

BAHRAIN

“FREEDOM HAS A PRICE”

TWO YEARS AFTER
BAHRAIN'S UPRISING

AMNESTY
INTERNATIONAL



Amnesty International Publications

First published in February 2013 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Amnesty International Publications 2013

Index: MDE 11/005/2013
Original Language: English
Printed by Amnesty International, International Secretariat, United Kingdom

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"Freedom has a price and we know we are paying a small price compared to those who died... We are not one group, we came from different backgrounds but they made us a group."

Ebrahim Sharif, one of the Bahraini prisoners of conscience who spoke to Amnesty International delegates in Jaw Prison in January 2013

Two years after a popular uprising rocked Bahrain, and beneath the fanfare of subsequent reform, prisoners of conscience, including some arrested during the protests, remain behind bars and the rights to freedom of expression, association and assembly continue to be suppressed. In recent months, not only have prisoners of conscience not been released, but more people have been jailed simply for daring to express their views, whether via Twitter or on peaceful marches. Bahraini courts have appeared more concerned with toeing the government's line than offering an effective remedy to all Bahrainis and upholding the rule of law.

Speaking to Amnesty International delegates in the remote Jaw Prison, around 30 kilometres south of the capital Manama, opposition activist Abdulhadi Al-Khawaja, serving a life sentence in prison, said:

"How can you have a dialogue if representatives of the groups you mean to dialogue with are in prison?"

Fellow prisoner 'Ali 'Esa Mansoor al-'Ekri, a medical professional serving a five-year sentence, told the delegates:

"[We medics] call our case 'the lost justice'. We were on hunger strike, demanding fairness. It was all about medical ethics and neutrality."

Mahdi 'Issa Mahdi Abu Dheeb, a teachers' trade union leader who has been in jail since his arrest in April 2011, said:

"As for the charges against me and Jalila [Jalila al-Salman, a fellow teachers' union leader and mother of three], no one thinks they are right: we did not call for the fall of the regime – we are people in the education system."

After the February-March 2011 uprising, the authorities set up the Bahrain Independent Commission of Inquiry (BICI) to investigate human rights violations committed during the crackdown on the protests, including the killing of at least 35 protesters and widespread torture and other ill-treatment of detainees. Since the much-heralded BICI report was published in November 2011, the government has introduced some reforms. These include the establishment of two Ombudsmen offices to investigate human rights abuses by Ministry

of Interior personnel and the National Security Agency (NSA), the adoption of a code of conduct for police officers, and the installation of CCTV cameras in police stations to protect detainees from ill-treatment. The government also announced that it would re-launch a national dialogue on 10 February 2013, in the spirit of working with opposition groups “towards reaching a consensual political agenda”.

Despite these positive steps, true justice remains elusive for victims of human rights abuses and the right of people to freely express their views continues to be trampled on. Tens of prisoners of conscience, including leading opposition figures, are being denied their freedom and excluded from the national dialogue or reconciliation process, while restrictions on freedom of expression, association and assembly continue unabated as demonstrated by the total ban on protests declared by the authorities on 30 October 2012 and only lifted on 7 December.

The true measure of change in Bahrain is whether people are still being jailed for expressing their views, and whether those responsible for human rights abuses have been held to account. Unless freedom and justice are guaranteed, the Bahraini authorities’ implementation of the BICI recommendations risks amounting to simply establishing a bureaucracy of human rights, rather than the rule of law.

During a visit to Bahrain between 19 and 25 January 2013, Amnesty International delegates met in Jaw Prison, individually and in private, for 20 minutes each, seven prisoners of conscience – Nabeel Rajab, Ebrahim Sharif, Hassan Mshaima’, ‘Abdulhadi Al-Khawaja, Ali ‘Esa Mansoor al-‘Ekri, Ghassan Ahmed ‘Ali Dhaif and Mahdi ‘Issa Mahdi Abu Dheeb. Each of them said they had been jailed on trumped-up charges or under laws that repress basic rights, and some complained of restrictions on communications and visits or inadequate health care in prison.



