



WHO WILL BE LEFT TO DEFEND HUMAN RIGHTS?

PERSECUTION OF ONLINE
EXPRESSION IN THE GULF
AND NEIGHBOURING COUNTRIES



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The Gulf Centre for Human Rights (GCHR) is an independent, non-profit NGO that provides support and protection to human rights defenders (HRDs) in order to promote human rights, including but not limited to freedom of expression, association and peaceful assembly. GCHR is based in Lebanon and documents the environment for HRDs in the Gulf region and neighbouring countries, specifically Bahrain, Kuwait, Iran, Iraq, Jordan, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates and Yemen. GCHR was founded in 2011.

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The International Human Rights Law Clinic (IHRLC) designs and implements innovative human rights projects to advance the struggle for justice on behalf of individuals and marginalized communities through advocacy, research, and policy development. The IHRLC employs an interdisciplinary model that leverages the intellectual capital of the university to provide innovative solutions to emerging human rights issues. The IHRLC develops collaborative partnerships with researchers, scholars, and human rights activists worldwide. Students are integral to all phases of the IHRLC's work and acquire unparalleled experience generating knowledge and employing strategies to address the most urgent human rights issues of our day.



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Gulf Centre for Human Rights

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DEDICATION

To human rights defenders in the Gulf states and neighbouring countries who, in the face of enormous obstacles, continue to struggle for human rights, and for a more just and equitable world.

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IN THE GULF AND NEIGHBOURING COUNTRIES (2021)

BAHRAIN



BAHRAIN SCORECARD

Targeted Activism or Expression



Expression re Offline Protests



Criticism of Government*



Journalists



Women's Rights and WHRDs

Human Rights Violations



Arbitrary Detention



Fair Trial

Problematic Legal Provisions and Institutions



Criminal Defamation



Cybercrime Law



Public Order



Specialised Law Enforcement Units

8

Number of incidents that fit the inclusion criteria of this study

*Including criticism of foreign government

INTRODUCTION

Between 01 May 2018 and 31 October 2020, there were eight documented incidents of violations of the right to freedom of expression online in Bahrain that fit this study's inclusion criteria.¹ Bahrain is an Islamic constitutional monarchy.² The reported credible incidents indicate that authorities target online expression critical of the government and its policies, including domestic pro-reform protests and opposition to the Saudi-led war in Yemen.

Authorities apply penal and anti-terrorism laws to repress criticism disseminated via social media and online publications by human rights defenders (HRDs), including journalists, lawyers, and human rights activists. The incidents indicate the Bahraini government uses the Penal Code and anti-terrorism laws to target HRDs although reporting does not always indicate the specific provisions charged. The anti-cybercrime law also criminalises protected expression and contributes to a hostile legal environment. Thus, this research finds credible evidence that the government has violated its obligation to respect online freedom of expression and additional associated rights of HRDs. These violations also constitute breaches of the duty of the State, pursuant to the United Nations (UN) Charter, "as the main duty-bearer" to ensure "defenders enjoy a safe and enabling environment" and that government institutions and processes "are aligned with their safety and the aim of their activities."³

Internet use in Bahrain is widespread, with 1.71 million internet users and 1.5 million social media users out of a population of 1.72 million as of January 2021.⁴ Facebook estimates that it has an audience of 820,000, and Twitter estimates that it has an audience of 324,000.⁵

Bahrain is a party to several international human rights treaties protecting the right to freedom of expression, including the International Covenant on Civil and Political Rights (ICCPR)⁶ and the Arab Charter on Human Rights.⁷ As a UN member State, Bahrain is also bound by the UN Charter and has pledged to adhere to the principles reflected in the Universal Declaration of Human Rights (UDHR), including article 19, which enshrines the right to freedom of opinion and expression.⁸

LEGAL ENVIRONMENT FOR ONLINE EXPRESSION IN BAHRAIN

Bahrain has enacted extensive legislation that empowers authorities to target HRDs who express dissent and advocate for human rights, including its Penal Code, terrorism law, media regulation law, telecommunications law, and cybercrime law. In most reported incidents, the specific charges cited by authorities are unclear. In cases where the government released charging data, the primary laws used are provisions from the Penal Code. Since at least 2011, these laws have been aided by systems of surveillance and specialised regulatory bodies, including the Cyber Safety Directorate, that are aimed at targeting online expression.

Laws Related to Online Expression

1976 Penal Code

Bahrain's Penal Code includes several vague and overbroad provisions that enable the criminalisation of protected online expression.⁹ The UN Human Rights committee has criticised the Penal Code for its "broad provisions" that prohibit criticism of public officials and the publication and dissemination of rumours and false news.¹⁰ Under both article 19 of the ICCPR and the UDHR, criminal laws that restrict freedom of expression must be sufficiently precise to enable individuals to determine how to comply with the law and to limit the discretion conferred on authorities enforcing it.¹¹ Vaguely and broadly worded provisions have been found by UN Special Procedures mandate holders to violate this requirement, allowing authorities to use their excessive discretion to target protected expression, and encouraging individuals to engage in self-censorship.¹²

The Penal Code includes content restrictions that prohibit vague and overbroad categories of expression. Article 133 prohibits spreading "false or malicious"

information during wartime that damages military preparations, causes panic, or "weakens the nation's perseverance," with a punishment of imprisonment of up to 10 years.¹³ Article 134 punishes with at least three months' imprisonment and/or a fine of BHD 100 (USD 265) anyone who spreads "false or malicious" information that "undermine[s] financial confidence in the State or adversely affect[s] its prestige or position, or exercises in any manner whatsoever activities that are harmful to the national interests."¹⁴ Article 168 punishes with up to two years' imprisonment and/or a fine of up to BHD 200 (USD 531), anyone who shares "false" or "malicious" information that seeks to "damage public security, terrorise the population, or cause damage to public interest," as well as the possession of such information with the intention of distribution, and the possession of devices intended for the distribution of such information.¹⁵

Similarly, article 160 prohibits "favour[ing] or advocat[ing] in any manner whatsoever, the overthrow or change of the country's political, social, or economic system," punishable by up to 10 years in prison.¹⁶ And article 165 prohibits inciting others to "develop hatred of the ruling regime or show contempt towards it," punishable by imprisonment.¹⁷

UN Special Rapporteurs have criticised as overly vague provisions that prohibit individuals from using the internet to "upset social order" or "harm the public interest," or from publishing "articles or photos that could harm national security, public order, public health or public interest, incite violence, constitute sedition or have negative consequences for the financial climate of the country."¹⁸ International human rights experts, including the Special Rapporteur on freedom of opinion and expression (SR on FOE), have also urged States to abolish

general prohibitions on disseminating “false news” because of their vagueness.¹⁹

The Penal Code also includes harsh criminal penalties for defamation. Article 370 prohibits any offensive publication related to an individual’s private life, even if the published information is true, punishable by up to six months’ imprisonment and/or a fine of up to BHD 50 (USD 132).²⁰ The UN Human Rights Committee and the SR on FOE have cautioned that laws on defamation should be crafted carefully so that they do not restrict freedom of expression, and have recommended the decriminalisation of defamation.²¹ The UN Human Rights Committee has interpreted ICCPR article 19 to require that “the application of criminal law should only be countenanced in the most serious of cases, and imprisonment is never an appropriate penalty.”²² Finally, it has stated that defamation laws should include the defence of public interest in the subject matter of the criticism, the defence of truth, and, at least in the case of expression related to public figures, the defence of error.²³

