

IMPLEMENTATION OF THE BAHRAIN INDEPENDENT COMMISSION OF INQUIRY REPORT

HEARING

BEFORE THE

TOM LANTOS HUMAN RIGHTS COMMISSION

HOUSE OF REPRESENTATIVES

ONE HUNDRED AND TWELTH CONGRESS

SECOND SESSION

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IMPLEMENTATION OF THE BAHRAIN INDEPENDENT COMMISSION OF INQUIRY REPORT

WEDNESDAY, AUGUST 1, 2012

HOUSE OF REPRESENTATIVES,

TOM LANTOS HUMAN RIGHTS COMMISSION,

Washington, D.C.

The commission met, pursuant to call, at 1:00 p.m., in Room 2237 Rayburn House Office Building, Hon. James P. McGovern [co-chairman of the commission] presiding.

Mr. McGOVERN: Good afternoon to everybody, and I am happy to be here with my colleague, Congressman Dan Burton from Indiana, who is a member of this commission and has been a champion of human rights on a whole number of issues.

And our first witness is going to be Senator Wyden. We are told that he is en route. So if that is the case, I am going to begin on my opening statement then yield to Congressman Burton, and hopefully by the time that we are finished he will be here.

So again, thank you, all, for being here today for this important hearing on human rights in Bahrain, with a focus on implementation of the Bahrain Independent Commission of Inquiry Report. I would like to thank the staff of the Tom Lantos Human Rights Commission for coordinating this hearing, and I want to thank witnesses for testifying and for their leadership in raising awareness about the human rights situation in Bahrain.

I want to acknowledge one of our commission staffers, Jordan Tam, who this will be his last hearing, but he has been on loan to us. He teaches at American University, and he has been incredible in helping us coordinate hearings on a whole range of issues, as well as letters to the Administration and to leaders of countries expressing concerns about human rights. So I want to make a special thank you to him.

Fourteen months ago, the Lantos Commission held a hearing on human rights in Bahrain. At that hearing, we learned that the Bahraini Government had engaged in a harsh crackdown after the outbreak of major protests in early 2011. In June 2011, the King of Bahrain appointed an independent commission chaired by international law expert, Dr. Cherif Bassiouni, to investigate the government's response to the unrest in Bahrain. Last November, this Bahrain Independent Commission of Inquiry, BICI, issued its report, which found that the Bahraini authorities systematically used excessive force, torture and forced confessions against protesters, unjustly prosecuted medical personnel who treated injured protesters, and fired many employees suspected of sympathizing with the opposition.

The Commission also issued 28 recommendations designed to bolster human rights protections and remedy abuses. In the nine months since the release of the BICI report, the

Bahraini Government has taken positive steps to implement some of these proposals including the transfer of some trials from military to civilian courts, the reinstatement of some fired workers, and the production of a new code of police conduct. But those reforms, quite frankly, are incomplete. I am very concerned that some of the most important recommendations, in particular the recommendations calling for accountability at all levels of the chain of command for human rights abuses, the release of individuals who have only engaged in peaceful political expression, and integration of all Bahraini communities into security forces have not been implemented.

More generally, I am very concerned that the human rights situation in Bahrain has deteriorated in recent months. Credible reports indicate that government security forces have been using deadly tear gas excessively, beating protesters outside of formal detention centers, and harassing injured protesters seeking emergency medical care. Bahraini authorities also appear to be stepping up their repression of activists and opposition leaders. And I am very troubled that Nabeel Rajab has been sentenced to three months in prison even though the Bahraini Government has presented no credible evidence that he has advocated or engaged in violence. Mr. Rajab and all detainees who have only engaged in peaceful political expression should be immediately released.

On the other hand, some protesters are engaging in violent attacks on security personnel and such violence is also completely unacceptable. The use of violence by protesters or by security forces is counterproductive and only strengthens hardliners on both sides.

I would also like to make a plea at this hearing for the Bahraini Government to allow nongovernmental organizations greater access to Bahrain. Bahraini authorities have placed significant restrictions on NGO visits and denied a number of NGO requests for visas. This does not help the Bahraini Government's cause as it creates an impression that the government has something to hide.

Finally, I want to say a word about U.S. arms sales to Bahrain. I firmly believe that the United States should not provide any military items or services to Bahrain until there is important and lasting progress on human rights in Bahrain. I understand the close security relationship between the United States and Bahrain, and I believe that U.S. security interests in the Middle East will be best served by implementation of reforms that give all Bahraini communities greater confidence in the Bahraini Government and help to unify the Bahraini people. I urge the Administration to withhold any further arms sales to Bahrain until there is major progress toward full implementation of all of the BICI recommendations.

And with that I will now turn this over to my colleague from Indiana, Mr. Burton.

Mr. BURTON: Thank you, Mr. Chairman, and I really appreciate being here today and I look forward to hearing the witnesses' testimony.

One of the things that I have found over the years is when you look at something from afar, many times it isn't as accurate as when you look at things up close. And toward that end, I went to Bahrain a few months ago and I went to the University of Bahrain. I met with the Crown Prince. I met with people in my office who are part of the opposition, and I have done my best to try to get a better lay of the land than what you get when you look at it from reports and things like that.

I also talked to the commander of the 5th Fleet when I was there. I also talked to our intelligence officers. And the intelligence officers, I can't go into some of the classified information I received, but I talked to some of our intelligence officers and found that there are some things to be concerned about from people coming in from outside the country, from Iran and across the Persian Gulf, to try to take advantage of the unrest that is taking place in Bahrain.

The leaders of Bahrain have passed the commission, or they appointed the report of the national commission charged with the recommendations, and the Bahrain Independent Commission of Inquiry Report I brought with me. There is a couple of things I would like to point out. First of all, nobody likes human rights violations. They are horrible. We see them in other parts of the world. We see them in China. We see them in a whole host of areas. And wherever there are human rights violations we ought to do something about them. But I think we need to have as much information about those human rights violations and what is taking place before we make a predetermined decision.

Now of the report from the National Independent Commission of Bahrain, there have been 26 recommendations. Eighteen of those recommendations have been complied with. There is work continuing right now on seven of them and they are in various stages of implementation. One is not yet applicable. Bahrain has begun the process of rebuilding religious sites which were demolished during the unrest. The former police chief of Miami-Dade County in Florida, Chief John Timoney, has instituted a new police code of conduct. Ninety-two percent of the workers who lost their jobs because of the unrest have now received jobs again and so they are back to work. There is still eight percent that they have to deal with and they are working on that right now.

One of the things that surprised me when I talked to the leadership in Bahrain as well as the other people who live there and work there, was that the opposition has been asked to sit down at the conference table to work out some of the differences, and they have declined to do that on a whole host of issues and a whole host of cases. I believe that Bahrain has a way to go, and I believe that the leadership over there does want to solve this problem without further violence and bloodshed. I also believe that it is in the United States' best interest to continue to have a viable and strong relationship with Bahrain. As I said before, we have our 5th Fleet there and right now to start with the problems we face in Iran, Iraq, Afghanistan, Egypt, throughout the entire Persian Gulf region and the Middle East, I think it would be a tragic mistake for us to predetermine whether or not the Bahraini Government is trying to comply with these recommendations of the Independent Commission.

Let me just say that if I were talking to the government over there, and I have talked to them, I would say that everything that is humanly possible should be done to make sure that there is no indication that human rights violations are continuing and they are being handled in the wrong way.

The other side of the coin is, some of the policemen who have families as well as the people on the opposition have had their houses firebombed. I haven't read anything about that in any of the reports that I have seen, but I talked to the policemen myself and I talked to the people who are aware of that in Bahrain. There was one policeman who was gone, he was working, and

some demonstrators took Molotov cocktails and threw them at his house and his wife and his children were there. Now these sorts of things also are violations of peoples' human rights only it is on the other side of the coin.

So let me just say that I think that we ought to pay attention to human rights violations wherever they occur, Bahrain or anyplace else. But I truly believe after having visited with our intelligence people, with the commander of the 5th Fleet, with people on the street and with people in the government that Bahrain is trying to fix this problem and make sure that the situation is improved dramatically. And they have, in my opinion -- I see that Mr. Wyden has arrived, Senator Wyden -- and they have in my opinion taken strides on almost all of the instances to solve this problem, 18 of the 26 issues, and there are seven of them that are currently under the stages of implementation.

And I would like to just say if the opposition is here, and I presume some representatives of the opposition is here, I would urge you under whatever circumstances are necessary to sit down with the leadership in the government and try to work things out. To say no because you have strong differences on the implementation of these issues just doesn't make any sense. It is far better to sit across the conference table and try to work out your differences than to continue with unease in the society.

And with that I will thank the chairman for giving me this time.

Mr. McGOVERN: Well, I thank the gentleman for his statement. And before I yield to my colleague from California, Ms. Woolsey, I want to submit to the record statements provided to the commission by Congressman Jim McDermott, the Bahraini Ambassador to the United States, Houda Ezra Ebrahim Nonoo, Husain Abdulla of Americans for Democracy and Human Rights in Bahrain, Brian Dooley of Human Rights First, and Walid Maalouf. And I also want to submit for the record the report, Weaponizing Tear Gas, published today by the Physicians for Human Rights, and also submit to the record an article in today's New York Times entitled, Bahrain is Criticized for its Torrent of Tear Gas Use.

Mr. McGOVERN: At this point I would like to yield to my colleague from California, Ms. Woolsey.

Ms. WOOLSEY: Thank you, Mr. McGovern. Good afternoon. I am so grateful that the Lantos Commission has convened this hearing, and I thank the two chairmen, Congressman McGovern and Wolf, for making this happen for us. And I am so thankful to all of the witnesses who are offering testimony this afternoon.

Last October, I had the privilege of traveling to Bahrain with Representative Faleomavaega and with the late Congressman Payne. We had an opportunity to meet with many government officials, with leaders of the opposition and with Dr. Bassiouni. I think I said it right. We met with medical personnel, those who had been detained and with those who led the protests in February and March of 2011. I came away from that trip with a greater sense of urgency than I had expected, and also with a greater conviction that Bahrain needs political reforms to strengthen human rights and democratic participation. The appointment of the Commission of Inquiry was an important first step. It appears to be a good faith attempt by the government to

investigate the excesses of the crackdown and assume accountability.

But there has to be follow-through. There has to be more action. If Bahrain is going to move forward as a freer, more open society, the Inquiry has to have real meaning. The Commission's recommendations need to be properly and swiftly implemented. I believe there has been progress on this front but half measures won't do. We must be vigilant in the United States. We must insist that the Bahraini Government lives up to its obligations. The people of Bahrain took to the streets, they risked their lives and their limbs to demand a greater voice in the affairs of their nation. Their concerns must be heard. A system where the majority Shi'a population is shut out from the seats of power is simply not sustainable.