7 prisoners of conscience in prison in Bahrain - Clockwise from top left:
Abdulhadi al-Khawaja, Dr. Ali 'Esa Mansoor al-Ekri, Hassan Mshaima', Dr. Ghassan Daif, Mahdi 'Issa Mahdi Abu Dheeb, Nabeel Rajab,
and Ebrahim Sharif © Amnesty International

The Amnesty International delegation also met government officials. While the organization welcomed the opportunity to meet with the Bahraini authorities, it regrets very much that the five working day limit put on visits by international NGOs remains in force. This put an undue limitation on the ability of Amnesty International to carry out its human rights work, including monitoring the demonstrations which usually take place on weekends, when international NGOs are not allowed in the country.

RESTRICTED RIGHTS TO FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Scores of people were arrested and sentenced before unfair military courts (National Safety Courts) on freedom of expression-related charges after they participated in peaceful protests in 2011. Many were subsequently released. For those currently serving prison sentences, the government says that charges related to freedom of expression were dropped and only criminal charges were retained for their appeal hearings.

Among those still in jail are 13 opposition activists, including Ebrahim Sharif, Hassan Mshaima' and 'Abdulahadi Al-Khawaja; a group of medical professionals, including 'Ali 'Esa Mansoor al-'Ekri and Ghassan Ahmed 'Ali Dhaif (see background); and the head of Bahrain Teacher's Association (BTA), Mahdi 'Issa Mahdi Abu Dheeb (see background). All were convicted of serious criminal offences and sentenced to imprisonment. After Amnesty International reviewed legal documents, including court verdicts, and statements made by the prosecution the organization concluded that none of the activists used or advocated violence and that no convincing evidence had been submitted to justify their conviction. It appears that all of them were targeted for their anti-government views and for having participated in peaceful protests.

The 13 opposition activists were accused of creating a group with the purpose of "overturning the regime", inciting hatred towards the governing law and inciting non-compliance with the law, amongst other accusations. According to a statement from the Public Prosecution Office, issued after the Court of Cassation upheld the sentences in January 2013, the court found the defendants guilty of preventing state institutions from performing their functions, undermining national unity and communicating with foreign organizations, including the armed group Hizbullah in Lebanon, "to obtain support for the activity of the group". They were sentenced on the basis of these vaguely worded charges to between five years and life in prison. However, no evidence was provided that showed that the activity of the defendants was anything other than exercising their right to freedom of expression, association and assembly – by peacefully calling for political change, demonstrating and calling on others to demonstrate.

At its sixty-third session in April/May 2012, the United Nations Working Group on Arbitrary Detention (UNWGAD) considered Abdulhadi Al-Khawaja's detention to be arbitrary and in contravention of Articles 19, 20 and 21 of the Universal Declaration of Human Rights which guarantee the peaceful exercise of the rights to freedom of expression, association and assembly and Articles 9(3), 14, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR) which guarantee the rights to freedom of association and assembly as well as the rights not to be arbitrarily detained and to have a fair trial before an independent and impartial court established by law. In view of these considerations the UNWGAD called on the government of Bahrain to immediately release Abdulhadi Al-Khawaja.

Other prisoners of conscience have been convicted for acts considered to be a crime in Bahrain, but which do not constitute an internationally recognizable criminal offence, such as calling for or participating in an "illegal gathering", or "criticizing the rulers of the country".

Prominent human rights defender Nabeel Rajab, for example, was sentenced on 16 August 2012 to three years in prison under the Code on Public Meetings, Processions and Gatherings (Law 18 of 1973) and Article 178 of the Penal Code, which criminalize any gathering of more than five people who are assembled "with the intention of committing crimes or acts intended to facilitate the commission of such crimes or aimed at undermining public security". Article 178 has repeatedly been used to punish peaceful protesters taking part in unauthorized assemblies.