The Penal Code provides additional protections to public officials and institutions against defamation and insult. Articles 214, 215, and 216 prohibit anyone from offending: the monarch, the flag, or the national emblem;²⁴ a foreign country or international organisation based in Bahrain, or its president, representative, flag or emblem;²⁵ or any government bodies, including the National Assembly, army, or court.²⁶ These provisions carry penalties including lengthy prison terms, or a fine of up to BHD 10,000 (USD 26,551).²⁷ Human rights bodies have emphasised the value of public debate concerning public institutions and public figures in particular, who should not be granted a higher level of protection against defamation.²⁸ The UN Human Rights Committee has expressed particular concern about “laws on such matters as, *lese majesty*, *desacato*, disrespect for authority, disrespect for flags and symbols, defamation of the head of State and the protection of the honour of public officials” and laws prohibiting “criticism of institutions, such as the army or the administration.”²⁹

Finally, the Penal Code includes blasphemy provisions, which are inconsistent with protections on the right to freedom of expression, opinion, conscience, and religion under articles 19 and 20 of the ICCPR.³⁰ Article 309 prohibits any “expression against one of the recognised religious sects or ridicules the rituals thereof.”³¹ Article 310 prohibits the publication of religious scripture whose text is altered with the aim of “changing the meaning” of it or “ridiculing it,” it prohibits insulting a religious figure, and it prohibits imitating a religious ritual with the intent of ridiculing it.³² These offenses carry a punishment of imprisonment of up to one year or a fine of up to BHD 100 (USD 265).³³

2002 Media Regulation Law

The Media Regulation Law 47 was enacted in 2002 with broad and vague provisions regarding the regulation of the press, printing, and publishing, which the UN Human Rights Committee expressed concern about during Bahrain’s 2018 periodic review.³⁴ Article 1 of the law protects the right to expression, under the condition that it respects “the fundamentals of Islam[,]” and avoids divisionism and sectarianism.³⁵ Under article 68, journalists and activists could be sentenced to up to five years in prison for “criticizing the king,” “violation against the country’s official religion,” or “instigating the overthrowing of regime or its change.”³⁶ The law also includes other vague provisions, including prohibitions on “violating the respect of individuals or private lives;”³⁷ asserting “imperfection against a king or head of an Arab or Islamic State, or any other country that” has diplomatic relations with Bahrain; “disrespecting or humiliating” government bodies; and publishing false news that aims to “disrupt[] public security and effect[] public interests.”³⁸ These mirror several of the vague and overbroad provisions in the Penal Code, described above.

In April 2021, Bahrain amended the Media Regulation law.³⁹ Bahraini news agencies report that the amendments include a major section regarding the regulation of digital media, and that the amendments abolish imprisonment as a punishment

for journalists.⁴⁰ However, researchers were unable to obtain a copy of the amendments to verify these news reports.

2002 Telecommunications Law

The Telecommunications Law, enacted in 2002, includes vague restrictions on online expression. Article 75(1) prohibits using telecommunications equipment or networks to “send any message” with the knowledge that “the contents of the message are false, misleading, offensive to public policy or morals, endanger the safety of third parties or prejudice the efficiency of any service,” punishable with a fine of up to BHD 10,000 (USD 26,550).⁴¹ As described above, Special Rapporteurs have criticised similar provisions, including prohibitions on sharing “false news,” as overly vague.⁴²

2006 Antiterrorism Law

In 2006, Bahrain enacted Law No. 58 on Protecting Society from Acts of Terrorism (Terrorism Law).⁴³ In 2018, the UN Human Rights Committee criticised the law for its overly broad definition of terrorism, enabling Bahraini authorities arbitrarily to enforce the law to silence protected expression, including that of HRDs and political activists, in violation of the ICCPR.⁴⁴ Similarly, the UN Office of the High Commissioner for Human Rights and other stakeholders heavily criticised the law for its overbreadth and vagueness during Bahrain’s 2017 Universal Periodic Review.⁴⁵

UN Special Procedures mandate holders repeatedly have criticised the law’s overbroad definition of terrorism in articles 1 and 2, beginning as early as 2006.⁴⁶ Specifically, the Special Rapporteur on human rights and counterterrorism (SR on HR&CT) noted that there were two significant deficiencies in the draft law’s definition of terrorism: “there was no requirement of a specific aim to further an underlying political or ideological cause and some acts were qualified as terrorist without the intention of causing death or serious bodily injury.”⁴⁷ These deficiencies persist in the terrorism law today.⁴⁸

Additionally, the terrorism law includes vague and overbroad provisions prohibiting incitement to terrorism. Article 9 prohibits using “a private organization, association, institution, or corporation” to call for the commission of “any of the crimes stipulated in this law,” with a punishment of imprisonment.⁴⁹ Article 11 of the law, most recently amended on 23 May 2019, reportedly punishes “anyone who has done anything to promote, glorify, maximise, justify, favour or encourage acts constituting a punishable terrorist activity, whether inside or outside the Kingdom” with up to five years’ imprisonment and a fine between BHD 2000-5000 (USD 5310 – 13,245).⁵⁰

While States are free under international law to adopt provisions that prohibit incitement to terrorism, such provisions must meet a strict standard to satisfy article 19 of the ICCPR.⁵¹ The SR on FOE and the SR on HR&CT have specifically noted that provisions prohibiting incitement to terrorism “must be prescribed by law in precise language, and avoid vague terms such as ‘glorifying’ or ‘promoting’ terrorism.”⁵² The overbroad incitement provisions in Bahrain’s terrorism law have been criticised by the SR on HR&CT since its introduction to parliament in 2005 as a draft bill.⁵³ The 2019 amendment suggest that the government will continue to have its terrorism law deviate from international human rights standards.

