has not been made available, although Public Security Chief Major General Tariq Hassan contended that the new officers were selected from "different segments of society." The Ministry of Interior claims that the process of employing another 500 personnel is slated to begin after each wave of hiring and six-month training period, and has also released information on the hiring committees selected.

In September 2012, the government hired 500 new community service police officers, 100 from each of the five governorates, including 100 women.

While the integration process is underway, there are questions about its progress. First, demographic information on the 500 hired thus far remains private, and there is no proof that the new officers adequately represent Bahrain's Shi'a majority, or that they come from predominantly Shi'a neighborhoods. Furthermore, there is no evidence that any meaningful steps have been taken to integrate the Bahrain Defense Force,

¹⁵ According to Human Rights Watch, upon meeting with a group of officials at the Ministry of Interior, including Inspector General Ibrahim al-Ghaith, they denied that torture had taken place in the cases documented by HRW. They claimed that the consistency of the specific abuse allegations indicated that the allegations had been fabricated.

National Security Agency, or private security services. Bahrain Watch¹⁶ also asserts that “creating jobs in the departments [mentioned in the Interior Ministry’s pledge] would not achieve the spirit of the recommendation, as these departments are not active in confronting demonstrations and do not do police work.” A government employee has said, “The community service police were supposed to play a greater role in the Kingdom, but past experiences proved they have been marginalized, and their contribution is limited to inconsequential locations and very ordinary events.” In July 2012, the Bahraini delegation to the UN Universal Periodic Review noted that the role of the community police force would be enhanced.

POMED finds recommendation 1722e to have only been *partially implemented*, because despite the recent hiring of 500 officers, there is scant evidence to suggest meaningful integration of the Shi’a community into the security forces has taken place. In addition, it would be difficult to describe this recommendation as having been pursued “urgently,” as prescribed by the BICI report. Finally, the new hiring appears to have been limited to the community service police and does not address the need to integrate all other security forces that remain under-represented.

12

1722f **FULLY IMPLEMENTED**

Train judiciary and prosecutors on preventing and eradicating torture and ill-treatment.

In following up on this recommendation, the government hired the International Institute of Higher Studies in Criminal Sciences (ISISC), an Italian non-governmental organization chaired by BICI Chief M. Cherif Bassiouni, to develop a training program for judges and prosecutors. On March 1, 2012, the Government of Bahrain and the ISISC signed a one-year contract to establish the Bahrain Technical Assistance Program, which will “train 100 Bahraini judges, prosecutors and investigators in international norms and standards in human rights law, and develop their skills in investigations and prosecutions of crimes committed in Bahrain in 2011.” The first training session took place in May 2012 with 20 Bahraini judges and prosecutors participating. It included courses in Arabic on topics including rights of the accused, international human rights law, command responsibility, and problems identified in the BICI report. Four officers from the military judiciary were also slated to train with ISISC and the government notes work is “ongoing.” The ISISC website states that names of participants, names of speakers, and exact dates are not disclosed for security reasons. The government’s BICI Follow Up Report also indicates a number of other judicial training programs, including sending judicial officials abroad and collaborating with German experts to hold workshops on basic rights.

...the Government of Bahrain and the ISISC signed a one-year contract to establish the Bahrain Technical Assistance Program that will “train 100 Bahraini judges, prosecutors and investigators in international norms and standards in human rights law, and develop their skills in investigations and prosecutions of crimes committed in Bahrain in 2011.

POMED finds recommendation 1722f to have been *fully implemented*, as significant programs to train judges and prosecutors have been established. Nonetheless it is more important that all remaining training sessions proceed as outlined, and that such training equips them to prevent and assist in eradicating torture and ill treatment in the future.

¹⁶ Bahrain Watch is an independent research and advocacy group that “seeks to promote effective, transparent and accountable governance in Bahrain.” The organization focuses on “factual, evidence-based advocacy in the areas of political reform, economic development and security” and assesses “government policies from constitutional change, police reform, revenue management, to policies for spending and their impact on the lives of citizens or lack thereof.” Members include Bill Marczak, Dr. Ala’a Shehabi, Fahad Desmukh, Marc Owen Jones, and John Horne.