The authorities in Bahrain claim nobody is detained for peacefully expressing their views and exercising their rights to freedom of expression; however, between 5 and 12 November 2012, 'Abdullah 'Alwi al-Hashemi, 'Ali Mohammad 'Ali and 'Ali Abdul Nabi al-Hayeki were sentenced to between four and six months in prison for insulting the King of Bahrain in messages posted on their Twitter accounts between 2011 and 2012. They were sentenced under Article 214 of the Penal Code which, together with Articles 215 and 216, criminalize offending the King, the national flag or emblem, a foreign country or international organization, the National Assembly or other constitutional institutions, the army, law courts, authorities or government agencies. These Articles violate the right to freedom of expression since they impose restrictions that are not permissible under international law.

Scores of other people have been arrested in recent months after participating in marches and rallies, which are regulated by the Code on Public Meetings, Processions and Gatherings (Law 18 of 1973), and its amendments contained in Law 32 of 2006 Gathering Code. The Code imposes undue restrictions on the right to peaceful assembly and is contrary to Article 21 of the International Covenant on Civil and Political Rights, which Bahrain has ratified.

The Code has onerous procedures for applying for permission to march, allows the government to ban demonstrations for reasons beyond what is permissible under international law, and provides for punishing organizers and participants if a march turns violent or proceeds without permission.

FLAWED JUSTICE SYSTEM

The 13 opposition activists, the four medical professionals and the head of the BTA were originally sentenced by military courts (the National Safety Court) in 2011, in contravention of international law and standards which do not allow trial of civilians before military courts. Proceedings before this court did not meet international standards for fair trial. The court, comprising two civilian judges and headed by a military judge, was located in the headquarters of the Bahrain Defence Force. The defendants were held in unknown locations for weeks without access to the outside world. They were denied access to their lawyers during the first weeks of detention while they were being interrogated by the NSA and allegedly tortured to coerce "confessions". Some of them were only allowed to see their lawyers and families on the day of their first hearing. "Confessions" allegedly obtained under torture were used as evidence to convict them.

All these cases were transferred to a civilian court after military courts ceased to exist in October 2011, although the men were only granted an appeal, not a full re-trial, before the

civilian court. All of them had their convictions upheld during 2012 but some, including Mahdi 'Issa Mahdi Abu Dheeb and the four medical professionals, had their sentences reduced. In July 2012 the judge in charge of the case of the 13 opposition activists decided to move all hearings behind closed doors and ordered it to be recorded on film. In protest at that decision the 13 asked their lawyers not to represent them any more and the court appointed them new lawyers. Subsequent hearings were eventually held in public.

Following the BICI recommendations, a new body was set up to investigate human rights abuses. The Special Investigation Unit (SIU), within the Public Prosecutor's Office, was created in 2012. At the end of the year it published information on investigations into 92 cases of deaths of protesters and deaths in custody between early 2011 and November 2012. Of these, the SIU dismissed 45 cases due to lack of evidence of a criminal act. It is unclear how the investigations were carried out and what information the complainants received about the dismissal of their cases.

In late 2012, the government created two new offices of the Ombudsman to examine complaints of abuses by members of the Interior Ministry and the NSA. With the SIU also in place to investigate abuses, these new offices are still drafting a memorandum of understanding to clarify the areas of responsibility, so it remains unclear how complainants should report abuses. According to their mandate, the two new offices will receive and examine complaints and refer them to the relevant authorities for further action, whether for disciplinary action or for criminal prosecution.

Twelve of the 13 opposition activists have refused to have their allegations of torture investigated by the SIU or the Public Prosecutor's Office because they do not consider them to be independent bodies able to investigate their allegations impartially. Ebrahim Sharif explained to Amnesty International's delegates:

"We decided that enough is enough. The system is not independent. We cannot communicate with our lawyers freely, we need to submit an official piece of paper to see them and we cannot hand them over anything in writing."

Amnesty International has raised concerns about the ability of the Public Prosecutor's Office to independently investigate recent allegations of torture. In the past, the Public Prosecutor's Office has, for instance, failed to investigate allegations of torture and has used "confessions" extracted under torture or other ill-treatment to convict defendants.