Finally, the terrorism law raises concerns related to the right to due process. Under article 27, individuals can be held by an investigation officer for up to 28 days without charge.⁵⁴ After that period, the investigation officer can send the individual to the Prosecutor of Terrorist Crimes,⁵⁵ who in turn can hold the individual in detention for up to six months.⁵⁶ Cumulatively, an individual may be detained for up to seven months without the opportunity to challenge their detention in court. Such delay is inconsistent with fundamental principles of due process, which include universal rights to seek competent, independent, impartial judicial review of the arbitrariness and lawfulness of

deprivations of liberty and to obtain without delay adequate and appropriate remedies.⁵⁷

2014 Law on Information Technology Crimes

In 2014, Bahrain enacted a law on Information Technology Crimes (cybercrime law).⁵⁸ Enforced in conjunction with other laws described above, it extends the reach of vague and overbroad restrictions on expression contained in other laws to the internet. For example, article 23 of the cybercrime law provides that anyone who violates any other law using information technology shall be punished under that law, and article 9 prohibits anyone from using “encryption in order to commit or conceal any of the crimes stipulated in this law or any other law.”⁵⁹ Under these provisions, Bahraini authorities are empowered to prosecute individuals for online expression that violates the vague and overbroad provisions of the Penal Code, terrorism law, media regulation law, telecommunications law, and other laws.

the Bahraini government has deepened its capacity to surveil and target HRDs. For example, since 2011, human rights organisations and journalists have documented the use of German surveillance technology by Bahraini authorities to surveil, detain, and interrogate Bahraini activists.⁶⁴ In 2013, the Bahraini government created a Cybersecurity and Technical Affairs Directorate within the Telecommunications Regulatory Authority to monitor websites and social media networks.⁶⁵ Finally, in 2020, through Decree No. 65 of 2020, the government created a new agency under the Ministry of the Interior: the National Cyber Security Centre, which also includes Cyber Policies and Cyber Security directorates.⁶⁶ These agencies have adapted to target online activity disfavoured by Bahraini authorities. Most recently in March 2020, the Ministry of the Interior announced that the Cyber Security Directorate was investigating social media accounts that were alleged to have shared “false news” related to COVID-19.⁶⁷

Political Context and Policy Development

The prodemocracy popular movement in Bahrain began in 2011, to which Bahraini authorities responded by using a diversity of measures to clamp down on advocacy for political change.⁶⁰ In 2018, the UN Human Rights Committee expressed concern over reports of excessive use of force by Bahraini authorities to suppress the 2011 protests and the increase in use of force against HRDs since then.⁶¹ In the years following the protests, international human rights groups have continued to document the government’s curtailment of political and civil rights.⁶²

Bahraini laws criminalising expression, including expression through telecommunications, press, and other media existed long before 2011. Specialised law enforcement units also existed before 2011. In 2004, for example, the Bahraini government created the General Directorate of Anti-Corruption and Economic & Electronic Security, including a Cybercrime Directorate as a sub-agency, within the Ministry of the Interior.⁶³ But in the last decade,

TRENDS EMERGING FROM INCIDENTS OF REPRESSION OF ONLINE EXPRESSION IN BAHRAIN

The reported incidents in Bahrain indicate a trend of government sanctions against online expression by HRDs critical of government policies. Those targeted included journalists, lawyers, and other HRDs. Under the jurisprudence of article 19 of the ICCPR, freedom of expression protects political discourse, commentary on public affairs, discussion of human rights, and religious discourse in all means of expression.⁶⁸ But the charges brought by the Bahraini government often relied on provisions criminalising protected expression using vague language related to public order specifically.

Violations of the Right to Online Freedom of Expression

A significant number of the reported incidents concern the criminalisation of online expression relating to criticism and protest of government actions or policies. The Human Rights Council repeatedly has held that suppression of opinions critical of “government policies and political debate,” “corruption in government,” and “peaceful demonstrations” are impermissible and violate the right to freedom of expression.⁶⁹ Under international law, States are responsible for creating a safe and enabling environment for HRDs, such as journalists and activists, to carry out their work.⁷⁰ Bahrain has failed to fulfil its obligations to HRDs and, instead, has targeted journalists and HRDs.

On 12 June 2018, commando forces, Criminal Investigation Directorate (CID) officers, and plainclothes police officers apprehended photojournalist Hasan Mohamed Qambar when they raided the house in which he was staying.⁷¹ Authorities took him into custody for in absentia convictions on charges related to his filming pro-reform protests and disturbances years earlier.⁷²

Reuters, a Russian State-owned outlet (RT Arabic), and other news outlets had published Qambar’s video footage of protests and abuses by Bahraini security officers.⁷³ Reportedly, prior to June 2018, Bahraini authorities convicted Qambar in absentia of seven charges, including burning tires, assaulting a police officer, and participating in a terrorist organisation.⁷⁴ Authorities sentenced Qambar to a combined total of over 100 years in prison for the in absentia convictions.⁷⁵ Qambar remains in prison.⁷⁶

In April 2019, Bahraini authorities detained another journalist, Ibrahim al Sheikh, a columnist for *Akhbar al-Kaleej*, a privately owned daily publication based in Bahrain.⁷⁷ In a column, al Sheikh had written critically about Bahraini press coverage of the Saudi-led military campaign in Yemen, drawing comparisons to Egyptian State media claims that the country prevailed in the Six Day War and Iraqi officials’ claims of victory against the 2003 U.S. invasion.⁷⁸ The public prosecutor’s office announced that it detained an unnamed journalist, whom dissident groups confirmed to be al Sheikh, for having “cast doubt on the capabilities of the defence forces and the coalition.”⁷⁹ It is unclear whether authorities released al-Sheikh and, if so, when.

Yet another example is the arrest of lawyer Abdullah Al-Shamlawi, who has represented prominent political opposition figures, such as Sheikh Ali Salman, the imprisoned leader of the al-Wefaq political party.⁸⁰ Abdullah al-Shamlawi posted two tweets expressing critical views on religious practices relating to fasting and Ashura, the most important religious commemoration for Shi’a in 2019.⁸¹ Al-Shamlawi was convicted on charges of “incit[ing] hatred of a religious sect” and “misusing a telecommunications device”⁸² and sentenced to eight months in prison, to be suspended by payment of 100BD (approximately USD 265).⁸³ The

government also dropped the charge of “misusing a telecommunications device,” after Al-Shamlawi reached a settlement with the complainant.⁸⁴ The Third High Criminal Court, in adjudicating Al-Shamlawi’s appeal, suspended his prison sentence.⁸⁵ International human rights monitors report that Al-Shamlawi’s arrest is a part of the Bahraini government’s campaign of “judicial harassment” against attorneys, including defence lawyers like Al-Shamlawi, who are critical of the Bahraini government.⁸⁶

Bahraini authorities pressed charges against lawyer and internet activist Abdullah Hashim on 15 May 2019.⁸⁷ Hashim had posted tweets between May 2017 and April 2019, concerning social and political issues in Bahrain, including government corruption.⁸⁸ On the day of his arrest, Hashim tweeted: “My phone has been seized as an instrument of crime.... This means that the case is pending and this release does not mean the end of the case.”⁸⁹ The Public Prosecutor charged Hashim with “publishing false and unfounded news that would harm the public order, cause confusion and instability among the community as well as questioning the performance of the authorities and their ability to maintain security and protect society.”⁹⁰ Authorities detained Hashim for one week.⁹¹ The outcome of the case is unknown.