When I was in Bahrain, I raised a few key concerns, in particular, civilian trials for the doctors and medical personnel who had initially been tried in emergency courts, the freeing of political prisoners, unemployment compensation for those who were not given their jobs back, and amnesty for labor unions. There has been, as I said, some positive steps in these areas. The agreement calling for the reinstatement of more than roughly 2,000 workers was a key to restoring Bahrain's status within the International Labor Organization.

On the other hand, I was very disappointed that an appeals court upheld the conviction of nine doctors this June. Political prisoners continue to be detained. Tear gas and rubber bullets continue to be used against the protesters. Under the circumstances, I believe the decision to give green light to a massive arms sale to Bahrain was premature at best. Bahrain is not Qaddafi's Libya. It is not Assad's Syria. But then again that is a pretty low bar to set, isn't it? I don't think any country should be left off the hook because of being not the worst offender in the neighborhood.

We should expect our allies from civil liberties and democratic participation to protect the rights of women and ethnic minorities, to empower their people and be responsive to them. The Government of Bahrain has started to take promising steps, as I have said, but as a passionate human rights advocate throughout 20 years in Congress and my whole life before that I continue to expect that there will be a real lasting and meaningful reform.

So I thank you, and I look forward to today's testimony.

Mr. McGOVERN: Thank you very much. I appreciate your statement.

And before I introduce Senator Wyden, I would just say to those who are standing, feel free to use any of the free chairs here because I always feel bad when people are standing during these hearings, but you can take advantage of any chairs.

But at this point, I am very happy to introduce the honorable Ron Wyden, U.S. Senator from Oregon, who has been a leader on a whole range of human rights issues in the United States Senate but especially on this, and I appreciate your voice being raised, and we welcome you here, and please feel free to say whatever you want to say.

STATEMENT OF HON. RON WYDEN, A UNITED STATES SENATOR FROM THE STATE OF OREGON

Senator WYDEN: Thank you very much, Congressman McGovern. I don't want to make this a bouquet-tossing contest but it has been great to work with you. Your leadership on this issue has been extraordinary.

And I also want to note the fact that particularly we Westerners -- and I see my friend, Congressman Woolsey here also got a chance to serve with Congressman Burton -- we Westerners, particularly when we think of human rights we think of Tom Lantos. Tom Lantos again and again stood up for human rights, and as Congressman Burton knows, he always wanted to work across the aisle on these issues with you, with Congressman Wolf. It seems that when there were important human rights causes, Tom Lantos was a force for bringing Democrats and Republicans together. That is what I want to see if I can help do this afternoon just for a few minutes because I don't think it is a Democrat or a Republican issue. I think this is something that is a moral challenge and we have got to find a way to make real progress.

The root causes of the great unrest in Bahrain, in my view, are unaddressed and unresolved. And we have essentially seen these last 17 months and the back and forth has continued. Congressman McGovern notes the tear gassing most recently. We have got to have a political solution here. That is what it is going to take. It is going to take a political solution, all sides coming together.

Now in November of last year, the King took a very significant step setting up the Bahrain Commission, the Bahrain Commission of Independent Inquiry. It certainly wasn't perfect. It was limited in scope, but at least it resulted in a number of recommendations. So when I take stock of those recommendations, because I think it is important, and when you see an important inquiry like that to take a look at the recommendations, when you add it all up in response to the recommendations, you see mostly foot dragging. I mean you can have a debate about whether there was a little more of this or a little more of that, but what the result has been is frustration and this downward spiral of back and forth violence. And you have got protesters and the police and back and forth it goes. And certainly there has been some targeting of children.

The jailing of Nabeel Rajab, the president of the Bahrain Center for Human Rights, concerned me greatly because it seemed to me that he faced these kinds of sanctions simply for criticizing the Bahraini Government on Twitter. I mean he basically got criticized for speaking out. And it underscores what Human Rights Watch, in my view, rightfully considered an escalating trend of attempting to silence the dissidents and members of civil society groups.

Now the report explicitly recommended that the Government of Bahrain review convictions, commute sentences and drop outstanding charges against all persons charged with offenses involving nonviolent political expression. Again, if you look at what the response has been, and I think we have got to do that as we try to find a way to a solution here, what you have seen are the continuance of the arrests, the imprisoning of Bahraini citizens for expressing political views the government doesn't agree with.

And the response of our government, in my judgment, has been to some extent to reward bad behavior, to reward bad behavior with the arms sales. And to me, to reward regimes that systematically and often times violently repress democratic demands, I think, is a mistake. And

I understand that certainly a significant number, not all, of the items being sold to the Bahrainis are for external defense capabilities and not crowd control, but my concern is what the message sends to the wider region and the world at large when our country, who we all here in this room revere for our values, and again it is not Democrats, it is not Republicans, it is our reverence for our values, what does it say when democratic aspirations are crushed and these peaceful activists get repeatedly hauled off to jail? And in my view, it was not helpful when one of the recipients of those items was the Bahraini Defense Force, a government entity that was implicated in the deaths of unarmed protesters by again, the Independent Report.

So as a party to the International Covenant on Civil and Political Rights, the Government of Bahrain is obligated to protect the right of all to freedom of expression and peaceful assembly. And with that there has also been an obligation to abide by the United Nations basic principles on the use of force and firearms, and that as you all know requires that law enforcement officers use force only to the extent necessary to achieve lawful purposes, and wherever possible, only after there has been a warning that it is about to be used. Again, based on the evidence that we have picked up, there has not exactly been impressive compliance with those particular rules. That is not, in my view, progress.

Now compounding this, the Government of Bahrain recently moved to deny all requests, as we understand it, for permits for peaceful protests and that this has essentially been the policy since the end of June. This includes not allowing opposition groups to peacefully assemble in any part of the country, and certainly this, in my view, runs counterproductive and runs the risk that Bahrainis, who we want to be part of this solution, to be part of this reform process where people come together, are going to be even more alienated, and you turn the moderates into the extremists, who are going to be the biggest challenge at any kind of solution. So obviously the clock is ticking here. Time is running out of finding a way to bring people together.

And I just want to close with a couple of points in terms of using all our levers, all of the possible levers for influence with the Bahrainis.

Now I chair over in the Senate on the Senate Finance Committee, the subcommittee on international trade and competitiveness, and I have consistently supported every opportunity, when I was over here in the House and in the Senate, to try to expand trade. And just recently, with Chairman Bachus tied up with the supercommittee, managed a significant part of the three free trade agreements. So I have always felt that expanded trade can be a great force for progress as one of the tools for real social progress and improving the quality of life of people.

But free trade cannot mean trade free from honoring commitments, and I am concerned that Bahrain's labor commitments pursuant to the U.S.-Bahrain Free Trade Agreement have not been fully implemented. There is evidence that the government denied public sector workers the right to organize, trade union leaders arrested, harassed, prosecuted and intimidated. In addition, more than 2,800 workers were dismissed or suspended during the uprisings last year and that affected more than 14,000 family members. Now called out for the actions it took against these workers, the government has said that it hired many of the workers back. We can't find as much detail on this as we would like, but it seems that many of the workers were reassigned to lower paying jobs or jobs that, in effect, didn't match their skills, didn't put them where they could fully contribute to the economy and often were forced to sign loyalty oaths.

So the actions of the Bahraini Government have been concerning, in my view, because I think the evidence I cited deals with the ongoing violation of human rights of Bahrainis. And if that continues, I think what we will see is something that every member of Congress is not going to like, and that is a Bahrain that is more fractured and a Bahrain that is less stable. And so if we continue to say we are with the regime, we are going to have these arms sales and the like, my concern is that this increases the risk of turning a population that has been friendly to the U.S. military presence on the island against us.

So I think I would just wrap it up in the spirit of Congressman Burton's remarks, is we have just got to stay at it until we find a solution to this, a political solution. And I just want to make it clear to colleagues on both sides of the aisle, I am interested in working in both a bipartisan and a bicameral kind of fashion in order to achieve that. And again to Congressman McGovern, it has been great to team up with you and really grateful for your leadership.

[The statement of Mr. Wyden follows:]

Tom Lantos Human Rights Commission on Bahrain

Senator Ron Wyden

As prepared for delivery

August 1, 2012

1 -- 3 p.m.

2237 Rayburn House Office Building

Washington, DC

Good afternoon everyone. I'd like to thank the Tom Lantos Commission on Human Rights for organizing this important hearing to help refocus the spotlight on Bahrain.

The root causes of the severe unrest Bahrain has experienced for the last 17 months remain unaddressed and unresolved. These problems are political in nature and thus require a political solution.

In November of last year, the King took the extraordinary step of setting up the Bahrain Commission of Independent Inquiry. The Commission was not perfect. It was limited in scope, but it at least resulted in a number of practical recommendations.

Unfortunately, instead of the Government taking sufficient action to answer the demands of the largely peaceful protests, we have seen 17 months of inaction and foot-dragging. The result has been more frustration and a downward spiral of back-and-forth violence between fringe protestors and the Bahraini police force.

Targeting children and jailing Nabeel Rajab, the President of the Bahrain Center for Human Rights, simply for criticizing the Bahraini government on Twitter is not progress. Instead, it underscores what Human Rights Watch rightfully considers an escalating trend of attempting to silence dissidents and members of civil society groups.

The BICI report explicitly recommended that the Government of Bahrain review convictions, commute sentences and drop outstanding charges against all persons charged with offenses involving non-violent political expression.

Instead, the government is continuing to arrest and imprison Bahraini citizens for expressing political views the government doesn't agree with.

Unfortunately, the United States is rewarding this bad behavior by continuing to move forward with arms sales to Bahrain.

Our government should not be rewarding regimes that are systemically and often times violently, repressing the democratic demands of its own citizens. I understand that most – but not all – of the items being sold to the Bahrainis are for external defense capabilities and not crowd control.

My concern is what message does this send to the wider region, and to the world at large, when America – that country revered for its values and commitment to freedom – looks the other way when democratic aspirations are

crushed and peaceful activists are repeatedly hauled off to jail?

It also doesn't help that one of the recipients of these items was the Bahrain Defense Force, a government entity that was implicated in the deaths of unarmed protestors by the BICI report.

As a party to the International Covenant on Civil and Political Rights, Bahrain is obligated to protect the right of all to freedom of expression and peaceful assembly.

Bahrain is also obliged to abide by the United Nations Basic Principles on the Use of Force and Firearms, which require that law enforcement officers use force only to the extent necessary to achieve lawful purposes, and wherever possible, only after using warnings that it is about to be used.

Bahrain is clearly not abiding by either of these.

This is not encouraging.

This is not progress.

To make matters worse, the Government of Bahrain recently moved to deny all requests for permits for peaceful protests since the end of June. This includes not allowing the opposition al-Wefaq and other organized groups to peacefully assemble in any part of the country. Surely, this is

counterproductive, and runs the risk that Bahrainis will become even further disenchanted with the pace of reform, thus potentially turning peaceful moderates into extremists.

Time is running out for a real, sustainable, political solution to be reached in Bahrain.

As the regime continues its pattern of abuse, violence and foot-dragging on democratic reforms, I think the United States needs to use all of its levers of influence with the Bahrainis.