Only one of the 13 activists, Sa'eed Mirza al-Nuri, agreed to be questioned by the Public Prosecutor's Office, although he insisted that he should also be questioned in parallel by an independent body. On 20 November 2012, the Public Prosecutor's Office official in charge of recording his statement apparently refused to record this request, saying that he did not want to write anything that could compromise the integrity of the Public Prosecutor's Office. Sa'eed Mirza al-Nuri's lawyer submitted a formal complaint about this refusal with the Public Prosecutor's Office. To date, Sa'eed Mirza al-Nuri's allegation of torture has not been investigated.

Trials are continuing against two high-ranking officers accused of torturing health professionals, although their cases only refer to allegations relating to one of four medical professionals currently serving sentences in Jaw Prison. On 4 February 2013, 10 staff members of the Ministry of Interior testified in defence of the two officers accused, saying that torture had not taken place. Meanwhile, an investigation into the alleged torture of

Mahdi 'Issa Mahdi Abu Dheeb was opened in March 2012, but after the initial questioning neither his family nor his lawyers are aware of any other action that has been taken.

VISIT TO JAW PRISON

In the limited time granted to Amnesty International during their visit to Jaw Prison, the prisoners of conscience expressed frustration with the justice system and their unfair convictions. All stressed that they had been convicted solely because they had peacefully exercised their legitimate rights.



Jaw Prison © Amnesty International

Some in the group of 13 opposition activists said that they were facing restrictions communicating with their lawyers. Others, including Mahdi 'Issa Mahdi Abu Dheeb and Hassan Mshaima', complained about the medical treatment they were receiving, considering it inadequate for their needs. Mahdi 'Issa Mahdi Abu Dheeb still suffers from medical problems as a result of his alleged torture and Hassan Mshaima' fears his cancer has returned after he had to do two tests but he claims he has not been given any test results despite his insistence on receiving them. He also told Amnesty International:

'It is harassment as when I go to hospital for the treatment that last up to six hours, my face is covered and cannot see the doctor or the medical staff'

Between 2 and 7 February 2013 three of the 13 opposition activists, 'Abdulhadi Al-Khawaja, Dr 'Abdel-Jalil al-Singace and 'Abdul-Hadi 'Abdullah Hassan al-Mukhodher started a hunger strike to protest against these restrictions. They had originally boycotted calls to their families in protest at restrictions on their communications, especially after Hassan Mshaima's call to his family in January 2013 was reportedly cut when he tried to discuss his health condition

with them. They have now resumed having regular phone calls.

Nabeel Rajab said he faces restrictions on his communications and visits, and that he is isolated from other political prisoners. He told Amnesty International's delegates:

"A few days ago I was told that it would not be tolerated if I spoke in English. The punishment for disobeying would be solitary confinement. I was also threatened for... talking about human rights..."

Ghassan Ahmed 'Ali Dhaif, one of the imprisoned health professionals (see background), said:

"There are certain restrictions and they try to humiliate us as much as they can. There was some psychological pressure at the beginning. We share cells with common criminals and mingling with criminals is tough. We are behind closed doors for 18 hours... The medical services here are not up to standard..."

Amnesty International also met with some families of prisoners in Bahrain. Despite the injustice of knowing their loved ones are unfairly imprisoned and its impact on their lives, families have been the main source of support and strength for the prisoners of conscience, either by tirelessly campaigning on their behalf or addressing the international community about their ordeal.

Nabeel Rajab's family told Amnesty International:

'We support Nabeel fully, we know he is right and did not do anything wrong, it is his journey'.



Nabeel Rajab's family © Amnesty International

Several families recounted to Amnesty International the impact these sentences are having on their lives. Apart from being advocates for their imprisoned husbands, their spouses have become the sole head of the household and have to explain to their children their fathers’ plight.