13 **1722g** **PARTIALLY IMPLEMENTED**

Make audiovisual recording of all official interviews with detainees.

The government took initial steps to carry out this recommendation by purchasing and installing recording equipment, claiming to have installed cameras in 33 rooms at police departments and precincts around Bahrain. The Public Prosecution was equipped with audiovisual recording equipment as well.

Additional evidence is still needed to ensure full implementation of recommendation 1722g. First, there has been no independent confirmation that interviews with detainees have been recorded. The Ministry of Interior has “started implementing a project” to release the recordings of official interviews, but the government has not furnished any recordings during trials and defense lawyers have not been able to ensure their admissibility as evidence in court. Additionally, Human Rights First has reported the existence of secret detention centers out of the view of monitors, including an equestrian center in Budayia, a youth hostel in Sanabis, a municipal building in Dimis, and a checkpoint near the Safriya Palace.

...it is impossible to verify how many interviews are being recorded since the testimonies have not been made available to the public or defense lawyers.

POMED finds recommendation 1722g to have only been *partially implemented*. While the Government of Bahrain has taken the positive step of installing recording equipment in some police stations, it is impossible to verify how many interviews are being recorded as the testimonies have not been made available to the public or defense lawyers. Furthermore, persistent and credible reports of the use of new detention centers outside of police stations and without cameras is cause for serious concern.

14 **1722h** **NOT IMPLEMENTED**

Review all convictions, commute all sentences, and drop all pending charges for offenses involving political expression that do not involve advocacy of violence.

On December 24, 2011, the Attorney General of Bahrain declared that all charges of freedom of expression offenses would be dropped, announcing that some 343 people stood to benefit from the decision, with the caveat that cases involving violent crimes would remain under consideration.

Despite the government’s numerous claims that all charges of freedom of expression have been dropped, a number of political dissidents remain in detention under spurious charges of criminal activity, incitement of violence, or allegations of “illegal gathering.” A brief survey of recent rulings illustrates this point:

- While the Bahrain Court of Appeals overturned a conviction against human rights leader Nabeel Rajab for voicing opinions critical of the Bahraini government on Twitter, the activist remains in prison serving three one-year sentences on charges of leading or participating in “unauthorized gatherings” and “incitement.” Human Rights Watch has noted that “authorities have presented no evidence that he advocated or participated in violence.”
- On September 4, 2012, the Court of Appeals upheld convictions of “attempting to overthrow the ruling system by force and inciting hatred of the regime” against 20 opposition leaders after months of contested hearings and allegations of forced confessions. Amnesty International asserts that this group has been targeted “solely for peacefully exercising their human rights.”

On October 30, 2012, the Interior Ministry banned all public demonstrations. This action directly contradicts the BICI recommendation by criminalizing an important form of political expression...

- On October 1, 2012, the Court of Appeals upheld convictions against nine medical workers who treated demonstrators in the 2011 protests and spoke out against the government crackdown. The government's accusations that the medics were using violence are regarded as unsubstantiated by numerous organizations, including Human Rights Watch, Human Rights First, and Physicians for Human Rights.
- Social media restrictions have also been implemented in June 2012, criminalizing Internet use that "damages the reputation of others," with four men receiving jail time in November 2012 for "insulting" King Hamad on Twitter.
- On October 30, 2012, the Interior Ministry banned all public demonstrations. This action directly contradicts the BICI recommendation by criminalizing an important form of political expression, including nonviolent demonstrations that do not advocate violence.
- On November 7, 2012, the government revoked the citizenship of 31 opposition activists on charges of undermining state security, despite the fact that they had been acquitted of similar charges in military courts in 2011.

POMED finds 1722h to be a recommendation *not implemented*. Charges and convictions related to political expression remain in place against numerous Bahraini citizens in the absence of evidence that they have advocated violence. In addition, the move to ban peaceful demonstrations directly contradicts this recommendation's stipulations to protect peaceful political expression, as anyone defying the ban could face new charges for such offenses involving freedom of assembly and association.

15 **1722i** **PARTIALLY IMPLEMENTED**

Commute the death sentence imposed for murder arising out of the events of February/March 2011.