As the Chairman of the Senate Subcommittee on International Trade, I believe that one of these levers available is to ensure that Bahrain's labor commitments pursuant to the U.S. Bahrain Free Trade Agreement are fully implemented.

There is evidence that the government denied public sector workers the right to organize or strike. Trade union leaders were also arrested, harassed, prosecuted and intimidated.

Furthermore, more than 2,800 workers were dismissed or suspended during the uprisings last year, affecting more than 14,000 family members. Called out for its actions against these workers, the Government of Bahrain claims to have hired many of the workers back. However the reality is that the workers were reassigned to lower paying jobs or jobs that do not match their skill set and often forced to sign loyalty oaths.

The actions of the Bahraini government are concerning because they flagrantly violate the human rights of Bahrainis. But America must also be aware that Bahrain is becoming more fractured and less stable. And if the U.S. continues to blindly support the regime, we run the risk of turning a population that has been friendly to the U.S. military presence on the island

against us.

The United States needs to make very clear to the government of Bahrain that it is time to reach a political solution by negotiating in good faith with the opposition.

Mr. McGOVERN: Well, thank you very much. And I agree with you that we should work in a bipartisan and bicameral manner, which is a kind of a radical idea around here. But the fact of the matter is, I think, I appreciate your statement. I appreciate your leadership.

And look, I mean I have met on a number of occasions, I had the privilege of meeting with Bahraini officials who assured me that they very much want reform and change. And I think part of what we need to do is figure out how we can assist them in achieving those reforms which are, I think, to the benefit of all people in Bahrain, but also, I think, to the benefit of the government, quite frankly.

So I appreciate you being here. I know that you are tight for time. I don't have any questions, but I do want to thank you very much for being here. And I don't know whether Mr. Burton or Ms. Woolsey have anything they want to add?

Mr. BURTON: Mr. Chairman, I don't have anything to add at this time, but I would like to make some comments after we hear the next panel.

But I want to thank Senator Wyden very much for coming over. I know he is very concerned about human rights and we really appreciate that. We only appreciate that the Senate would listen to us once in awhile.

Senator WYDEN: Well, I would only say on that front, I am not going to represent every Senator, but I am going back to the House to work for a bill that Jason Chaffetz and I put together on the cybersecurity issue. So point well taken.

And look, up there on that side of the dais are Democrats and Republicans who spent a long time, you, Congressman Burton, Frank Wolf. I don't know the Congressman from Minnesota well, but I hear great things about him from Senator Klobuchar. The point is, let us work together in a bipartisan way on this and generate the kind of progress that we all want that generates a real solution.

And I thank colleagues, and I see Congressman Moran as well who has a long record in this field as well. Thanks again.

Mr. McGOVERN: Thank you very much.

We are joined by my colleague, Jim Moran from Virginia, and Keith Ellison from Minnesota, also members of the commission.

At this point, I would like to welcome the Honorable Michael H. Posner, Assistant Secretary of State for Democracy, Human Rights, and Labor.

And I should just warn everybody that there may be votes coming up. And so I was told that there were three votes, so that may be like about a 15-minute delay if they come up.

So please begin, Mr. Posner, welcome. Thank you for always being so open to coming before this commission. We appreciate it.

STATEMENT OF MICHAEL H. POSNER, ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR

Mr. POSNER: Well, thank you, Mr. Chairman, for holding this hearing, for your great interest in these issues. I want to thank the other members for being here as well.

For more than 60 years, the United States has worked closely with Bahrain. We have important strategic interests, shared political, economic and security interests. The security relationship is particularly important today, as Congressman Burton has said, in the face of rising threats from Iran. At the same time, the demonstrations and violent confrontations that shook Bahrain last February and March were traumatic, and they were traumatic to all segments of Bahraini society. And although the violence has diminished significantly in recent months, Bahrain is still a deeply divided nation struggling to maintain and regain its equilibrium.

Recognizing the importance of this relationship, I have traveled to Bahrain five times in the last 18 months, most recently in June, each time meeting with senior government officials, lawyers, journalists, medical professionals, civil society groups, human rights advocates and political societies. My meetings focused on three areas that I want to briefly outline today. First is the current human rights situation in Bahrain, second is the still urgent need for dialogue, which several of you have mentioned, and third, some measures that still need to be implemented as part of the BICI process, the Bassiouni report.

In a number of ways, Bahrain today is more stable than it was a year ago, after a worrying period of rising violence several months ago where there was violence in the street by both demonstrators and police, the violence has subsided this summer. However, there is still almost nightly confrontations between young protesters and police, including a number that end in violence. The recent discovery of bomb making materials punctuates the need for urgent action.

More than a year after the release of the BICI report, we still reports of continuing reprisals against Bahraini citizens who attempt to exercise their universal rights of free expression and assembly. Over the past month, the government has stopped granting permits for organized demonstrations in central Manama, and has announced a study to identify suitable locations for protests. While the study may be a useful opportunity to initiate constructive dialogue, including with the opposition, it must not be used as a mechanism to restrict the universal right to peaceful protest.

At the same time, we have urged Wifaq and others who organize demonstrations to do absolutely everything in their power to ensure that these gatherings remain peaceful. We have consistently condemned the use of Molotov cocktails, metal projectiles and other violent measures by some demonstrators. We condemn that. We have also been consistent in our criticism of the use of

excessive force by police including tear gas, bird shot and nightly raids and arrests of protesters.

I want to focus on the need for dialogue. Since February and March of last year there have been numerous calls, including by the Crown Prince, by President Obama, Secretary Clinton, other members of the international community, for a broad political dialogue that will lead the way forward on political reform. We need to strengthen moderate voices on all sides. Attempts at dialogue have broken down. On my recent visit, I observed that both people in the government and the political opposition felt in some ways that time is on their side. This is a misguided and dangerous perception. Therefore, we continue to encourage the government, all political organizations and civil society to come to the table, as several of you have said, for a broad, open discussion about the political future of the country.

We are now in the period of Ramadan which is a time for calm. This is a moment, this is good opportunity to really calibrate and to create an environment where dialogue is possible. This will require bold leadership on all sides. People are ready to negotiate now without preconditions and to trust the other sides to come to the table in a spirit of investment in Bahrain's political, economic and social future. We also encourage the government and citizens to try to make progress on these issues, as well as on issues that matter to people in their everyday lives such as policing, safety, health, education and labor. We see the need both for a broad political dialogue and for discussions of these range of issues that affect people on a daily basis.

We are encouraged by steps taken by the Minister of Interior to initiate some institutional reforms that will make police more accountable and professional. We await the results of an announced plan to hire 500 new officers who will better represent all segments of Bahraini society. And we welcome the announcement by the Minister of Interior earlier this week that his office will launch investigations of human rights violations by police officers, documented in the BICI report, as well as a recent statement by the Crown Prince calling for police restraint.

What underlies the use of excessive force by police and the violent tactics by protesters is a fundamental lack of trust between the police and the people whom the police are meant to serve. Trust can only begin to be established through genuine dialogue and negotiation between the police and the communities they serve. We need an environment that is conducive to real constructive dialogue and result.

Lastly, I just wanted to say a word about the BICI report and its implementation. We continue to encourage the Government of Bahrain to fulfill its commitments to fully implement the recommendations of the BICI report. As Congressman Burton has noted accurately, there has been progress on a number of the recommendations, I think something like 18 out of 24 or 25. The government has taken important steps like removing arrest authority from the national security agency, drafting legislation concerning the investigations and prosecutions of torture, drafting a code of conduct, as he mentioned, for police based on international best practices. It has allowed the Red Cross access to prisons, begun to build religious sites, and engaged a team of qualified experts, including John Timoney, to advise on policing and reform.

However, the government needs to take full action on all of the BICI recommendations including dropping charges against persons accused of offenses involving peaceful political expression last year, prosecuting those officials responsible for violations identified in the BICI report, and ensuring fair and expeditious trials in appeals cases, and continuing to work to professionalize and diversify Bahrain's security forces. There is several hundred pending criminal

cases relating to the events of last February and March I have been particularly focused on, and disappointed that in the cases of medical professionals those charges continue to be pursued in some cases.

I also am urging, and we have had a range of discussions with government officials, that those accountable for the most egregious violations such as cases involving torture where there were deaths in custody, those cases be fully investigated. There have been some investigations. Again, the Minister of Interior has said there will be more investigations, but we need to see successful prosecutions. But the key is reconciliation, and the key to reconciliation is a genuine dialogue and negotiation.

So I want to encourage again all sides to come to the table for a meaningful negotiation to heal divisions within the society. As a partner and friend, the United States Government stands ready to support the government and people of Bahrain as they seek pathways toward greater freedom and prosperity for all Bahrainis. Thank you.

[The statement of Mr. Posner follows:]

**Assistant Secretary Michael H. Posner Statement
Tom Lantos Human Rights Commission Hearing:
“Implementation of the Bahrain Independent Commission of Inquiry Report”
August 1, 2012**

Thank you, Mr. Chairman, for holding this hearing and for your sustained concern about Bahrain and the current challenges there. I appreciate the opportunity to appear here today to outline the administration’s views with respect to Bahrain.

Context: Bahrain is an important strategic partner at a crossroads

We all recognize Bahrain’s importance as a longtime partner of the United States in the Gulf region. For more than 60 years, the United States military has worked closely with its Bahraini counterparts. The Fifth Fleet is based in Bahrain, and the country serves as a pillar of our regional security strategy in the Gulf region. The U.S. – Bahrain relationship is particularly important in the face of rising threats from Iran.

Our longstanding alliance with Bahrain is based on shared political, economic, and security interests. And it is in part because of this important strategic relationship that we have devoted so much attention to Bahrain in the last 18 months. The demonstrations and violent confrontations that shook Bahrain last February and March were traumatic to all segments of Bahraini society. And although the violence has diminished significantly in recent months, Bahrain is still a deeply divided nation struggling to regain its equilibrium.

As partners and friends who care deeply about Bahrain’s future, we must be straightforward in our assessments. This is not a time for complacency or wishful thinking. It is a time for the United States and others to work with the government and the political opposition and to urge a new approach to dialogue, about which I will say more in a moment.

It is in this challenging political context that I have traveled to Bahrain five times in the last 18 months, most recently in June, each time meeting with senior government officials, lawyers, journalists, medical professionals, civil society groups, human rights advocates, and several political societies. This visit, my meetings focused on 1) the current situation for human rights in Bahrain following the unrest in February and March of last year, 2) the need for inclusive dialogue and negotiation, and 3) implementation of the Bahrain Independent Commission of Inquiry report.

The current situation for human rights in Bahrain

In a number of ways, Bahrain today is more stable than it was a year ago. Last year, the government showed courage in inviting Cherif Bassiouni to initiate the Bahrain Independent Commission of Inquiry (BICI). The BICI process was unprecedented both in its scope and the unfettered access the BICI team were granted. King Hamad deserves great credit for initiating this commission and for allowing an independent body to take a critical look at Bahrain’s human rights record and to report so extensively on its findings. We also commend the King for accepting and committing to

implement the recommendations of the BICI report. And after a worrying period of rising violence in the streets by both demonstrators and police, violence has subsided this summer.