There is one reported incident in which the Bahraini government prosecuted a political opposition figure and former prisoner of conscience, Ibrahim Sharif, for a tweet critical of a foreign leader.⁹² The UN Office of the High Commissioner of Human Rights considers that politicians may be considered HRDs when they act to condemn corruption.⁹³ In this case, a court convicted Sharif, a member of Parliament who serves as a member of the Central Committee of the non-sectarian National Democratic Action Society (Wáad),⁹⁴ and sentenced him to six months in prison and fined him 500 dinars (USD 1,300) for a tweet criticising the human rights record of Sudanese President Omar al-Bashir.⁹⁵ Thus the government arguably targeted Sharif for acting as an HRD. According to authorities, this act was a violation of

article 215 of the Bahraini Penal Code, under which anyone can be imprisoned for up to two years for “publicly insulting a foreign country... or its leader.”⁹⁶

The Human Rights Committee has expressed concern regarding the serious restrictions posed on the freedom of expression and the large number of arrests and prosecutions of individuals criticising Bahraini State authorities or political figures, including through social media.⁹⁷ The government’s targeting of activists who criticise Bahraini authorities and political figures violates online freedom of expression. The SR on FOE has stressed that protection of the State and its officials from criticism is not sufficient justification to restrict this right.⁹⁸

Additional Human Rights Violations

The reported incidents in Bahrain indicate that State actions repressing online freedom of expression also bring violations of other human rights standards, such as reprisal, arbitrary detention, and fair trial standard violations.

Reprisal

There is evidence that Bahraini authorities have engaged in reprisals against HRDs in violation of their international law commitments. Following women’s HRD Ebtisam Al Saegh’s posting a series of tweets highlighting a range of human rights concerns in Bahrain, she began receiving threatening messages after July 2018, from a well-known Bahraini security officer, ordering her to close her accounts and to stop her human rights work, under threat of public defamation and rape.⁹⁹ Her case is consistent with pattern of reprisals against HRDs and journalists because of their work and one which the Human Rights Committee noted in its 2018 report on Bahrain.¹⁰⁰ The High Commissioner for Human Rights recommends that Bahrain take action and “[a]bstain from taking restrictive measures or reprisals against HRDs.”¹⁰¹ UN criticism underscores that Bahraini reprisals against human rights activists violate the State’s human rights obligations.

Arbitrary detention

Arbitrary deprivation of liberty is prohibited under article 9 of the ICCPR, customary international law, and this prohibition is a *jus cogens* norm, meaning it applies universally and without exception.¹⁰²

A deprivation is arbitrary including when it is without a legal basis as well as when it results from the exercise of freedom of expression.¹⁰³ As the UN Working Group on Arbitrary Detention has reiterated, any measure depriving an individual of liberty must meet strict standards of lawfulness, necessity, and proportionality to avoid arbitrariness.¹⁰⁴ Deprivations may be arbitrary when they are based on discriminatory grounds against HRDs and activists, violating the rights to equality before the law and the right to equal protection under article 26 of the ICCPR.¹⁰⁵

Hassan Qambar, Ibrahim Al Sheikh, Abdullah al-Shamlawi, Abdullah Hashim, and Ibrahim Sharif were all subjected to arbitrary detention because they were arrested and/or convicted for exercising protected expression under article 19.¹⁰⁶

Due process violations

The rights and standards enveloped in the right to a fair trial are procedural safeguards that States may not limit.¹⁰⁷ Access to justice means that no individual can be deprived of their right to claim justice in procedural terms.¹⁰⁸

When adjudicating a criminal case, those being charged and tried are entitled to, among other rights, be present at their own trial and be allowed to present a defence.¹⁰⁹ The conditions of Qambar's arrest and trial violate fair trial rights. The right to a fair trial is captured in article 14 of the ICCPR, and requires that no individual be deprived of their right to claim justice in procedural terms.¹¹⁰ Bahraini authorities tried and convicted Qambar in absentia prior to detaining him in 2018.¹¹¹ Under article 14 (3)(a) of the ICCPR, an individual can only be tried in absentia so long as all due steps have been taken to

inform accused persons of the charges and to notify them of the proceedings.¹¹² There is no indication that the authorities took the requisite "all due steps" to inform Qambar prior to his trial, thus violating international law.¹¹³

CONCLUSIONS AND RECOMMENDATIONS

The Bahraini government has promulgated antiterrorism, cybercrime, and media regulation laws and created specialised agencies that restrict online freedom of expression in contravention of international law and standards. These laws are vague, overbroad, and criminalise protected expression in violation of article 19 of the ICCPR. The reported incidents provide credible evidence of a pattern of government violation of the right of HRDs to online freedom of expression by sanctioning defenders for disseminating views critical of the government's policies. The government response has violated additional rights of HRDs through reprisals, arbitrary arrests, and due process violations.

To address these concerns, we offer the following general recommendations and country-specific recommendations.

General Recommendations

To Governments of Gulf States and Neighbouring Countries:

- ✦ Eliminate laws and articles in national legal frameworks that criminalise online freedom of expression protected under international human rights law, specifically:
 - All laws including anti-cybercrime, anti-terrorism, communications, media, penal, and technology laws that restrict online or offline expression through provisions to protect public order, national security, or the national economy; insults laws; and laws that criminalise fake news, that do not conform to international human rights standards and satisfy the principles of legality, legitimacy, necessity and proportionality;
 - Decriminalise the offense of defamation;
 - Revise anti-cybercrime laws to include affirmative protection for the legitimate online

expression of HRDs, including journalists.

- ✦ Cease using deportation and travel bans as tools for targeting HRDs for their online human rights advocacy, and refrain from infringing on their right to freedom of movement.
- ✦ Reform legal institutions, including the criminal legal system, to promote the independence and autonomy necessary for:
 - Investigating human rights violations committed against HRDs by law enforcement, such as engaging in unlawful surveillance of HRDs, enforced disappearances, holding HRDs in unlawful detention, incommunicado, and subjecting them to ill-treatment and torture;
 - Ensuring that HRDs', citizens', and residents' right to freedom of movement is not violated;
 - Ensuring the judiciary upholds international standards guaranteeing the right to fair trial.

To the UN Human Rights Council:

- ✦ Instruct the UN Office of the High Commissioner for Human Rights to undertake a study of the transnational cooperation among governments to affect the apprehension and rendering of foreign HRDs to their countries of origin for prosecution of online expression that is protected under international law.
- ✦ Instruct the UN Office of the High Commissioner for Human Rights to undertake a study to identify and track developments in the surveillance regimes in each State in the region. The governments in question should cooperate in this study. The study should identify third party actors including business enterprises and other States that contribute to advancing the surveillance infrastructure in each State concerned. State and non-State actors complicit in illegal surveillance of HRDs by governments should be held accountable.

To All States:

- ✦ Implement an immediate moratorium on the use, acquisition, sale and transfer of surveillance technology. This moratorium should extend until adequate global controls and safeguards against abuse are in place.

Country Recommendations

In addition to the above recommendations, States should revise their domestic laws and institutions to ensure compliance with international human rights standards regarding online freedom of expression as indicated below.

We call on the government of Bahrain to create a safe and enabling environment for HRDs including by taking the following steps:

- ✦ Eliminate laws and articles in Bahrain’s legal frameworks that criminalise online freedom of expression protected under international human rights law, or that are inconsistent with the right to due process and a fair trial, including:
 - 1976 Penal Code articles 133–134, 160, 165, 168, 209, 214–16, 309, 310, 370;
 - 2002 Media Regulation Law;
 - 2002 Telecommunications Law article 75(1);
 - 2006 Antiterrorism Law articles 1, 2, 9, 11, 26, 27;
 - 2014 Law on Information Technology Crimes articles 9, 23.