Ali Yousif Abdulwahab al-Taweel, who was sentenced to death for the killing of officer Ahmed Rashid Al Muraysi on March 15, 2011, is currently scheduled to appeal his sentence on November 28, 2012, along with Ali Atteyah Shamlool, who was sentenced to life in prison. Although the Cassation Court, on January 9, 2012, overturned the death sentences of Ali Abdullah Hasan al-Sankis and Abd al-Aziz Abd al-Rida Ibrahim Hussein, who are charged with the killing of two police officers on March 16, 2011, no final sentence has been issued and the accused remain in custody.

POMED finds recommendation 1722i to have only been *partially implemented*, at least until the death sentence against Ali Yousif Abulwahab al-Taweel has been commuted.

16 **1722j** **PARTIALLY IMPLEMENTED**

Compensate families of deceased victims in a manner commensurate with the gravity of their loss.

The government has undertaken three initiatives for compensating families of deceased victims. The first is the National Compensation and Redress Fund, which falls under the authority of the Human Rights and Social Development Ministry and was modeled after the United Nations Basic Principles on Reparation for Victims of International Human Rights Law. The Compensation Fund is authorized to offer financial compensation to the families of victims, request a formal apology on behalf of the families, or ask the concerned party to take steps to ensure incidents do not reoccur. The government explains that the fund is meant to "[open] the door to those who wish to benefit from the reconciliatory civil settlement

The Compensation Fund is authorized to offer financial compensation to the families of victims, request a formal apology, or ask the concerned party to take steps to ensure incidents do not reoccur.

without prejudice to any criminal responsibility.” However, in order to qualify for compensation, one must have a criminal conviction against a perpetrator, and there have been few prosecutions relative to the number of victims. To expedite the process, the Higher Judiciary Council established specialized courts to hear compensation cases, but there is no evidence that this specialized mechanism has led to additional prosecutions or a higher rate of payoff from the compensation fund. A separate effort was launched by the Ministry of Justice to resolve compensation claims outside of the courts. This program, called the Civil Settlements Initiative, is distinct from the original compensation fund. This initiative is meant to operate with “greater speed, and with compromise and reconciliation as a main objective.” The initiative does not aim to prove or deny criminal liability, which remains under judicial authority. Thus far, the government has paid BHD 1.02 million (\$2.6 million) to 17 families, out of BHD 10 million (\$26.5 million) originally allocated to the initiative.

POMED finds recommendation 1722j to have only been *partially implemented*, as doubts remain concerning the efficacy of government initiatives and many victims’ families still await compensation.¹⁷ Little information is available to accurately assess the three initiatives, and procedures requiring criminal convictions prior to receiving reparations cast doubt on the ability of the judiciary to effectively address the reparation efforts.

17

1722k **PARTIALLY IMPLEMENTED**

Compensate victims of torture, ill-treatment or prolonged incommunicado detention.

Recommendation 1722k accompanies the preceding recommendation 1722j, which calls for the compensation of families of “deceased victims.” The previously mentioned National Compensation and Redress Fund along with the specialized courts and the non-judicial Civil Settlements Initiative—all established by the government in response to recommendation 1722j—are likewise charged with compensating victims of torture and ill-treatment. The Government of Bahrain cites these mechanisms as its response to this recommendation. The Civil Settlement Initiative specifically pertains to those who suffered from physical injury, in addition to the families of the deceased and other cases deemed eligible by the Ministry of Justice.

POMED finds recommendation 1722k to have only been *partially implemented*. While the establishment of the National Compensation and Redress Fund and the Civil Settlement Initiative are important first steps toward implementation, there is no evidence that the government has compensated victims of torture, ill-treatment or prolonged incommunicado detention beyond the 17 families of the deceased victims of the uprising. Furthermore, until there are more convictions for torture and abuse during detention building greater confidence in the judicial process, the legal qualifications appear likely to limit the number of victims receiving compensation.

...there is no evidence that the government has compensated victims of torture, ill-treatment or prolonged incommunicado detention beyond the 17 families of the deceased victims of the uprising.