Despite these positive accomplishments, my recent visit revealed deep divisions within Bahraini society and between many Bahrainis and their government. Almost nightly confrontations, including a number that end in violence between young protestors and the police, and the recent discovery of sophisticated bomb-making materials in Salmabad and Hamad Town punctuate the need for urgent action to heal the divisions in society and bring peace and prosperity to all of its people.

We are concerned that more than a year after the release of the BICI report, we see reports of continuing reprisals against Bahraini citizens who attempt to exercise their universal rights to free expression and assembly. For example, on March 31, 2012, Ahmed Ismail Hassan, a 22-year-old videographer, was shot and killed while filming a pro-reform demonstration. This is one incident in a pattern of reports of activists and demonstrators being injured and mistreated in interactions with the police.

Moreover, permits for organized demonstrations are often denied. Over the past month, Bahrain has stopped granting permits for organized demonstrations in central Manama, and has announced a study to identify suitable locations for protests away from the downtown area. While the study may be a useful opportunity to initiate constructive dialogue, including with the opposition, it must not be used as a mechanism to restrict the universal right to peaceful protest. At the same time, we urge Wifaq and others who organize demonstrations to do their utmost to ensure that those gatherings remain peaceful.

Urgent need for dialogue

Since February and March 2011 there have been numerous calls – including by Crown Prince Salman bin Hamad Al Khalifa, President Obama, Secretary Clinton, and members of the international community – for broad political dialogue that will lead to a way forward on political reform.

While dialogue and negotiation can only occur among Bahrainis themselves, as a friend and partner of Bahrain, the United States has encouraged dialogue in a variety of different forms over the last 18 months. But despite numerous attempts, attempts at dialogue have broken down. There is little evidence that Bahrain is moving toward a negotiated political agreement on issues such as the powers of parliament and electoral districting.

On my recent visit, I observed that both people in the government and the political opposition felt that time is on their side. This is a misguided and dangerous perception. Bahrain needs dialogue and negotiation to build a strong national consensus about its political future, strengthen its economic standing, and make it a more prosperous country and a more stable ally of the United States. We are pursuing a two-track strategy to reinforce those elements within Bahraini society that are working to promote meaningful dialogue and negotiation.

On the first track, we continue to encourage the government, all political organizations, and civil society to come to the table for a broad, open negotiation about the political future of the country. The current stalemate requires bold leadership from all sides – people who are ready to negotiate now, without preconditions, and to trust the other sides to come to the table in a spirit of investment in Bahrain's political, economic, and social future. As we have said, the country's political future is a matter for Bahrainis to negotiate themselves. But as the government did with the BICI process, there is room to invite technical facilitation of Bahraini-led dialogue.

On the second track, we also are encouraging the government to sit down with political and civil society organizations, and ordinary citizens, to try to make progress on issues that matter to people's everyday lives, such as safety, health, education, labor, and policing.

One positive example of this kind of engagement is the Tripartite Committee's work with the International Labor Organization (ILO), Bahraini employers, the Bahrain Federation of Trade Unions, and the Ministry of Labor to resolve the longstanding issue of reinstatement of more than 2,000 dismissed workers. We are encouraged by the success of this effort, both in terms of a fair outcome for many of the dismissed workers and the process that led to this outcome. Working with the ILO, the different stakeholders negotiated with each other over the course of several weeks to agree on an inclusive approach for evaluating and making decisions about how to resolve the issue of dismissed workers. While there will no doubt be bumps in the road, there the partners developed a framework for making decisions that shared power among the different stakeholders.

The issue of public safety and policing practices is another area that we see as being ripe for this kind of dialogue and negotiation. We are encouraged by steps undertaken by the Ministry of Interior to initiate some institutional reforms that will make the police more accountable and professional. The change in leadership in the police under General Tariq al Hassan, a career police officer, also is an encouraging sign. We await the results of the announced plan to hire 500 new officers who represent all elements of Bahraini society. And we welcome the announcement earlier this week by the Minister of the Interior that his office will launch investigations of the human rights violations by police officers documented in the BICI report.

But it is not enough for the government to dictate solutions to problems with policing amidst ongoing reports of the abuse of tear gas, birdshot, and other disproportionate mechanisms to control crowds and silence peaceful protestors. While we have consistently condemned the use of Molotov cocktails and other violent measures by some demonstrators, we also have been consistent in our criticism of the use of excessive force by some police.

What underlies the use of excessive force by police and the use of violent tactics by protestors is a fundamental lack of trust between the police and the people whom the police are meant to serve. Trust can only begin to be established through genuine dialogue between the police and the communities they serve. We encourage the government to take the lead in establishing a forum or a process – perhaps with outside technical facilitation – for discussion of public safety and policing practices.

One model we have discussed regularly with the government and others is the Patten Commission, which worked over the course of several years to redefine the mission and practices of police in Northern Ireland. For such a process to work, citizens, community and religious leaders, and civil society organizations must be willing to engage with the government and the police to begin rebuilding the trust that will lead to genuine stability and peace in Bahraini communities.

BICI implementation

The United States continues to encourage the Government of Bahrain to fulfill its commitment to fully implement the recommendations of the BICI report. We understand that full implementation will take time. We commend the government for the initial steps it took toward implementation, particularly in the period leading up to the release of the National Commission report in March 2012.

The Government of Bahrain has taken many important steps toward the long-term institutional reforms identified in the report, such as removing arrest authority from the national security agency, drafting legislation concerning the investigation and prosecution of torture, and drafting a code of conduct for police based on international best practices. The government also has allowed the International Committee of the Red Cross access to its prisons. It has begun to rebuild religious sites, and engaged a team of qualified experts to advise on policing and legal reforms. These are signs of the government's commitment to address the underlying cause of last year's violence.

The Government of Bahrain needs to take action on the full range of other BICI recommendations that we believe will help lay the foundation for longer-term reform and reconciliation. These include dropping charges against all persons accused of offenses involving peaceful political expression including freedom of assembly, prosecuting those officials responsible for the violations identified in the BICI report, and ensuring fair and expeditious trials in appeals cases. It also means continuing work to professionalize and diversify Bahrain's security forces to reflect the communities which they serve.

First, there are several hundred pending criminal cases related to the events of February and March 2011. Many individuals have been in detention for over a year. The government continues to prosecute 20 political activists and appeals cases are ongoing in the prosecution of respected medical professionals. In addition to the ongoing cases against doctors and nurses, we are discouraged by the Court of Appeals' decision to issue a gag-order banning the media from reporting on trials for the 20 high-profile activists. We urge the Government of Bahrain to ensure fair and expeditious trials in appeals cases and to drop charges against all persons accused of offenses involving political expression and freedom of assembly.

The United States was deeply disappointed that, despite assurances to the contrary, the government sought and received convictions in nine of 18 felony cases against medical professionals before the appellate court, with sentences ranging from one month to five years. While we are not privy to all of the facts, we have consistently urged the government to exercise prosecutorial discretion in these cases and to drop the charges in the interest of turning the page on the events of last year.

The prosecution of these cases is a sign of larger divisions within the health care system in Bahrain. I was alarmed to hear reports from all sides of Bahraini society during my recent visit about the tense environment for medical care in Bahrain. Young men often elect not to seek treatment in public clinics and hospitals when they are injured for fear of being turned in to the police by their doctors on allegations of participating in demonstrations. I also heard that Shi'a Bahrainis now only seek treatment from Shi'a doctors and Sunnis only seek treatment from Sunnis. And the ongoing felony cases against some of Bahrain's most highly specialized doctors means the country is facing a shortage of talent in critical specialties. There is much work to be done to heal the divisions in the health care system and restore the reputation of Bahrain as a regional leader in medical services.

Second, we call on the Government of Bahrain to hold accountable those officials responsible for the violations described in the BICI report. At the beginning of the year, the government reported that 48 people from the security forces were being investigated for their roles in suppressing protests. So far only nine policemen – five Pakistani and one Yemeni national and three Bahrainis – are known to have been brought to trial for human rights violations. Very little information has been made public about how these investigations were conducted and their trials have been repeatedly adjourned and postponed.

Third, as discussed above, further efforts need to be made to enhance the professionalization of the police. Ongoing violence in the streets between police and protesters points to the need for professional, integrated police and security forces that reflect the diversity of the communities they serve and that adopt a community policing approach.

Bahrain and the Arab Awakening

In conclusion, I want to say a word about Bahrain in the context of the Arab Awakening and the transitions occurring in places like Egypt, Tunisia and Libya. Many people wish to compare Bahrain to other countries in the region such as Tunisia or Egypt. While some comparisons may be valid, it also is very important to recognize the unique history and political and economic development in each of these countries, and to shape our policies accordingly. President Obama has said that stable, democratic societies make the best partners and allies. And so while there is no single path or timetable to forging a real democracy, there are a core set of underlying principles that, as Secretary Clinton recently noted "have to be enshrined not only in the constitution, not only in the institutions of government, but in the hearts and minds of the people."

Our aim is to encourage all sides to come to the table so that meaningful dialogue and negotiation can get underway in a process that will begin to heal existing divisions within the society and set Bahrain on a course toward greater freedom and prosperity for all Bahrainis. As a partner and friend, the United States stands ready to support the government and the people of Bahrain as they seek pathways toward meaningful dialogue about the future of the country.

Mr. McGOVERN: Well, thank you very much. I appreciate your testimony. And that was the bell for a vote so I am going to try to be very quick here in my questions.

We are all talking about political solutions. Some have suggested a high level international mediator might be a good idea to kind of work with both sides to find a resolution. Do you think such a mediator could help the government and opposition find resolution, and has the U.S. Government suggested the idea of an international mediator to the Bahraini Government and if so, what is the government's response?

Mr. POSNER: First and foremost, this is an issue for Bahrainis to resolve among themselves. We have stood to the side and stood behind both people in the government and people outside the government to quietly encourage that they find a way to navigate their differences. There needs to be an environment in which people begin to restore, there is a restoration of confidence and the sense that those negotiations are real, but ultimately there are negotiation among different parts of Bahraini society. So at this stage, I think our best role is to again to be a quiet supportive voice on the outside, but encouraging both the government and the political opposition, the various aspects of the political opposition, to find a way to get to the table, again without conditions, to begin to negotiate how they move forward.

Mr. McGOVERN: And I agree with that. We heard that both sides have kind of dug their heels in. I am just trying to figure out a way to encourage both sides to get together and work things out.

Let me be very quick here. A number of major human rights organizations have issued reports on the situation in Bahrain and they have been very fairly critical. The Bahraini Government, I think, has said to me that they think some of the accusations are exaggerated or just not true.

We have an embassy there. We have someone who is monitoring human rights. What is the Administration's assessment of some of the major human rights reports that have come out? Do you find them credible?

Mr. POSNER: I have a longer written statement which I am going to ask be submitted to the record.