NOTES

- 1 Researchers identified reported incidents of violations of online freedom of expression by conducting searches for cases involving Bahrain between May 2018 and October 2020, from the following international media outlets and human rights organisations that document human rights violations: Amnesty International, Al Jazeera, ARTICLE 19, British Broadcasting Corporation, Committee to Protect Journalists, Front Line Defenders, Gulf Centre for Human Rights, and Human Rights Watch. Researchers also searched for communications from special procedures mandate holders regarding incidents alleging violations of freedom of expression in Bahrain in the UN database of Communications. Researchers supplemented international research by consulting the following domestic media outlets: *The Daily Tribune*, *Gulf Daily News*, *Bahrain News Gazette*, and *BizBahrain*, and used the embedded search functions to retrieve news updates using these keywords: freedom of expression, digital expression, digital, online, post, tweet, Twitter, Facebook, arrest, expression, and human rights defender during the relevant period of study. The domestic sources provided no relevant results. After finding cases using the international sources, researchers conducted additional searches using Google search engine of the victim's name (with various English spellings) to find additional case information. See methodology section for more information.
- 2 Charles Gordon Smith & Jill Ann Crystal, *Bahrain: Government and Society*, BRITANNICA. This characterization of the political system of the country is offered for descriptive purposes; a normative evaluation of the political system as such is beyond the scope of this chapter. The Kingdom of Bahrain, formerly a protectorate of the United Kingdom (UK), declared independence from the UK in 1971. *Bahrain: History*, BRITANNICA. Initially governed by an emir, in 2002, Bahrain became an Islamic constitutional monarchy. *Bahrain: Government and Society*, *supra*.
- 3 Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders), *Report of the Special Rapporteur on the Situation of Human Rights Defenders*, ¶ 77, U.N. Doc. A/HRC/31/55 (Feb. 1, 2016); Civil Society Space, Human Rights Council Res. 27/31, U.N. Doc. A/HRC/RES/27/31, ¶ 3 (Oct. 3, 2014); Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, G.A. Res. 53/144, U.N. Doc. A/RES/53/144 (Mar. 8, 1999) [hereinafter G.A. Res. 53/144].
- 4 Simon Kemp, *Digital 2021: Bahrain*, DATAREPORTAL (Feb. 11, 2021).
- 5 *Id.*
- 6 International Covenant on Civil and Political Rights, *opened for signature* Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR]. *UN Treaty Body Database: Ratification Status for Bahrain*, OHCHR.ORG. Bahrain has not ratified the optional protocols to the ICCPR. *Id.* It has ratified the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Rights of the Child along with both optional protocols on the involvement of children in armed conflict, and the sale of children child prostitution and child pornography, and the Convention on the Rights of Persons with Disabilities. *Id.*
- 7 League of Arab States, Arab Charter on Human Rights, May 22, 2004, reprinted in 12 Int'l Hum. Rts. Rep. 893 (2005) (entered into force Mar. 15, 2008); *League of Arab States: Key Legal Texts*, INT'L CTR. FOR NOT-FOR-PROFIT L. (Sept. 25, 2021).
- 8 World Conference on Human Rights, *Vienna Declaration and Programme of Action*, pmbl. at 20-21, §§ I(1), I(3), I(8), U.N. Doc. A/CONF.157/24 (Part 1) (Oct. 13, 1993); Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at art. 19 (Dec. 10, 1948) [hereinafter UDHR].
- 9 Amiri Decree No. 15 of 1976, Bahrain Penal Code [hereinafter Penal Code] (Bahr.) (unofficial English translation); *Bahrain: Grim Human Rights Violations Behind the Glamour of the Grand Prix*, AMNESTY INT'L (Mar. 27, 2019) (reporting that Bahraini authorities have used articles 134, 160, 165, 168, 214-16, 310 and others to target protestors and government critics).
- 10 Hum. Rts. Comm., *Concluding Observations on the Initial Report of Bahrain*, ¶ 53, U.N. Doc. CCPR/C/BHR/CO/1 (Nov. 15, 2018) [hereinafter *HRC Concluding Observations Report of Nov. 2018*].
- 11 Hum. Rts. Comm., *General Comment No. 34: Article*

- 19: *Freedoms of Opinion and Expression*, ¶ 25, U.N. Doc. CCPR/C/GC/34 (Sept. 12, 2011) [hereinafter *HRC General Comment No. 34*]; David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶ 7, U.N. Doc. A/HRC/32/38 (May 11, 2016) [hereinafter *SRFOE Report of May 2016*]; Working Grp. on Arbitrary Det., *Opinion No. 71/2019 Concerning Issa al-Nukhefi, Abdulaziz Youssef Mohamed al-Shubaili and Issa Hamid al-Hamid (Saudi Arabia)*, ¶ 73, U.N. Doc. A/HRC/WGAD/2019/71 (Feb. 14, 2020) (“vaguely and broadly worded provisions ... which cannot qualify as *lex certa*, violate the due process of law undergirded by the principle of legality in article 11 (2) of the Universal Declaration of Human Rights.”); UDHR, *supra* note 8, at arts. 11, 19; ICCPR, *supra* note 6, at art. 19.
- 12 *SRFOE Report of May 2016*, *supra* note 11, ¶ 39; Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, Frank La Rue, ¶ 34, U.N. Doc. A/HRC/17/27 (May 16, 2011) [hereinafter *SRFOE Report of May 2011*].
- 13 Penal Code, *supra* note 9, at art. 133; CIVICUS, Bahrain Ctr. for Hum. Rts. & Gulf Ctr. for Hum. Rts., *Bahrain: Joint Submission to the UN Universal Periodic Review, 27th Session of the UPR Working Group*, ¶ 3.3 (Sept. 22, 2016) [hereinafter *Joint Submission on Bahrain to the UN Universal Periodic Review*] (noting the use of article 133 of the Penal Code by Bahraini authorities to target HRDs).
- 14 Penal Code, *supra* note 9, at art. 134.
- 15 *Id.* at art. 168 (amended by Legislative Decree No. 9 of 1982 with Respect to the Amendments to the Penal Code of 1976, art. 1 [hereinafter 1982 Legislative Decree No. 9] (Bahr.) (unofficial English translation of the Penal Code and its 1982 amendments on pp. 89, 92 of the translation)).
- 16 *Id.* at art. 160 (amended by 1982 Legislative Decree No. 9, *supra* note 15 (unofficial English translation of the Penal Code and its 1982 amendments on pp. 89, 91 of the translation)).
- 17 *Id.* at art 165 (amended by 1982 Legislative Decree No. 9, *supra* note 15 (unofficial English translation of the Penal Code and its 1982 amendments on pp. 89, 91 of the translation)). Article 165 of the Penal Code does not specify the length of the prison sentence. Both articles 52 and 54 of the Penal Code address the prison term that applies when not otherwise provided by the law. *Id.* at arts. 52, 54. There appears to be a conflict between these two provisions and thus the sentence for a violation of article 165 is unclear. Article 52 of the Penal Code states that “imprisonment” can include a life sentence or “a term of temporary imprisonment” which “shall not be less than 3 years and shall not be more than 15 years unless the law provides otherwise,” *id.* at art. 52, whereas article 54 states that “a prison sentence shall not be less than 10 days and shall not be more than 3 years unless the law otherwise provides,” *id.* at art. 54.
- 18 *SRFOE Report of May 2016*, *supra* note 11, ¶ 39; Margaret Sekaggya (Special Rapporteur on the Situation of Human Rights Defenders), *Situation of Human Rights Defenders*, ¶ 24, U.N. Doc. A/67/292 (Aug. 10, 2012) [hereinafter *SRHRD Report of Aug. 2012*].
- 19 U.N. Special Rapporteur on Freedom of Op. & Expression, Org. for Sec. & Co-operation in Eur. Representative on Freedom of the Media, Org. of Am. States Special Rapporteur on Freedom of Expression & African Comm’n on Hum. & Peoples’ Rts. Special Rapporteur on Freedom of Expression & Access to Info., *Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda*, ¶ 2(a) (Mar. 3, 2017) [hereinafter *Joint Declaration on Freedom of Expression and Fake News, Disinformation, and Propaganda*].
- 20 Penal Code, *supra* note 9, at art. 370.
- 21 *HRC General Comment No. 34*, *supra* note 11, ¶ 47. See also *SRFOE Report of May 2011*, *supra* note 12, ¶ 36 (“defamation should be decriminalized”).
- 22 *HRC General Comment No. 34*, *supra* note 11, ¶ 47.
- 23 *Id.* ¶ 47. See also Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, Frank La Rue, ¶¶ 83-88, U.N. Doc. A/HRC/20/17 (June 4, 2012) [hereinafter *SRFOE Report of June 2012*].
- 24 Penal Code, *supra* note 9, at art. 214.
- 25 *Id.* at art. 215.
- 26 *Id.* at art. 216.
- 27 *Id.* at arts. 52, 54, 214-216; *Joint Submission on Bahrain to the UN Universal Periodic Review*, *supra* note 13, ¶ 4.5 (describing 2013 amendment to article 214 which extends the prison sentence for violating that provision to