¹⁷ It should be noted as well that neither this nor the succeeding recommendation is limited to violations occurring during the events of February/March 2011. The Government of Bahrain remains obligated to maintain standing mechanisms of compensation and continue to recompense victims of state violence, which it acknowledged in its United Nations Universal Periodic Review response in September 2012.

18 **1723a PARTIALLY IMPLEMENTED**

Ensure government employees have not been dismissed because of the exercise of their right to freedom of expression, opinion, association, or assembly.

19 **1723b PARTIALLY IMPLEMENTED**

Ensure private sector workers who were dismissed for failure to appear to work at the time of the demonstrations are reinstated to same extent as public sector employees.

In the weeks after the eruption of Bahrain's unrest, thousands of workers were removed from their jobs for participating in protests, and recommendations 1723a and 1723b pertain to the reinstatement of all targeted public and private sector workers, respectively. In mid-2011, the International Labor Organization¹⁸ estimated that as many as 2,000 workers had been dismissed, although a November 2012 Congressional Research Service report estimates more than 2,000 public sector and 2,500 private sectors workers lost their jobs. According to the government's June 2012 BICI Follow Up Report, 2,462 private sector workers have been reinstated at the government's request.¹⁹ The government contends that all public sector employees dismissed, except for those charged with criminal acts of violence, have been reinstated as of January 2012, and 76 percent of private sector cases have been resolved.

While some efforts to reinstate workers have been undertaken, the sincerity and extent of these actions has been put into question. According to the General Federation of Bahrain Trade Unions (GFBTU), which represents more than 70 trade unions in the country, approximately 1,776 workers have not been reinstated, more than 1,500 of which come from the private sector. Dozens of workers from both the public and private sectors have reported returning to work with reduced salaries and in lower positions. The International Trade Union Confederation has stated that reinstated union leaders were forced to agree to disengage from union activities in order to return to work, and others were forced to sign loyalty pledges and were not awarded back pay. Other reports claim that employers are maintaining "blacklists" of those dismissed for political activism, and the government has repeatedly barred international labor rights advocates from entering the country.

Unions and their leaders have also been political targets of the government. Most notable are the cases of Mahdi Abu Deeb and Jalila Salman, the president and vice president of the Bahrain Teacher's Association, respectively. Both Abu Deeb and Salman were charged with "halting the education process" and "promoting hatred of the regime" after calling for teachers to strike during 2011, with the former serving five years and the latter imprisoned for six months after an appeal in civilian courts reduced his sentence. The government has also overseen the establishment of a new trade federation, the Bahrain Labor Union Free Federation (BLUFF), to compete with the GFBTU. This new union is widely seen as an instrument of the Government of Bahrain, and AFL-CIO Director Cathy Feingold has described the BLUFF as undermining the efforts of the independent GFBTU. BLUFF Chairman Yaqub Yousif Mohamed has hailed the government's support for the federation as an "understanding [that] the new union was a natural extension of the ongoing efforts to straighten things in the [labor] segment."

The government contends that all public sector employees dismissed, except for those charged with criminal acts of violence, have been reinstated as of January 2012, and 76 percent of private sector cases have been resolved.

POMED finds both recommendation 1723a and 1723b to have only been *partially implemented*, as a number of Bahraini workers have not been rehired or have returned to work with demotions or other

¹⁸ Bahrain and the ILO continue to engage, as Minister of Labor Jamil bin Mohammed Ali Humaidan received the ILO's general director Guy Ryder on November 11, 2012.

¹⁹ Of these, 1,765 work within private companies with partial government ownership and 697 are employed at companies with no government ownership, while 42 workers were denied reinstatement and are pursuing legal action.

improper conditions. In addition, apparent efforts to weaken independent labor organizations and target union leaders remain a serious concern.²⁰

20 **1723c** **PARTIALLY IMPLEMENTED**

Reinstate all students not criminally charged with an act of violence. Allow expelled students to apply for reinstatement. Adopt clear and fair standards for disciplinary measures against students and ensure they are applied fairly.