Wife of Abdulhadi al-Khawaja © Amnesty International

Amnesty International considers all these individuals to be prisoners of conscience, held solely for having exercised their legitimate rights to freedom of expression, association and assembly. Unless immediate steps are taken to ensure accountability and the release of prisoners of conscience, recent institutional reforms and the national dialogue will be empty exercises. It is vital that the Bahraini government immediately and unconditionally releases all prisoners of conscience, and upholds the rights to freedom of expression, association and assembly.

Amnesty International reiterates its call on the government to:¹

- immediately and unconditionally release all prisoners of conscience held solely for peacefully exercising their legitimate rights to freedom of expression, association and assembly;
- lift restrictions on freedom of expression, association and assembly; and
- ensure that officials responsible for human rights violations, including the killings of protesters and the torture of detainees, are brought to justice.

BACKGROUND

Nabeel Rajab, President of the Bahrain Centre for Human Rights (BCHR) was sentenced on 16 August to three years in prison for participating in "illegal gatherings with the intention of disturbing public security" and calling for and participating in marches without prior notification between January and March 2012. Nabeel Rajab's sentence was reduced to two years in prison on appeal on 11 December 2012.

'Abdullah 'Alwi al-Hashemi, 'Ali Mohammad 'Ali, 'Ali Abdul Nabi al-Hayeki were sentenced between 5 and 12 November to between four and six months in prison for insulting the King of Bahrain in messages posted on their Twitter accounts between 2011 and 2012.

Thirteen prominent opposition activists were convicted by the National Safety Court (a military court) on 22 June 2011 to between five years and life in prison for criminal charges including "setting up terror groups to topple the royal regime and change the constitution". **Hassan Mshaima', 'Abdelwahab Hussain, 'Abdulhadi Al-Khawaja, Dr 'Abdel-Jalil al-Singace, Mohammad Habib al-Miqdad, Abdel-Jalil al-Miqdad and Sa'eed Mirza al-Nuri** were sentenced to life in prison. Four people, **Mohammad Hassan Jawwad, Mohammad 'Ali Ridha Isma'il, Abdullah al-Mahroos, and 'Abdul-Hadi 'Abdullah Hassan al-Mukhodher**, were sentenced to 15 years in prison. Two people, **Ebrahim Sharif and Salah 'Abdullah Hubail Al-Khawaja**, brother of 'Abdulhadi Al-Khawaja, were given five-year prison terms. On 4 September 2012, the High Criminal Court of Appeal, a civilian court, upheld all the convictions and sentences and on 7 January 2013, the Court of Cassation confirmed this decision, exhausting all other legal remedies for the thirteen.

Four medical professionals **'Ali 'Esa Mansoor al-'Ekri, Ebrahim 'Abdullah Ebrahim, Ghassan Ahmed 'Ali Dhaif, Sa'eed Mothaher Habib Al Samahiji**, had originally been sentenced in September 2011 by the military National Safety Court to between 5 and 15 years in prison together with other medical professionals. In June 2012, the High Criminal Court of Appeal reduced their sentences to between one and five years in prison. In October 2012 the Court of Cassation upheld the sentences, exhausting all other legal remedies for the four.

Mahdi 'Issa Mahdi Abu Dheeb, former President of the Bahrain Teachers' Association (BTA), was sentenced on 25 September 2011 before the military National Safety Court, to 10 years in prison. On 21 October 2012 the High Criminal Court of Appeal in Manama upheld his conviction but reduced his sentence to five years in prison.

¹ Amnesty International reports issued since February 2011 include: *Bloodied but unbowed: Unwarranted state violence against Bahraini protesters* (MDE 11/009/2011); *Bahrain: A human rights crisis* (MDE 11/019/2011); *Bahrain: Protecting human rights after the protests – Amnesty International submission to the UN Universal Periodic Review, May-June 2012*; *Flawed reforms* (MDE 11/066/2011); *Bahrain fails to achieve justice for protesters* (MDE 11/014/2012); and *Bahrain: Reform shelved, repression unleashed* (MDE 11/062/2012).

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