- 1-7 years). Article 216 of the Penal Code does not specify the length of the prison sentence. Both articles 52 and 54 of the Penal Code address the prison term that applies when not otherwise provided by the law. Penal Code, *supra* note 9, at arts. 52, 54. There appears to be a conflict between articles 52 and 54 and therefore the sentence for a violation of article 216 is unclear. Article 52 of the Penal Code states that “imprisonment” can include a life sentence or “a term of temporary imprisonment” which “shall not be less than 3 years and shall not be more than 15 years unless the law provides otherwise,” *id.* at art. 52, whereas article 54 states that “a prison sentence shall not be less than 10 days and shall not be more than 3 years unless the law otherwise provides,” *id.* at art. 54.
- 28 HRC General Comment No. 34, *supra* note 11, ¶ 38; SRFOE Report of June 2012, *supra* note 23, ¶ 88; David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶ 33, U.N. Doc. A/71/373 (Sept. 6, 2016).
- 29 HRC General Comment No. 34, *supra* note 11, ¶ 38.
- 30 *Id.* ¶ 48 (“Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant”); Hum. Rts. Council, *Freedom of Religion or Belief: Report of the Special Rapporteur on Freedom of Religion or Belief*, ¶¶ 21, 23, U.N. Doc. A/HRC/40/58 (Mar. 5, 2019) (“These initiatives underscore the growing consensus in the international human rights community that anti-blasphemy laws run counter to the promotion of human rights for all persons.”); ICCPR, *supra* note 6, arts. 19-20.
- 31 Penal Code, *supra* note 9, at art. 309.
- 32 *Id.* at art. 310.
- 33 *Id.* at art. 309-10.
- 34 HRC Concluding Observations Report of Nov. 2018, *supra* note 10, ¶ 53.
- 35 Legislative Decree No. 47 of 2002 on Organizing the Press, Printing and Publishing, art. 1 (Bahr.) (unofficial Arabic version; unofficial English translation on file with authors).
- 36 *Id.* at art. 68.
- 37 *Id.* at art. 69.
- 38 *Id.* at art. 70.
- 39 Bahrain Abolishes Jailing Journalists in Major Amendments to Press Law, ARAB NEWS (Apr. 6, 2021); *Amendments to Press Law Reinforce Freedom, Strengthen Right to Information*, BAHRAIN NEWS AGENCY (Apr. 6, 2021).
- 40 Bahrain Abolishes Jailing Journalists in Major Amendments to Press Law, *supra* note 39; *Amendments to Press Law Reinforce Freedom, Strengthen Right to Information*, *supra* note 39.
- 41 Legislative Decree No. 48 of 2002 Promulgating the Telecommunications Law, art. 75(1) (Bahr.) (unofficial English translation current as of Apr. 12, 2009).
- 42 Joint Declaration on Freedom of Expression and Fake News, Disinformation, and Propaganda, *supra* note 19, ¶ 2(a); SRFOE Report of May 2016, *supra* note 11, ¶ 39; SRHRD Report of Aug. 2012, *supra* note 18, ¶ 24 (“Provisions that criminalize the publication of articles or photos that could harm national security, public order, public health or public interest, incite violence, constitute sedition or have negative consequences for the financial climate of the country are overly broad and restrictive.”).
- 43 Law No. 58 of 2006 with Respect to Protecting the Society from Terrorist Acts [hereinafter Terrorism Law] (Bahr.) (unofficial English translation); see also INFORMATION NOTE ON INTERNATIONAL TERRORISM (2020) (English translation).
- 44 HRC Concluding Observations Report of Nov. 2018, *supra* note 10, ¶ 29.
- 45 Working Grp. on the Universal Periodic Rev., *Report of the Working Group on the Universal Periodic Review: Bahrain*, ¶ 114.70–114.71, U.N. Doc. A/HRC/36/3 (July 10, 2017); Letter from Zeid Ra’ad Al Hussein, High Comm’r for Hum. Rts., U.N. Office of the High Comm’r for Hum. Rts., to Abdulla Bin Faisal Bin Jabur Al Doseri, Assistant Minister for Foreign Affs., Kingdom of Bahr. annex at 3 (Sept. 29, 2017) [hereinafter Sept. 2017 Letter from the OHCHR to Bahrain]; U.N. Off. of the High Comm’r for Hum. Rts., *Summary of Stakeholders’ Submission on Bahrain: Report of the Office of the United Nations High Commissioner for Human Rights*, ¶ 16, U.N. Doc. A/HRC/WG.6/27/BHR/3 (Feb. 20, 2017).
- 46 Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression) et al., Communication to Bahrain, at 1, 3, Ref. No. BHR 5/2013 (Aug. 14, 2013) (describing communications sent to Bahraini government on the draft law in March and June 2006); Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism,

- Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism: Addendum—Communications with Governments*, ¶¶ 14-15, U.N. Doc. A/HRC/4/26/Add.1 (Mar. 15, 2007) [hereinafter *SRHRCT Report of Mar. 2007*] (expressing concern at the vagueness and overbreadth of articles 1 and 2 of the draft law).
- 47 *SRHRCT Report of Mar. 2007*, *supra* note 46, ¶ 15.
- 48 Terrorism Law, *supra* note 43, at arts. 1-2.
- 49 *Id.* at art. 9.
- 50 *Bahrain: Targeting of Human Rights Defenders and Online Activists Accelerates*, GCHR (May 27, 2019).
- 51 According to the SR on HR&CT and the SR on FOE, such provisions:
- (a) must be limited to the incitement to conduct that is truly terrorist in nature; (b) must restrict freedom of expression no more than is necessary for the protection of national security, public order and safety or public health or morals; (c) must be prescribed by law in precise language, and avoid vague terms such as “glorifying” or “promoting” terrorism; (d) must include an actual (objective) risk that the act incited will be committed; (e) should expressly refer to intent to communicate a message and intent that this message incite the commission of a terrorist act; and (f) should preserve the application of legal defences or principles leading to the exclusion of criminal liability by referring to “unlawful” incitement to terrorism.
- Ben Emmerson (Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism), *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, ¶ 24, U.N. Doc. A/HRC/31/65 (Apr. 29, 2016) [hereinafter *SRHRCT Report of Apr. 2016*]; Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶ 34, U.N. Doc. A/66/290 (Aug. 10, 2011) [hereinafter *SRFOE Report of Aug. 2011*].
- 52 *SRHRCT Report of Apr. 2016*, *supra* note 51, ¶ 24; *SRFOE Report of Aug. 2011*, *supra* note 51, ¶ 34.
- 53 *SRHRCT Report of Mar. 2007*, *supra* note 46, ¶¶ 14-15 (expressing concern at article 12 of Bahrain’s draft terrorism law, tabled before parliament in 2005: “criminalizing the promotion or approval in any way of a crime committed for terrorist purposes”).
- 54 Terrorism Law, *supra* note 43, at art. 27.
- 55 *Id.*
- 56 *Id.* at art. 26.
- 57 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention: United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court*, annex, princ. 1, U.N. Doc. A/HRC/30/37 (July 6, 2015) [hereinafter *WGAD Report of July 2015*]; Hum. Rts. Comm., *General Comment No. 32: Article 14, Right to Equality Before Courts and Tribunals and to Fair Trial*, ¶¶ 15, 19, 31-34, 38, U.N. Doc. CCPR/C/GC/32 (Aug. 23, 2007) [hereinafter *HRC General Comment No. 32*]; ICCPR, *supra* note 6, at art. 14.
- 58 Law No. 60 of 2014 Concerning Information Technology Crimes, arts. 9, 23 [hereinafter *Cybercrime Law*] (Bahr.) (official Arabic version; unofficial English translation).
- 59 *Id.*
- 60 *Freedom of Opinion and Expression in Bahrain: Where to?*, BAHRAIN CTR. FOR HUM. RTS. (Sept. 28, 2020).
- 61 *HRC Concluding Observations Report of Nov. 2018*, *supra* note 10, ¶ 35.
- 62 *Bahrain: Dreams of Reform Crushed 10 Years After Uprising*, AMNESTY INT’L (Feb. 11, 2021); *Freedom of Opinion and Expression in Bahrain: Where to?*, *supra* note 60; *Freedom on the Net 2020: Bahrain*, FREEDOM HOUSE. From 2016 through 2018, the Bahraini government disbanded Al-Wefaq, the largest political opposition party, and clamped down on opposition political and religious leaders, suppressing the political electorate. *Bahrain: Widespread Pre-Election Clampdown on Political Opposition and Activists*, AMNESTY INT’L (Nov. 23, 2018); *Freedom of Opinion and Expression in Bahrain: Where to?*, *supra* note 60.
- 63 *Cyber Security*, BAHRAIN.BH.
- 64 Vernon Silver & Ben Elgin, *Torture in Bahrain Becomes Routine with Help from Nokia Siemens*, BLOOMBERG (Aug. 22, 2011); Trevor Timm & Jillian C. York, *Surveillance Inc.: How Western Tech Firms Are Helping Arab Dictators*, ATLANTIC (Mar. 6, 2012); *OECD Complaint: Trovicor Exporting Surveillance Technology to Bahrain*, PRIV. INT’L (Feb. 1, 2013).
- 65 *Bahrain: The “Cyber Safety Directorate” Monitors Internet Activity in Style Similar to Big Brother*, BAHRAIN CTR.