According to the Government of Bahrain, all university students, faculty, and staff who have not been convicted of violent crimes and wish to return have been reinstated. According to Bahrain's Polytechnic Institute, 54 of 62 dismissed students have returned,²¹ and the University of Bahrain claims 426 dismissed students have been readmitted, 89 of 95 suspended administrative staff have resumed their work, and 17 of 19 dismissed academics returned while two remain abroad. Additionally, the government contends that the University of Bahrain is in the process of updating its by-laws "to bring them into line with international standards," after which UNESCO experts will evaluate the changes. The university's president is currently reviewing the new standards, and this process is being performed under a technical assistance agreement with the American Bar Association, according to the government's BICI Follow Up Report. The government then intends to apply the amended by-laws to other private institutions.

The Middle East Studies Association wrote to Bahrain's Education Minister regarding four students who have been prevented from finishing their studies in spite of being cleared of wrongdoing in June 2012. Zainab Makloq, Aalaa Sayed and Zahra Zabar have all been banned from travelling back to Saudi Arabia to attend school, preventing them from finishing their studies. Mahmood Habib was not permitted to take his final exam because he was suspected of inciting hatred toward the regime, though he has not been charged. The legal rights of some students still in custody have also been called into question. The Bahraini judiciary has upheld sentences against 84 of 96 students convicted in an alleged violent attack, and some rights organizations have reported that judges refused to consider relevant evidence that illustrated government intimidation against the accused.

POMED finds recommendation 1715c to have been *partially implemented* because of the lack of details regarding the status of legal proceedings surrounding students who remain in jail under charges of violent crimes. Due to a dearth of information on the reform of disciplinary measures, that portion of the recommendation remains difficult to assess.

21 **1723d** **PARTIALLY IMPLEMENTED**

Consider, at the earliest possible time, rebuilding some of the demolished religious structures at the government's expense.

In response to this recommendation, the Government of Bahrain initially pledged to rebuild 12 sites, and it has since announced plans to begin construction on another ten. Five of those mosques have seen tangible progress and are reportedly nearing completion, according to the government's BICI Follow Up Report. Plans for additional mosques are said to be in various stages of approval, and the government claims that eight sites have been prepared for work while the allocation of nine more sites has been granted as of July 2012, bringing the total to 22. Finally, Bahrain has said work continues in order to determine the status of deeds and planning requirements of eight additional sites.

20 Notably, the United States Department of Labor is slated to release a report on Bahrain's compliance with worker rights obligations under the U.S.-Bahrain Free Trade Agreement (FTA). Chapter 15 of the FTA stipulates that the parties reaffirm their commitments under the International Labor Organization Declaration on Fundamental Principles at Work and Follow-Up, including the right of association and the right to organize and bargain collectively. The agreement obligates each party to "strive to ensure that such labor principles ... are recognized and protected by its law." It further requires both parties to "effectively enforce" national labor laws protecting the exercise of freedom of association, and to "ensure that proceedings ... for the enforcement of its labor laws are fair, equitable, and transparent."

21 Eight students reportedly opted to pursue education abroad.

The United States Commission of International Religious Freedom notes that although the government has vowed to rebuild 22 mosques, a total of 53 places of worship including 35 mosques and 19 Shi'a congregation halls (*ma'tam's*) were demolished. Some residents have also complained that some sites are smaller and located on different plots of land, which the government justifies by saying "the status of sites in violation of the applicable laws and regulations are being corrected."

POMED finds recommendation 1715c to have been *partially implemented*, because there remains significant work to be done to restore many of the religious establishments. There are also concerns that the Government of Bahrain has not adopted the appropriate level of urgency with these initiatives given that the BICI recommended these projects be undertaken "at the earliest possible time."

...there remains significant work to be done to restore many of the religious establishments...

22

1724a

NOT IMPLEMENTED

Relax censorship and allow the opposition greater access to television broadcasts, radio broadcasts and print media.