Mr. McGOVERN: Without objection.

Mr. POSNER: We do follow what is going on closely, and I have outlined a range of things that we consider to be ongoing problems, both the situation on the street, again use of Molotov cocktails and violence by the demonstrators, totally unacceptable. But there has been an excessive use of force in response. Now the violence has gone down. That is a positive sign. There are calls for restraint. We are encouraging that but we still see the need for accountability for past abuses. We see the need for the cases from last year to be resolved. That is our assessment.

We can debate particulars of what is going on. The key now going forward is, how do we make a difference and how do we move forward in a way that is going to begin to resolve these differences and create a more conducive climate for Bahrainis to come together? And I think again it is both the broad political dialogue and it is looking for ways to identify these day-to-day issues. Access to health care, the police, education, trying to find ways as the Bahrainis have begun to do with the labor issue.

The reinstatement of workers happened because the ILO came in, worked with the union, worked with the government, worked with the companies. We have got to find a way to create that kind of an atmosphere where there is a greater respect and confidence.

Mr. McGOVERN: Just two more quick questions. Some have been disappointed that the Administration hasn't been more forceful in publicly calling for the release of Bahrainis who have been imprisoned only for peaceful expression. I know you mentioned the concern about that. But has the Administration called for the release of Nabeel Rajab? Because that is, I think, a case that many people think has been handled in an unjust way. Do you have an opinion on that?

Mr. POSNER: Again, if you look at what we have said, what I have said over the last several months, we have said two things. One, in cases where people are being prosecuted for peaceful expression of their views, those cases should be dismissed and people released. There are other cases where there are allegations that go beyond that, and what we have said is the courts have to deal with those cases expeditiously and fairly, due process has to be provided.

We have said in a number of cases, the case of the doctors, for example, we have been very clear that those cases should not be pursued. Rajab's case is a bit more complicated on its facts, but

we have been very clear there needs to be a due process of law. The case needs to be heard expeditiously. I think it has now been postponed until September. And we are urging the government in a range of these cases to deal with them expeditiously, fairly and to err on the side of allowing people the right to peaceful protest.

Mr. McGOVERN: Just one final question. The BICI report recommended establishing an independent mechanism to hold accountable those throughout the chain of command who are responsible for deaths or torture. In your assessment, I mean has that recommendation been meaningfully implemented?

Mr. POSNER: What has happened is that there is a new unit in the chief prosecutor's office that is dealing with these cases. The unit is still, in effect, being staffed up and in its early stages. They have initiated investigations in a number of cases. We have encouraged that but we have also said to them, at the end of the day what will be really meaningful is when those investigations lead to prosecutions and convictions. So we will continue to press for that.

Mr. McGOVERN: Thank you, and I really appreciate your statement.

Mr. Burton?

Mr. BURTON: Mr. Chairman, I think we have votes, and I have a number of comments I would like to make. I would just like to say to Mr. Posner, that was a very measured statement you made. I really appreciate that. It wasn't biased in one way or another and I thought it was very factual, so I really appreciate that. But I will make my comments later.

Mr. McGOVERN: Ms. Woolsey?

Ms. WOOLSEY: Well, I have a quick question, and maybe you could help me with this. When you say encourage the Bahraini regime to do the right thing, how do we encourage? Is it through trade? Is it financial aid or is it more arms? I mean why do they care what we have to say?

Mr. POSNER: I think there is a range of ways that we both have been and need to be doing. One is to express our commitment to a long-term relationship not only with the government but with the Bahraini people, to hold hearings like this and express our different views which is part of our system and a healthy thing to do. Again, I think on every level, both with the government and with the various parts of the political opposition, I think this is a moment where there is a need for everybody to take a deep breath and to redouble their efforts to think creatively about how to come to the table and talk about real differences. The society has divisions that are real. They are not going away until they are addressed by people sitting across the table and trying to figure out a way forward.

We can't make that happen, but I think our steadfast attention and concern, trips like yours, trips like the ones I have taken, I think, help encourage that. Our embassy is very involved. We have also maintained a security relationship in some ways and in important ways, because it is important to us, it is important to them. We have also held back on some things and we have made it clear that we have concerns about some of the ongoing human rights issues and the lack of progress on dialogue. I think that is part of the process that we are all going through in this hearing.

Mr. McGOVERN: We have a couple of minutes left. I don't know if Mr. Moran or Mr.

Ellison want to add anything.

Mr. MORAN: I would like to ask quickly the state of the media, Mr. Posner. How many TV or radio stations are not state-owned in Bahrain?

Mr. POSNER: I can come back and --

Mr. MORAN: Are there opposition voices that can be readily heard in the media?

Mr. POSNER: Yes. There are, and there are both opposition voices from within the country, and then because satellite TV is now so much a part of the landscape, people are getting all kinds of views. I would say one of the anxieties I have is that it is rhetorically charged on all sides. It is not the calmest media environment, and I think in some ways --

Mr. MORAN: There is no governmental effort at suppression of those voices?

Mr. POSNER: No, there have been some cases where journalists have been harassed or --

Mr. MORAN: Sure, but there is not a --

Mr. POSNER: -- foreign journalists have been denied --

Mr. MORAN: -- not a general policy.

Mr. POSNER: But there is a lot of debate. There is a lively debate.

Mr. MORAN: And just one other quickly. The BICI report said there were five illegally destroyed mosques. The USCIRF, religious freedom report, said 53 Shi'a religious structures. I don't know which is which, but there does seem to be reports that people were harassed when they were trying to pray on the sites of mosques. Has there been any effort to rebuild them? And that is all I wanted.

Mr. POSNER: Yes. Just on the numbers there were some very formal structures that you and I would call a mosque. There were other religious sites that were more ad hoc.

Mr. MORAN: So both reports could have been accurate.

Mr. POSNER: Everybody has a slightly different number. The government has begun to rebuild and has made a commitment that it will do more in that regard.

Mr. MORAN: Thank you. Thank you very much, Mr. Posner.

Mr. McGOVERN: Mr. Ellison?

Mr. ELLISON: Yes, thank you for your excellent testimony. Two quick questions. One is, what is the status of the trials of the 21 prominent activists who were leaders of the opposition, what is going on with that? And then also, I have endeavored to try to talk to people on the side of the government and others to get their point of view, and there seems to be some sense that there is external opposition or there is external forces fueling the opposition, particularly Iran, and I would

like to get your reaction on that.

Mr. POSNER: On the trial of the activists, it has been postponed several times. I think the next hearing is on August 14th, but we continue to monitor that very closely.

On the issue of outside influence, what I would say is there is certainly some indication, there is plenty of attention and observation of what is going on from Iran and from others in the Gulf region as well. But what is clear to me is that there are divisions within Bahrain that have nothing to do with anybody outside the country what they are saying or doing. If it is not resolved, it is also clear to me, if the country is not in a better place the Iranian Government is primed to be a beneficiary of that.

And so one of the reasons I think we feel a sense of concern that we need to move forward in terms of this negotiation or dialogue is to begin to bring the society together so that forces like the Iranians don't take advantage of the divisions that exist.

Mr. ELLISON: One last quick one. I just want to say, Nabeel Rajab has already been inquired about. He is the young man who allegedly had been detained for tweeting. Could you just remind us what his status is and what his condition is? Has he had ICRC attention? Is he okay? What is going on?

Mr. POSNER: He is detention. The case has been, as I said, adjourned until September. There are several charges against him including taking part in an illegal gathering but also inciting attacks on security forces. And the case is pending, and as I say he is in detention. The case will be heard in September.

Mr. ELLISON: So I just want to say the United States and Bahrain have a longstanding relationship. The relationship is very important to all of us. This hearing is an important commitment to our commitment to human rights anywhere and everywhere, and so again, thank you for your comments.

Mr. POSNER: And I appreciate that. We are very clear and I am in constant contact with people in our military. We have a national security interest. We have a security interest in Bahrain. We also have a very important human rights interest, and the key is to maintain both of those foci at the same time.

Mr. McGOVERN: And let me just conclude by, again, thank you for being here, saying that I think we are reassured that the Administration is going to continue to raise the issue of human rights in Bahrain. I have to conclude by saying as I said in the beginning, I think the optics of going forward with the arms sales is bad, quite frankly. I think that sends the wrong signal on human rights. That is my opinion. The Administration has made a choice, I get it. But I think these particular cases to the extent that we can monitor them closely, and to make sure that in fact justice is being done, I think would be very, very helpful. And again, we appreciate your willingness to be here.

And just one final thing on the negotiations, I mean if there is a deadlock it may be time for some creative, out-of-the-box thinking on how to maybe bring people together and resolve some of these differences, which I am sure you are thinking about, but I just wanted to conclude with that. And I thank you again for being here.

Mr. POSNER: Thank you. And we are open to suggestions always, so thank you all for your

interest.

Mr. McGOVERN: There is a vote going on. It will probably be about like 15 minutes. So --

[Whereupon, at 1:56 p.m., the commission recessed, to reconvene at 2:21 p.m., the same day.]

Mr. McGOVERN: Okay, we are back. And now I would like to call the final panel. The Honorable Matar Ebrahim Matar, former Member of Bahrain's Parliament, Mr. Leslie Campbell, Senior Associate and Regional Director of Middle East and North Africa Programs, National Democratic Institute, Tom Malinowski, Washington Director of Human Rights Watch, Mr. Richard Sollom, Deputy Director of Physicians for Human Rights.

We welcome everybody, and we will begin with the Honorable Matar Ebrahim Matar. I hope I am pronouncing that right. You may begin your testimony, and we welcome you here. And I apologize to everybody for the delay, but there are some things that we can control, there are some things we can't control. Votes we can't control. So anyway, thank you.

STATEMENTS OF MATAR EBRAHIM MATAR, FORMER MEMBER OF BAHRAIN'S PARLIAMENT; LESLIE CAMPBELL, SENIOR ASSOCIATE AND REGIONAL DIRECTOR, MIDDLE EAST AND NORTH AFRICA PROGRAMS, NATIONAL DEMOCRATIC INSTITUTE; TOM MALINOWSKI, WASHINGTON DIRECTOR, HUMAN RIGHTS WATCH; AND RICHARD SOLLUM, DEPUTY DIRECTOR, PHYSICIANS FOR HUMAN RIGHTS

STATEMENT OF MATAR EBRAHIM MATAR

Mr. MATAR: Good afternoon. It is my pleasure today to participate in this hearing. I would like to thank the Congress and the Senate for their recognition to the struggle in Bahrain and holding this event today. I hope we can reach tangible outcome from this event. I would like to thank Senator Wyden, and McGovern and all the representatives and senators who have shown the commitment for the case of Bahrain.

Being here on Capitol Hill and talking about the situation in Bahrain, this remind me with Nabeel Rajab and Abduljalil Al Singace. They were here in 2008, giving a congressional briefing about the situation in Bahrain, both of them currently in a prison for their opinion.