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- 66 *HM King Issues Decree, Restructuring Interior Ministry, BAHRAIN NEWS AGENCY* (Oct. 14, 2020).
- 67 AMNESTY INT’L, AMNESTY INTERNATIONAL REPORT 2020/21: THE STATE OF THE WORLD’S HUMAN RIGHTS 77 (2021).
- 68 ICCPR, *supra* note 6, at art. 19(1); HRC General Comment No. 34, *supra* note 11, ¶¶ 11-12.
- 69 Hum. Rts. Council Resolution 12/16, U.N. Doc. A/HRC/RES/12/16, ¶ 5(p)(i) (Oct. 12, 2009) (freedom of opinion and expression).
- 70 G.A. Res. 53/144, *supra* note 3, at art. 2(2); Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders), *Situation of Human Rights Defenders*, ¶¶ 15, 36, U.N. Doc. A/73/215 (July 23, 2018); Margaret Sekaggya (Special Rapporteur on the Situation of Human Rights Defenders), *Report of the Special Rapporteur on the Situation of Human Rights Defenders*, Margaret Sekaggya, ¶ 32, U.N. Doc. A/HRC/19/55 (Dec. 21, 2011); Margaret Sekaggya (Special Rapporteur on the Situation of Human Rights Defenders), *Report of the Special Rapporteur on the Situation of Human Rights Defenders Margaret Sekaggya*, ¶¶ 90-91, U.N. Doc. A/HRC/25/55 (Dec. 23, 2013) (stating that there is a need to pay particular attention to human rights defenders who face extraordinary risks due to their work, and that the SR is appalled that journalists and media workers are targeted because of their reports on human rights violations; the SR is also concerned that restrictions on media and press freedom could foster a climate of intimidation, stigmatization, violence, and self-censorship).
- 71 *Profiles in Persecution: Hasan Mohamed Qambar*, AMS. FOR DEMOCRACY & HUM. RTS. BAHR. (July 13, 2018) [hereinafter *Profiles in Persecution*].
- 72 *Hassan Qambar: Imprisoned*, COMM. PROTECT JOURNALISTS; *Profiles in Persecution*, *supra* note 71.
- 73 *Hassan Qambar: Imprisoned*, *supra* note 72.
- 74 *Id.*; *Profiles in Persecution*, *supra* note 71; *Bahraini Photographer Sentenced to More than 100 Years in Prison*, REPS. WITHOUT BORDERS (Dec. 13, 2018).
- 75 *Bahraini Photographer Sentenced to More than 100 Years in Prison*, *supra* note 74.
- 76 *Hassan Qambar: Imprisoned*, *supra* note 72; *Bahraini Photographer Sentenced to More than 100 Years in Prison*, *supra* note 74.
- 77 *Bahraini Journalist Ibrahim al-Sheikh Believed to Be Detained on False News Charges*, COMM. TO PROTECT JOURNALISTS (Apr. 17, 2019).
- 78 *Id.*
- 79 *Id.*
- 80 *Bahrain: Lawyers Prosecuted on Speech Charges*, HUM. RTS. WATCH (Sept. 9, 2020).
- 81 *Id.* Ashura is the religious commemoration of the martyrdom of Hussein, a grandson of the Prophet Muhammad, and is a major religious commemoration for Shia Muslims. *What Is Ashura?*, BBC (Dec. 6, 2011).
- 82 *Bahrain: Lawyers Prosecuted on Speech Charges*, *supra* note 80; *Abdullah Al-Shamlawi Avoids Prison Sentence for Social Media Posts*, LAWS. FOR LAWS. (Sept. 18, 2020); *Bahrain: GCHR Declares Solidarity with Human Rights Lawyer Abdullah Al-Shamlawi, Sentenced to Prison for Tweets*, GCHR (Sept. 15, 2020).
- 83 *Bahrain: Lawyers Prosecuted on Speech Charges*, *supra* note 80; *Bahrain: GCHR Declares Solidarity with Human Rights Lawyer Abdullah Al-Shamlawi, Sentenced to Prison for Tweets*, *supra* note 82.
- 84 *Bahrain: GCHR Declares Solidarity with Human Rights Lawyer Abdullah Al-Shamlawi, Sentenced to Prison for Tweets*, *supra* note 82; *Prominent Bahraini Lawyer Avoids Prison Sentence for Tweets*, BAHR. INST. FOR RTS. & DEMOCRACY (Sept. 14, 2020).
- 85 *Bahrain: GCHR Declares Solidarity with Human Rights Lawyer Abdullah Al-Shamlawi, Sentenced to Prison for Tweets*, *supra* note 82; *Prominent Bahraini Lawyer Avoids Prison Sentence for Tweets*, *supra* note 84.
- 86 *Bahrain: Lawyers Prosecuted on Speech Charges*, *supra* note 80.
- 87 *Id.*; *Bahrain: Targeting of Human Rights Defenders and Online Activists Accelerates*, *supra* note 50.
- 88 *Bahrain: Lawyers Prosecuted on Speech Charges*, *supra* note 80.
- 89 *Bahrain: Targeting of Human Rights Defenders and Online Activists Accelerates*, *supra* note 50.
- 90 *Id.*; *Bahrain Charges Lawyer of Sharing “Fake News” for His Tweets*, AP NEWS (May 15, 2019).
- 91 *Bahrain Charges Lawyer of Sharing “Fake News” for His Tweets*, *supra* note 90.

- 92 *Bahrain: Opposition Leader Sentenced for “Publicly Insulting” Sudanese President*, AMNESTY INT’L (Mar. 13, 2019).
- 93 UNITED NATIONS, HUMAN RIGHTS DEFENDERS: PROTECTING THE RIGHT TO DEFEND HUMAN RIGHTS, FACT SHEET NO. 29, at 8 (“A politician who takes a stand against endemic corruption within a Government is a human rights defender for his or her action to promote and protect good governance and certain rights that are threatened by such corruption.”).
- 94 *Bahrain: Opposition Leader Sentenced for “Publicly Insulting” Sudanese President*, *supra* note 92; Hassan M. Fattah, *In Bahrain, a Referendum on Promises*, N.Y. TIMES (Nov. 25, 2006).
- 95 The tweet reads: “Get out of here, man.. 30 years ago, Omar al-Bashir came on the back of a tank claiming ‘salvation’. During his reign, civil wars have piled up, the South seceded, and he has impoverished, starved and degraded the kind and noble Sudanese people. The time has come for freedom for the Sudanese and the departure of the dictatorial president. #Cities_of_Sudan_Are_Rising_Up.” *Bahrain: Opposition Leader Sentenced for “Publicly Insulting” Sudanese President*, *supra* note 92.
- 96 *Id.*
- 97 HRC Concluding Observations Report of Nov. 2018, *supra* note 10, ¶ 53. The committee has also stated that it is concerned about the significant restriction of digital rights, including the power to publish material that can be seen as encroaching on religions and jeopardising public peace.
- 98 Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression, Mr. Frank La Rue*, ¶¶ 81(i), 82, U.N. Doc. A/HRC/14/23 (Apr. 20, 2010); *SRFOE Report of May 2011*, *supra* note 12, ¶ 37.
- 99 Elina Steinerte (Vice-Chair of the Working Group on Arbitrary Detention) et al., *Communication to Bahrain*, at 2, Ref. No. AL BHR 7/2018 (Jan. 17, 2019) [hereinafter *Jan. 2019 Communication to Bahrain*].
- 100 The Committee received a number of reports of reprisals against journalist and human rights defenders, including continuing reports of travel bans, harassment or intimidation, death threats, violence, arrests, and arbitrary detention, which appear to have escalated in the last few years. HRC Concluding Observations Report of Nov. 2018, *supra* note 10, ¶ 59.
- 101 The High Commissioner recommends specific actions to refrain from restrictions and reprisals against HRDs including strengthening legislative frameworks, releasing of HRDs unlawfully detained, and decriminalising defamation. Sept. 2017 Letter from the OHCHR to Bahrain, *supra* note 45, at 4.
- 102 WGAD Report of July 2015, *supra* note 57, ¶ 11; Hum. Rts. Comm., *General Comment No. 35: Article 9 (Liberty and Security of Person)*, ¶¶ 17, 22-23, 53, U.N. Doc. CCPR/C/GC/35 (Dec. 16, 2014).
- 103 WGAD Report of July 2015, *supra* note 57, ¶ 10; UDHR, *supra* note 8, at art. 19; ICCPR, *supra* note 6, at art. 19.
- 104 WGAD Report of July 2015, *supra* note 57, ¶ 11.
- 105 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention*, ¶ 46, U.N. Doc. A/HRC/36/37 (July 19, 2017); UDHR, *supra* note 8, at art. 7; ICCPR, *supra* note 6, at art. 26.
- 106 *Hassan Qambar: Imprisoned*, *supra* note 72; *Bahraini Journalist Ibrahim al-Sheikh Believed to be Detained on False News Charges*, *supra* note 77; *Bahrain: Opposition Leader Sentenced for “Publicly Insulting” Sudanese President*, *supra* note 92; *Bahrain: Lawyers Prosecuted on Speech Charges*, *supra* note 80; Jan. 2019 Communication to Bahrain, *supra* note 99, at 2.
- 107 HRC General Comment No. 32, *supra* note 57, ¶ 2.
- 108 *Id.* ¶ 9.
- 109 *Id.* ¶¶ 36-38.
- 110 *Id.* ¶ 9.
- 111 *Hassan Qambar: Imprisoned*, *supra* note 72.
- 112 HRC General Comment No. 32, *supra* note 57, ¶ 30.
- 113 *Hassan Qambar: Imprisoned*, *supra* note 72.

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