Equal access to television, radio, and print media outlets for opposition voices lies at the heart of recommendation 1724a. The Information Affairs Authority (IAA) has spearheaded an effort to relax censorship and "encourage inclusion of all political groups." The initiative, known as the Media Reform Plan (MRP), includes decreed legislative reforms, media liberalization plans, and media professionalization efforts. A central tenet of the legislative component is the establishment of a Higher Media Board (HMB), a body that will be tasked with regulating content to ensure pluralistic expression of ideas and opinions. The HMB will consist of seven members serving four-year terms, four of whom will be directly appointed by the King, and one each appointed by the Prime Minister, President of the Shura Council, and the President of the Council of Ministers. Additional legislative directives include a draft law that aims to alleviate criminal liability arising from newspaper publications and a new press law that includes provisions making it illegal to imprison journalists. The IAA has stated it will also seek to open up radio and television access under the oversight of the HMB to "express all the views of Bahraini people." It also intends to work to increase political content and representation in both radio and television programming.

Despite numerous proposals from the government, frequent censorship and violations of media freedom have been reported by opposition activists and foreign observers. The government has engaged in broad Internet censorship: Bahrain Watch has identified numerous websites blocked within the country, including video streaming and human rights sites,²² and Reporters Without Borders has labeled Bahrain an "Enemy of the Internet." An investigation by Bahrain Watch revealed Bahrain's use of law-enforcement cyber-tracking software to surveil and attack dissidents online, and Freedom House reports Bahraini authorities "have employed hundreds of 'trolls' [...] to scout popular domestic and international websites, and while posing as ordinary users, attack the credibility of those who post information that reflects poorly on the government." Social media restrictions have also been imposed, criminalizing Internet use that "damages the reputation of others," with four men receiving jail time in November 2012 for "insulting" King Hamad. Morgan Roach of the Heritage Foundation has noted, "Cracking down on the media while implementing reform will overshadow any improvements the government has made."

Despite numerous proposals from the government, frequent censorship and violations of media freedom have been reported by opposition activists and foreign observers.

The Government of Bahrain has also denied a number of journalists from entering the country, including Nicholas Kristof of *The New York Times*. The Bahrain Center for Human Rights has reported that domestic journalists regularly endure physical and judicial harassment, extended detentions, disappearances, and

²² The Bahrain Youth Society for Human Rights claimed that the streaming site for the UN Universal Periodic Review was blocked during testimonies, though the government denied the accusation.

even torture.²³ Sixty-eight journalists have also been charged with treason for “publishing news that defamed the image of Bahrain abroad.” Pro-government newspapers have targeted opposition activists; most recently the pro-regime *Al Watan* newspaper published the names and photos of dozens of activists after they testified at the Universal Periodic Review at the UN Human Rights Council, and the International Freedom of Expression Exchange has noted that many activists received threats when returning home. Further, the government has continued to deny licenses for opposition television, radio and newspaper outlets. Bahrain Watch has reported that al-Wefaq has applied for newspaper and television licenses, but thus far the requests have been ignored. Six of the seven daily newspapers in Bahrain are either pro-government or owned by figures affiliated with the royal family.²⁴

POMED finds 1724a to be a recommendation *not implemented*, because censorship remains rampant online, in print, and on television, and there is no evidence that opposition voices have been granted greater access to media platforms. Additionally, legislative directives laid out in the MRP have yet to be executed (though the government claims that the draft media law is in the “final stages of debate”) and the impartiality of the proposed HMB is questionable considering its members will consist solely of government appointees. The targeting of journalists and opposition members also betrays the government’s stated commitment to the implement media reforms “as soon as possible.”

...censorship remains rampant online, in print, and on television, and there is no evidence that opposition voices have been granted greater access to media platforms.

23

1724b

UNCLEAR

Establish professional standards and an ethical code for the media with an enforcement mechanism in order to avoid incitement to hatred, violence, and intolerance.

Recommendation 1724b strives to lay the foundation for a set of media standards and a mechanism for enforcing such standards. The Commission on Public Information, under the Information Affairs Authority (IAA) and with the assistance of the French media regulatory firm IMCA, is working to implement new standards of conduct for the media. The aforementioned Higher Media Board must create and manage a Joint Commission (JC), which will be responsible for regulating rules governing journalists. There are plans for the JC to issue a credential card for all journalists once an applicant attends certain training courses on media standards and signs the required affirmation of the country’s new ethical code for journalism, drafted by the government-backed Bahraini Journalists Association (BJA) in January 2012. This code was open to public scrutiny and has more than 360 signatories from the media. The IAA also claims to have signed a memorandum of understanding with the Management Consulting Center of Excellence to create an honor code for Bahraini television and radio that seeks to ensure neutral pluralism, credibility, rule of law, and “national unity.”