Before going and talking, let me first give some quick comments about what I have today. A lot of advice is for both side to sit and to start a dialogue. I am here to announce that the opposition is ready for the dialogue. I am here to announce we are inviting the Crown Prince to come to Al Wefaq to start the discussion. If he is refusing our invitation, we are ready to accept his invitation. Since 13 March we did not get any invitation for talk from the government, just talk. We are ready to sit with the most extremist hardliner in the ruling family. He is Khalid bin Ahmad, and of course we don't mind to sit with the moderates such as the Crown Prince or anyone else. So if they are not going to invite us we are inviting them. So this is regarding to sit together, and then we will talk about the violence and bombs and Molotov cocktail and so on such is used.

Our statements regarding violence was consistent and continuous. We always repeat that we are against the violence. And there is a lot of exaggeration about the violence in Bahrain because if you come to the indicators, I have very simple question. How many policemen have been killed because of the violence? How many protester are accused for having weapons, having guns? How

many policemen was targeted with live ammunition or kidnapped? Or how many attempt to assassinations for any officials? It is zero. So talking about violence is with a lot of exaggeration. Talking about bombs in Bahrain, how many explosions have been in Bahrain? So there is cocktail Molotov, and our policy and our statements is very clear about it.

Regarding the assessment of the situation by U.S. Government, I would like to bring some notes here. The gap is very huge between the assessment of U.S. Government and the assessment of the international community and the neutral observers. When it come to political rights we will see lack of statements coming from U.S. Government about the political rights, the right of people to have elected government, for example. We will see lack of a statement about the assessment of the judicial system in Bahrain. And this international Human Rights Watch, human rights face, Office of High Commissioner of Human Rights, they give very clear assessment about the situation of judicial system in Bahrain. They are saying it is unfair. They are saying it is type of political persecution against the pro-democracy movement. Such a statement and such assessment is not there by U.S. Government.

So let me now start by giving the big picture before talking about the details of implementing BICI report. Based on the Economist Intelligence Unit Democracy index, it is a democracy index by Economist Intelligence Unit, it is considering Bahrain as authoritarian regime. Such conclusion had been also mentioned in BICI report at .50. Article 50 of BICI report is saying that the King enjoys a broad executive power, and in this index of democracy Bahrain is considered as absolute monarchy while the King always is saying that Bahrain is a constitutional monarchy, not absolute monarchy. So there is a denial that there is a struggle and there is absence of democracy in Bahrain. And with this denial a few options remains with the regime. If you are denying the problems you don't have option except just to ignore all the ongoing violation and the problems and to find excuses for them instead of finding them.

Such a big picture can give us an explanation whether the government can proceed and move forward in implementing the BICI report. Regarding the implementation of BICI report, the statements that are coming from U.S. Government that it is not complete. I don't feel that this is an accurate assessment. The assessment that came from all the international observer that the implementation of BICI is disappointing. It is not incomplete. It is disappointing. And the gap is very huge. There is huge gaps regarding the accountability, regarding retaining those who are dismissed from their works and retaining them in different positions and cancelling their promotion. By the way, still the government is suspending some teachers and some employer and the medics for fake accusation to participate in demonstrations.

Returning to index of democracy, Bahrain is considered worse than Cuba and worse than China. It is worse than Qatar and Oman who don't have an elected parliament. Bahrain, in this index, fell 22 step and it is now considered as one of the 25 worst countries around the world. It is part of the worst 25 country around the world. And it failed the maximum, the steps that the Bahrain fell in this ranking was the maximum. No country fell in this ranking by 22 step. If you look at the situation in Bahrain, it was not difficult for any observer to expect all this violation that this is going to happen. It is not difficult for any observer to see the deterioration of the situation in Bahrain.

When I met Hillary Clinton, Madam Hillary Clinton when she was in Bahrain before the uprising, I raised this question for her about the 25 activists who were arrested and tortured. And I told her, is there certain limit that you will accept for the violation for human rights and your friends and your strategic ally in Bahrain? The answer from her, part of her answer, she was saying that I

shouldn't look just from the empty side of the glass, I should look for the full side of the glass. She was talking about Bahrain as one of the leading country in the region. But as you see, the situation is still totally different in Bahrain. And the recent speech of Madam Hillary Clinton in the Museum, in the Holocaust Museum, she was talking about prevention and response strategy against the campaigns of harassment and violence against a group of people because of their ethnic and racial and religious and political background. She was talking about the moral obligations. I don't know, does such deterioration in Bahrain trigger anything here in the U.S. to think about and to review the policy and to review the relation with this regime?

I am here in this hearing, I am not asking for help. I am not asking U.S. Government to fight for democracy and freedom instead of the Bahrainis. I am here to talk about considering Bahrain as strategic and ally, as U.S. non-NATO ally, and the obligation on U.S. Government for running one of the major bases, the 5th Fleet, running it with the support of such regime. Does it need a lot of research for the conclusion to be reached by the expert in national security and military that such relation with such a regime is not sustainable? How long this regime can continue on this policy? How long that will we not see a change and reform in the region? Is it five years? Is it ten years? The change is coming, and having the relation with such a regime and giving the support for such regime is totally wrong strategy.

It is very hard for me to admit that Bahrain is a weak country in term of many perspective. Bahrain is weak comparing with the Gulf country in term of economy, in term of complicated demography, in term of being between giant countries such as Iran and Iraq. It is very bad feeling to see Bahrain is used because it is weak. It is very bad feeling to see all solution in Bahrain are suspended waiting the struggle with Iran and the change in Syria's happening. I think this struggle will take long time. Waiting the change there to have an active and proactive policy in Bahrain is, I don't feel that it is the right decision and the right policy.

So returning to the situation about implementing BICI report, the struggle is very clear. If we focus, for example, about the number of people who were killed after BICI report, the number of people who were killed after BICI report are 35 person, and before BICI report they are 45. So the death rate in Bahrain is almost the same. The number of people who are injured because of excessive force is increasing in the last two months. The number of houses which are raided, the torture in secret detention center is going on in Bahrain. And that is why the Bahrain regime refused to give the acceptance for the Special Rapporteur on Torture to get in Bahrain before about six months ago, and they just delay his plan.

So situation in Bahrain need a stronger stand from the Congress and from U.S. Government. I am here to urge the Congress to have a constructive role in this struggle, and here are some steps that need to be supported by the Congress. In any country that have such a problem and a struggle, the easy solution is to go for national unity government which have members from both sides, opposition and the loyalists, and there should be a prime minister who is agreed on. We ask the Congress to push for this idea. And the government will be responsible about implementing BICI report and to moving forward to address the problem of reconciliation and promoting the dialogue.

Also it is very important to solve the issue of accountability in Bahrain by having a special national court with international expertise and monitoring to look at all the violation that have been by all sides. A serious action that can be taken is the police reform, and there are very successful stories in South Africa and Northern Ireland. We should look at them and we should implement them. We don't want to see too many as a staff in Bahrain. We want to see the U.S. Government

playing a role as having a partnership in this and having a much stronger role there.

So finally, I just recommend to stop all security and military engagement with Bahrain if they are not responding in genuine way with all these issues. Thanks again, and it is my pleasure and honor to participate here today.

[The statement of Mr. Matar follows:]

Testimony of Matar Ebrahim Matar before the Tom Lantos Human Rights Commission

August 1, 2012

Good afternoon,

It is my pleasure to participate today in this hearing about the situation in my country Bahrain. First, let me thank Congress for their recognition of the struggle in Bahrain and for holding this event. I hope can reach a tangible outcome from this hearing. Also I would like to thank Senator Wyden, Congressman McGovern and all the Representatives and Senators who have shown commitment to the case of Bahrain. Having Assistant Secretary Mr. Michael Posner with us here is highly appreciated by me and by many Bahrainis. Being on Capitol Hill to participate in this hearing reminds me of Abduljalil AlSingase and Nabeel Rajab. They gave congressional briefings and both of them are in prison now.

Before going into detail about the status of the BICI recommendations, let me describe for you the big picture. Based on The Economist Intelligence Unit Democracy index, Bahrain is considered an authoritarian regime. This fact had been represented in BICI in a different manner. Article 50 stated that “The King enjoys broad executive powers”. The Democracy Index also considered Bahrain an Absolute Monarchy and I believe that absolute power is an absolute devil. The King always denies this fact and calls Bahrain a Constitutional Monarchy. Here is the root cause of our major problems. It is denial. After denial, few options remain: either to ignore all the ongoing violations and problems or to find excuses for them. No genuine step can be taken without facing the problems.

In this Index (Democracy Index) Bahrain is worse than Cuba, China and Vietnam. Many countries were progressing and the most improved country was Tunisia which jumped 53 steps. On the other hand, the most undisputed declining country in the world was Bahrain. It fell 22 steps to be one of worst 25 countries in the world. It is difficult for this regime to respect human rights and freedoms. If the regime is not ready to share the wealth and power, they don't have an option except to continue oppressing the people to control the situation. Knowing this fact explains having elected members of the municipality council as part of the dismissed workers list.

Even before the uprising, it wasn't difficult for observers to expect deterioration in Bahrain. All those who were monitoring the trial of 25 activists heard the testimonies about torture and they could imagine where things were going. In 2010, I raised those signs of deterioration in front of Madam Secretary Hillary Clinton when she was visiting Bahrain and I asked her if there was a certain limit for the violations of human rights by a US strategic ally. Part of Madam Secretary's reply was to encourage to looking at the “Full side of the glass instead of just looking at the empty one.” She was talking about how Bahrain is leading the Gulf region in a different manner. Listening to the recent speech for Madam Hilary Clinton at the Holocaust Museum when she was talking about “prevention and response strategies” for “campaigns of

harassment and violence against groups of people because of their ethnic, racial, religious, or political backgrounds” in addition to her talk about “moral obligation,” I wonder, does such deterioration in the situation in Bahrain trigger revision of the current policies? Are there prevention and response strategies for the ongoing violations in Bahrain?

I’m not here to ask for help. I’m not asking the US government to fight for democracy and freedom instead of Bahrainis. The issue is not just about the moral obligation of Americans’ principles and values. It is about considering one of the most deteriorating countries a major US non-NATO ally. It is also about the obligations of running one of the most important US bases through support of such brutal regime. Does it need a lot of research for the conclusion to be reached by experts in national security and military that such regimes are not sustainable?

Comparing Bahrain with the Gulf Countries, it is hard for me to admit the fact that Bahrain is weak. It is weak in terms of economy, complicated demography, and being between two giant countries such as Saudi and Iran. It is a very bad feeling to see Bahrain used and pay the price for the ongoing conflict in the region.

Any other attempt will not solve the problem, and will just give more time to the regime to commit more violations. After more than 16 months since the imposition of martial law, and with the BICI report being there for 9 months, more violations were committed and not fewer. This is an indicator that whatever was done to implement the BICI recommendations was actually empty from its purpose and did not help to change the situation on the ground. I don’t want to talk a lot about how the regime failed to implement most of the recommendations and vacuumed them from their purpose. For that I would like to refer you to my respected colleagues in Human Rights Watch and Physicians for Human Rights to give you their assessment. Also I would like to refer you to the recent Amnesty International report and to the documents that I have provided which thoroughly explain why we think the regime is not serious about implementing BICI’s recommendations.