Opposition and media rights activists note that beyond the initial proposal from the Bahraini government for the creation of a new ethical code and oversight bodies, the status of each remains uncertain. The BJA launched the code earlier this year, but the proposed code does not appear to be legally binding. It is also unlikely that more than 30 media members signed on to the charter. There are few details regarding the status of the JC and its credential card program.

POMED finds recommendation 1724b to be *unclear*, because there is insufficient evidence available regarding the specifics of new media code and its enforcement mechanism.

²³ Including but not limited to the cases of Nazeeha Saeed, Jamal Zuwayyad, and Mohammed al-Moukhraq.

²⁴ The BICI found that the founder of opposition paper *Al Wasat* died in police custody after severe torture in April 2011.

24 **1724c** **NOT IMPLEMENTED**

Undertake measures to prevent incitement to violence, hatred, and sectarianism in violation of human rights, regardless of whether the source is public or private.

The government considers this effort to be in progress, citing the aforementioned efforts of the Higher Media Board (HMB) and proposals from international experts under review. In the Media Reform Plan, the government stresses that the HMB will work to combat incitement of all types and “contribute to actions that support social cohesion and fight discrimination.” The Government of Bahrain is also reviewing international experts’ proposals for a new law based on Article 20 of the International Covenant on Civil and Political Rights, which prohibits “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.”

As previously stated, details remain scarce on the legislative proposals and how the HMB will operate. More importantly, evidence suggests that the government has been complicit in stoking sectarian tensions since the crisis began, in order to undermine the opposition. This is apparent in the frequent attempts to connect Shi’a opposition figures with Iran: regime-linked newspaper *Al Watan* has previously labeled opposition party al-Wefaq as the “Bahraini Hizbullah,” prominent opposition leaders are consistently accused of being supported by Tehran and supporting “terrorism,” and *Al Watan* has regularly published articles accusing the U.S. of supporting the opposition in cooperation with al-Qaeda and Iran.²⁵

...evidence suggests that the government has been complicit in stoking sectarian tensions since the crisis began, in order to undermine the opposition. This is apparent in the frequent attempts to connect Shi’a opposition figures with Iran...

POMED finds 1724c to be a recommendation *not implemented*. The proposed legislative and oversight solutions lack sufficient detail to gauge implementation accurately. Additionally, the government appears to be engaging in a sectarian campaign to undermine reform and human rights advocates, which further undercuts any mechanisms it may have instituted.

25 **1725a** **UNCLEAR**

Develop educational programs at the primary, secondary, high school, and university levels to promote tolerance, human rights, and rule of law.

In an effort to satisfy this recommendation, the Government of Bahrain has reported a number of initiatives. The Government of Bahrain and UNESCO’s International Education Bureau (IBE) signed a memorandum of understanding to provide technical assistance in developing new curricula over the next five years. The government reports that four workshops were held in early 2012 and that they have continuing plans to develop and produce literature for students on citizenship, coexistence, and human rights through the 2017 school year. At the university level, the government has resolved to require a human rights course for all first-year students and an advanced course for third-year law students. According to the government, these courses are composed of three units: introduction to rights and public freedoms, rights and public freedoms in the modern international society, and constitutional and legislative guarantees of human rights.

The progress of this plan is difficult to discern due to the lack of publicly available details. The programs appear to reflect the spirit of this recommendation, but as Bahrain Watch points out, it remains

At the university level, the government has resolved to require a human rights course for all first-year students and an advanced course for third-year law students.

²⁵ The International Crisis Group wrote that in the early days of spring 2011, “By speaking on an Iranian or Hizbullah television channel on an almost daily basis, protest leaders and activists became easy targets for criticism and retribution. Government officials and activists in the National Unity Gathering, a collection of predominantly Sunni Islamist groups and independents that arose in response to a perceived threat from Shiite-dominated protests, have offered the opposition’s appearance on Shiite news channels as Exhibit A in their allegation of “Iranian meddling.”

to be seen if these are permanent curriculum changes or merely one-time events, and questions remain regarding the programs' success and attendance. Additionally, UNESCO's IBE website only reports information on a single workshop held recently, a three-day program on "Citizenship and Human Rights Education in Bahrain," but it is unclear if any other initiatives had the necessary institutional support to hold them to international standards.

POMED considers the status of recommendation 1725a to be *unclear*, because additional detail on the success, attendance, and future plans of these educational initiatives is needed in order to accurately determine programmatic development.

26 **1725b PARTIALLY IMPLEMENTED**

Develop national reconciliation program addressing political, social and economic inequalities across all segments of Bahrain's population.

The scope of the BICI's final recommendation is tremendously broad, as it calls for the development of a national reconciliation program to provide equal political, social, and economic rights and benefits to all segments of society. The principle initiative undertaken by the Bahraini government is the National Social and Economic Reconciliation Plan (NSERP). The social component of the plan encompasses six broad efforts, the first of which is the four-phase Wihda Wahda (One Unity) campaign that aims "at communicating the idea that, despite their differences, the people of Bahrain come together to call for unity."²⁶ Additional efforts comprise educational workshops for children, rehabilitation programs, health-related proposals, and culturally-focused plans. The economic element consists of five campaigns, some of which emanated from earlier recommendations on compensation. Salary increases were instituted across the board, which impacted an estimated 35,000 people. Additionally, welfare reforms were advised by the World Bank, and \$500,000 was set aside for NGO projects to "provide real and tangible value to the development of the society." Oversight of the NSERP programs falls to a body known as the National Social and Economic Reconciliation Commission.

Conspicuously absent from the NSERP is any mention of a political reconciliation plan. Bahrain held a national dialogue in July 2011, though the largest opposition group al-Wefaq pulled out due to underrepresentation (as the opposition only had 35 of approximately 300 seats) and claimed that the dialogue was not serious to achieve positive results. Justin Gengler has pointed out that the only significant change to come from the dialogue was the stripping of the King's ability to appoint ministers, which was transferred to the Prime Minister. Since then, the government has repeatedly balked at further dialogue, frequently citing the need for the opposition to condemn violence before continuing with reconciliation process. Repeated renouncements of violence by al-Wefaq did not persuade the regime to reopen talks, though six opposition groups, including al-Wefaq, al-Qawmi, Waad, Wahdawy, Ekhaa, and al-Taquadumy, recently issued a formal renouncement of violence on November 7, 2012. The groups labeled the rejection of violence as a means "to achieve the demands of our people of real participation in political decisions and planning the future of [Bahrain]." The continued imprisonment of more than a dozen of Bahrain's most prominent opposition members will also make the success of any political reconciliation extraordinarily difficult. In May 2011, President Obama pointedly noted, "The only way forward is for the government and opposition to engage in a dialogue, and you can't have a real dialogue when parts of the peaceful opposition are in jail."

The scope of the BICI's final recommendation is tremendously broad, as it calls for the development of a national reconciliation program to provide equal political, social and economic rights and benefits to all segments of society.

26 The first phase was a festival with free admission to a garden where several activities were planned for all age groups. The second phase will engage participants in activities centered on the arts and educational projects. The third phase of the campaign will encourage the creation of commercial and social enterprises with the cooperation of elected municipality councils. Finally, phase four will be dedicated to engaging civil society with elected officials and government representatives.

POMED finds that recommendation 1725b has been *partially implemented*, as the government has developed initiatives to pursue social and economic reconciliation. However, the lack of any meaningful effort to address political inequalities remains at the center of Bahrain's crisis. It is of the utmost importance that the government undertake a sincere effort to hold dialogue with opposition groups – including releasing opposition leaders from jail – to address the myriad of issues facing the country.

The continued imprisonment of more than a dozen of Bahrain's most prominent opposition members will also make the success of any political reconciliation extraordinarily difficult.

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