To play a constructive role in this struggle, I urge Congress to support the following steps:

In any country that has such political trouble, the easiest solution is to bring a national unity government that includes all sides. We suggest 50:50 opposition/loyalists, led by an agreed Prime Minister. This government will be responsible for implementing BICI in full, addressing reconciliation, and promoting dialogue.

A Special National court, with international expertise and monitoring, shall be established to address accountability for all crimes committed since 14 February 2011 from all sides.

A serious action plan shall agree on police reform, like what happened in South Africa, Northern Ireland, and others, that ensures inclusive security and with immediate effect.

Finally, I recommend stopping all security and military engagement with Bahrain if this plan is not established.

Thanks again, it was my pleasure and honor to be here today.

Submitted by Matar Ebrahim Matar, Former Member of Bahrain’s Parliament

Summary of Human Rights and Political Reality in Bahrain

Our Human Rights' Vision:

- 1) *The regime is not serious and sincere about implementing recommendations of Bahrain Independent Commission for Inquiry (BICI), as indicated by:*
 - 1) Incomplete reinstatement of the dismissed and suspended employees, with some of the reinstated denied comprehensive financial compensation; a statement released by The General Federation of Bahrain Trade Unions in early June 2012 suggested that some 581 were yet to be reinstated to their positions.
 - 2) Failure of releasing prisoners of conscience such as doctors, teachers and political figures. Sadly, the judiciary system is used to apply pressures on opponents (in June 2012, Dr Ali Alekry was handed a five-year sentence on charges of incitement to overthrow the regime and crowd gathering).
 - 3) Not adopting a clear plan for restructuring the security services to ensure inclusion of Shiites. Clearly, Bahrain is yet to learn from the experiences of South African and Northern Ireland.
 - 4) Absence of legal, political and criminal measures designed to hold officials (civilian and military personnel) accountable for violations documented at BICI report. Wrongly, the same government remains in office with insufficient implementation of BICI recommendations to protect people from official repressive policies.
 - 5) Nonappearance of seriousness concerning rebuilding places of worship unlawfully demolished in 2011. Worse yet, the authorities continued issuing statements describing the demolished mosques as illegal ones whilst preventing volunteers from rebuilding them by their own efforts.

Conclusion:

The regime lacks serious intention of implementing BICI recommendations, as evidenced by its failure to adopt a timetable for specific implementation.

- 2) *Continuous violations and repressive campaigns against pro-democracy activists, as demonstrated by:*

A. Growing harassment of political and popular activities, such as:

- 1) Assassination attempt on the life of Secretary General of Al-Wefaq on 22 July, 2012; repeated harassment of political figures, political societies and human rights activists.
- 2) Court ruling for dissolving Islamic Action Society (AMAL) through governmental litigation efforts.
- 3) Disproportionate use of harmful tear gases by security forces in residential areas causing death and spread of respiratory and skin diseases and higher incidence of abortion cases.
- 4) Harassing Al-Wefaq Society by threatening it with judicial actions, charging it with flimsy irregularities; such harassment practices extend to other political groups (please see annex No 1).
- 5) Stopping financial support to political groups, something stipulated in the law governing political societies.
- 6) Banning numerous rallies organised by the opposition political societies in the capital and other places, and since June 2012 extending the prohibition to places previously serving as points of assembly and demonstrations (annex No 2).
- 7) Calling on several cadres of Al-Wefaq to report to police, recording their statements, and threatening them of having their cases transferred to the Public Prosecution for the mere participation in Al-Wefaq's numerous activities; in effect arresting some of them for several days (Ali Habib) and transferring other to the Public Prosecution (Sayed Hadi Al Mosawi).
- 8) Continued outlawing of partisan publications and websites of opposition groups whilst preventing them from obtaining the right of issuing newspapers, radio broadcast and satellite transmission under false pretenses; other shortcomings entail denying opposition groups access to official media sources.
- 9) Continued attacks on opposition groups in official media sources with clear incitement for its hatred, regrettably without slight deterrent efforts on the parts of the Public Prosecution or judiciary system at large. An example of hate practice is the media campaign carried out by Al-Watan newspaper against the popular delegation participating in the National Human Rights Council session of the UN concerning the Universal Periodic Review of Bahrain's human rights records, held in Geneva in May 2012. In fact, whoever opposes the regime is not seen positively as far as the authorities are concerned, but rather as a traitor who should be punished for having opposing views. An opponent is accused of having no allegiance to the homeland just for having a second opinion, or for revealing human rights violations or exercising freedom of expression. This was put in display in the case of journalist Ahmed Radhi.
- 10) Encouraging militias loyal to the regime to assault villages during religious events, attacking shops, residences and individuals, without being held accountable for their actions.

B. Continuation of use of excessive and disproportionate use of force against pro-democracy demonstrators, as reflected by the following:

1. Increasing use of shotguns (the type used for hunting birds) causing rise in the number of casualties amongst demonstrators.
2. Severe beating of demonstrators by batons and rifle butts, some of which occurring at checkpoints.
3. Increasing number of arbitrarily detention in recent months through arrests at homes and in roads in brutal manners.
4. Confirmation through repetitive and frequent news and reports of subjecting detainees to torture in prisons and places of detention during interrogation sessions. Such practices stopped or were not used during the presence of Mr. Bassiouni's Commission.
5. Detaining human rights activists of the likes of Nabeel Rajab (sentenced to jail terms in a summary trial) and Zainab Al-Khawaja, and dozens of young activists for attending marches and popular events.
6. Continuation of the practice by of security forces raiding homes, in turn purposely displacing and destroying contents, stealing money and electronic appliances; one such incident occurred on 8 June 2012.

Conclusion:

The regime continues its arrogant approach against its opponents through new repressive methods. Sadly, the authorities have reverted to numerous types of wrong practices documented at BICI report.

Enhancing the discrimination against Shiites opponents:

The regime continues its systematic discriminatory policy against Shiites citizens and against all opponents in general. This policy is represented in programs, like:

- 1- Implementation of recommendations relating to the infamous Bandargate report issued in 2006, including programs designed to weaken the Shiites and the opposition in general.
- 2- Continuation of political naturalization efforts designed to change the country's demographics structure, again in order to weaken the Shiites and the opposition.
- 3- Proliferation of the policy of largely preventing employment of Shiites in the security services, in both civilian and military sectors.
- 4- Restricting Shiites and opponents employment opportunities in sovereign ministries and other important such as Foreign Affairs and Finance and the Central Informatics Organization. It is suggested that the Ministry of Foreign Affairs had employed some 60 employees in the recent past, which included a single Shiite.
- 5- Restricting hiring of Shiites and opponents at ministries offering basic public services such as health, education and municipalities, to name a few such areas. Still, employment restrictions of Shiites extend to firms in which the government owns controlling stakes. This practice came to light in March 2011 and remains intact. Furthermore, the authorities have replaced some 2,500 positions held by Shiites with local volunteers and foreign workers, many of whom not trained for the jobs. Some of these were working in educational services. Still, some 55 Bahraini Shiites graduated nurses have been denied employment at the newly operated King Hamad Hospital, in turn filled by professionals hired from abroad.
- 6- Undermining promotional opportunities of Shiites and opposition figures at governmental departments, with such opportunities extended to those loyal to the regime.
- 7- Encouraging Shiites opponents to accept early retirement packages (as an honorable exit) and replacing their posts with regime loyalists.
- 8- Marginalizing Shiites and opponents by stripping them of their normal administrative duties and transferring their responsibilities to pro-government elements. This policy was particularly implemented to those reinstated to their jobs.
- 9- Continuing the policy of depriving Shiites and other opponents from the business community of getting to access government tenders; other concerns relate to threatening their business activities and not prosecuting assailants of their enterprises, as in the case of Jawad Group; other concerns center on disrupting normal flows of their goods at customs for long periods with possible consequences of causing either damage to the products or hiking the prices.
- 10- Instituting the policy of tolerating insults made of Shiites and opposition individuals at large in workplaces by treating them as traitors, untrustworthy, unworthy of working privilege and undeserved of obtaining services extended to normal citizens; in the authorities opt not only not hold accountable those individuals carrying out such behavior against Shiites but rather encourage and reward them for their deeds; this kind of policy spreads in all ministries and major firms belonging to the state (annexes 3 and 4).
- 11- Adopting unfair standards for distribution of scholarships in a way allowing for controlling scholarships not on the basis of merit, grades and efficiency but rather on political loyalty and religious affiliation.

- 12- Denying Shiites from their natural chances of obtaining promotions, training and scholarships in governmental sectors via complete control of the Civil Service Bureau by members of a single sect.

Conclusion:

(Continuing and increasing sectarian and discriminatory practices against opponents in various aspects of political life, economic and career development, rising to the level of cleansing of Shiites and opposition from state institutions and its subsidiaries; clearly Shiites and opponents are not enjoying full citizenship rights).

Discharging the civil society organizations:

Continuing the policy of placing civil society under siege and discharging its institutions of opposition figures, and replacing them with pro-government persons, reflected in several ways including:

- 1) Keeping the National Establishment of Human Rights under the full control of the authorities and not restructuring it in accordance with Paris Principles.
- 2) Not permitting formation of any new civilian society dealing with human rights (an example of that is Salam or Peace Society, thus far not granted license for more than two years).
- 3) Continued closure of Bahrain Centre for Human Rights, and harassment of Bahrain Human Rights Society.
- 4) Nullifying election results of Bahrain Bar Society, and replacing that with a pro-government management.
- 5) Manipulating election results of Bahrain Medical Society.
- 6) Imposing trusteeship on decisions made by Bahrain Chamber of Commerce and Industry, a body noted of being free ever since inception in 1939; another action relates to passing a law requiring approval of the trade minister or the government cabinet of its decisions, clearly doing away with its independence.
- 7) Making efforts of emptying trade unions of opposition figures through creation of loyal trade unionists and setting up a new loyal trade union.

Conclusion:

(The system works to clear civil society institutions from opponents and replacing them with loyalists by making use of its legal and financial capabilities).

Orienting and doctoring the judiciary against the opponents:

Persistent and continued politicization of the judiciary and using it against opposition figures, such as:

1. The public prosecution or the judiciary system at large is a private castle for ruling family members and their loyalists, forbidden on the opponents.
2. Continued detention and trail of activists and human rights defenders for their political opinions, thereby turning a blind eye on BICI recommendations, in turn calling for dropping of charges related to freedom of speech, expressions and peaceful assembly; examples in this respect include human rights activists like Nabeel Rajab, Zainab Al-Khawaja, and Masooma Al-Sayed, to name a few, in addition to medics, teachers, athletes let alone personalities known as political symbols and figures.
3. Threatening public figures and associations of having their cases transferred to the Public Prosecution in order to reduce their activities.
4. Court ruling of no jurisdiction with respect to cases filed by societies against the authorities.
5. All but ignoring cases filed by citizens concerning violations of their rights by security forces; to the date not a single judgment has been issued against any official, all while court rulings against opposition elements continue unabated (see annex No 5).
6. Not referring any member of the Public Prosecution and the judiciary system to disciplinary committees after all reports documenting concerning lack of independence of the judiciary and absence of fairness and integrity like acceptance of confessions obtained under torture.

Conclusion:

The regime is politicizing the judiciary by forcing it to serve as a stick against opponents.

Our vision about the political side:

The regime is refusing real and genuine democratic reform by:

1. Rejecting serious dialogue, obstructing it via false pretences.
2. Imposing conditions prior to start of any dialogue like pressing opposition groups to stop their peaceful activities.
3. Selecting mockery dialogue initiatives like the national consensus dialogue of the summer of 2011.
4. Assuming unilateral measures in order to escape from making real political reforms, like the cosmetic constitutional amendments, in turn not changing the reality of ensuring the king and his family having absolute powers on all authorities.
5. Resorting to public relations companies to bleach and laundry its reputation rather than engaging in true reforms.
6. Moving towards creating a union with the Saudi Arabia to evade making essential political reforms in Bahrain.

Conclusion:

The regime is not serious about having a comprehensive political solution based on the acceptance of real transition towards democracy.

The international community should help Bahrain overcoming its political and human rights crisis in preparation for achieving serious and sustained political stability:

On the human rights side:

1. Stopping of the international community both in word and deed of extending political, economic, legal, media and military support for the regime on the grounds of suppressing legitimate democratic aspirations of its people.
2. Tightening of the speech regarding implementation of Mr. Bassiouni's recommendations besides adopting clear indicators and timetable concerning implementation of different recommendations.
3. Applying pressures on the authorities to commit themselves to a timetable for implementing recommendations adopted during the UPR session on Bahrain held in Geneva on 21st May, 2012 during the United Nations Human Rights Council.
4. Pressing Bahraini officials to set a date for allowing the opening of an office for the UN's High Commissioner for Human Rights (OHCHR) in Bahrain.
5. Urging the authorities in Bahrain to sign the Rome Statue of the International Criminal Court.
6. Issuing an ultimatum to authorities to respond to these demands by September 2012, else calls would be made for convening of United Nations Human Rights Council for the purpose of sending a fact-finding committee or a special representative to determine extent of human rights violations, thereby paving the way for the international community to take actions to stop the human rights violations and to protect human rights in Bahrain.

On the political side:

1. Encouraging and protecting moderates in both official and opposition sides to find solution for the political crisis in the country.
2. Repeating the unequivocal support of your government for the legitimate demands of the people of Bahrain for transition towards democracy.
3. Asking the regime openly and clearly to start serious and unconditional dialogue with the opposition for the purpose of concluding a political solution within a reasonable timeframe.
4. Sponsoring or promoting a dialogue between the authorities and opposition groups either inside or outside Bahrain via declared or undeclared forms.
5. **Assuming the regime would not respond to these demands, then efforts should be exerted to send a representative of the Secretary General of the United Nations to Bahrain with the goal of finding a political solution; the envoy needs to consult with all parties to the crisis as a means of developing a formula for the way out and gathering international support for getting all parties accepting and implementing any such deal.**
6. Extending political, economic, legal and security support to Bahrain by members of the international community in the event of national reconciliation through political resolution.

Absence of a serious political solution whilst the nation remains in a critical human rights, political, economic and social crisis for more than a year and a half threatens to increase complexity of the scene with all adverse effects to civil peace and peace in the region; certainly this a wrong and costly policy to all sides, but in favour of extremists in Bahrain and the region, with dire consequences to societal interests.

We at Al-Wefaq are completely ready for serious and unconditional dialogue and work towards ensuring a successful political resolution for the sake of Bahrain.

The lax position of the international community, in turn limited to soft diplomatic statements towards systematic violations of human rights and abstraction of freedom of expression and peaceful assembly besides refusal of engaging in serious dialogue and acceptance of political resolution on the basis of universal standards regarding human rights and reverence of freedom and approval of democracy as a system of good governance, only encourages the regime to continue disregarding appeals of the international community.

Regrettably, the regime has interpreted the position as a green light from the international community to continue the systematic violation of human rights and confiscation of the freedom of expression, peaceful assembly and rejection of serious dialogue and the need for introducing democratic reforms in Bahrain.

Conclusion:

The international community is required to help Bahrain by contributing towards finding a political solution through exercising their sovereign, human rights, media and economic capabilities to get the authorities to accept a political solution in the foreseeable future based on the values and international standards of freedom and respect for human rights and acceptance of democracy. The efforts should include working towards sending a UN envoy for the purpose of meeting all sides with the aim of developing a sustained political solution under international auspices and sponsorship.

Al-Wefaq National Islamic Society
July 2012

Mr. McGOVERN: Thank you very much. Thank you.

Mr. Campbell?

STATEMENT OF LESLIE CAMPBELL

Mr. CAMPBELL: Thank you very much, Mr. Chairman, and thank you for the opportunity to comment on human rights and political reform in Bahrain.

I was not going to start with an anecdote, but now listening to some of the other presentations, I think I will. It is a very heavy sort of day with a very serious topic obviously, but listening to this reminded me of my first trip to Bahrain which was 2002. And back then, NDI, National Democratic Institute, we were actually very welcome. It was in the middle of the government, the King, being very much interested in moving political reform forward. They were looking for help and advice from the outside, and in fact, were very open to organizations coming in and working with parliamentarians on elections and so on.

And in a meeting with the King, and those of you who have met with him and I am sure you have, that he has a good sense of humor. He is open. He is very easy to talk to. Near the end of the meeting he said, I am a little bit afraid that with the organization, you are like a human rights organization, you are going to think that everything has to happen quickly and overnight. And he said, we are going to have reform in Bahrain but it is going to be slow and it is going to be sort of steady.

And I said, Your Majesty, I agree with you that reform in Bahrain should be slow and steady, but I suspect that when I say slow and steady I am thinking in my head five years. I suspect you are thinking, not in my lifetime, and probably not in your lifetime. And he actually laughed about that at the time. And then he joked and he said, well, I am not saying not in my lifetime but, he said, we probably have a different sense of what slow and steady might be. It turns out that that was certainly the case.

And I mentioned 2002. And I am going to talk about political reform today. NDI is not a

human rights organization per se, we work with people like the honorable gentleman beside me and others in Bahrain on political reform as well as with the government. But I mentioned 2002 because the issues that we worked, actually at the time very successfully and very collaboratively, with the Bahrainis on in 2002, are unfortunately the same issues that are in play today.

And I want to quote from a focus group report, and the focus groups were done by NDI in 2002. The report was authored by Tom Melia who was then a vice president of NDI, but he has gone on to become a deputy assistant secretary in the Bureau of Democracy, Human Rights, and Labor. He is a colleague of Assistant Secretary Posner. And I will quote from Mr. Melia's report in 2002. He says, "No one objects to the monarchy per se," this is based on focus groups with Bahrainis, "and no one questions the Sheikh's elevation to King last year. But Bahrainis have a widely shared sense that the government of Bahrain is not the people's government at all, but rather acts in the interests of the royal family and a small circle around it."

And I think the same thing could probably be said today that for what I will call the moderate political opposition, it is not so much objecting to the King, the royal family or the idea of a constitutional monarchy in the true sense of that word, it is that there are systemic, systematic and structural problems that don't allow Bahrain to be ruled that way.

And in the interest of time I will cut right to the chase and say that in 1999 when the King came to power, in 2002 when elections were first held in Bahrain in this modern era, and right up to now, the political issues remain exactly the same. There should be elections that are based on relatively equal districts. Just to give you an example of why they are not equal right now, the United Nations Development Program has said, and I quote them in a report from their program on Governance in the Arab Region that "the electoral districts in Bahrain have resulted in charges of gerrymandering. The largest districts which are mainly Shiite, contain over 12,000 people while the smallest, which are predominately Sunni, have only 500 voters."

So the first issue that I would put forward and it is not new to me, it has been mentioned many times, is that you have -- I think gerrymandering is much too gentle a word for it. You have this incredibly disproportionate districts that means that even if votes are cast freely, the results will never reflect even remotely the population of the country or their wishes. So districts have to be redrawn. I understand that they will never be equal, probably can't be equal, but there is some kind of formula that can be adopted to make them relatively equal.

Secondly, the government should be formed on the basis of election results. And this has been discussed in Bahrain for more than ten years. The party, or in Bahrain they are called political societies, the political forces that are able in a free election to win the majority of seats, the King in his role as the monarch in a true constitutional monarchy should ask that party to form a government. They may do it in coalition. They may do it in the way as Matar Matar has said, they may do a national unity government, but they should be asked to form that government. A parliament, which then has true power including the ability to withdraw or to give confidence in that government, should be able to govern.

The other large sticking point for the political opposition that has gone back right to 2002, is that there is an upper house, and that upper house which is appointed by the King has equal power to the lower chamber. There is nothing inherently wrong with having an upper house or an appointed upper house. I would not argue one way or another. I am actually from Canada originally. We have an appointed upper house that in and of itself is not wrong, but an appointed upper house in, to my

knowledge, in a democratic country can't have equal power to the elected chamber and be able to stop any of the initiatives put forward by the elected chamber.

I would make those three points, which again have been made for ten or twelve years in Bahrain, and you could take that as just kind of the ramblings or the sort of ideals of another NGO representative here that is looking for an ideal situation, but in fact, those exact same principles, which I think most of the organizations that work in democratic development would promote for Bahrain, have been mentioned by the Crown Prince himself. And when he put forward seven principles back in March of 2011, his seven principles, number one included a fully represented parliament with exclusive legislative authority. This is what the Crown Prince Salman said, an elected and representative Cabinet, equitable electoral districts. He mentioned other good things as well.

In response somewhat later, the opposition party, again what I would call the moderate opposition parties, issued something that became known as the Manama Document and it put forth five demands. Number one, an elected parliament. Number two, fair electoral districts. Number three, a unicameral parliament with the legislature having sole power over legislation. They also talked about the judicial system and army and so on. The lists are strikingly similar, and in fact, the Crown Prince's principles probably went further than the demands of the opposition.

So what I would argue, and I am compressing this obviously, and I have submitted written testimony that is a little bit longer and a little more detailed, but to compress this, I would argue that if democracy organizations, NGOs that have worked on these issues for 30 or 40 years looking at the experiences of other countries can put forward a series of recommendations, and I would say that I would make three. The evolution into a true constitutional monarchy by allowing a free election with relatively equal districts, and the ruling family, the King, asking the group or the groups that win that election to form a government, but the ruling family maintaining their privilege and their prestige as happens in most constitutional monarchies. Parties that compete in these elections with rules and strict party finance regulations which kind of address the issue of foreign interference, I think obviously the Bahrainis have a right to stop any kind of foreign interference, and independent election commission that administers the elections transparently. I would make all those recommendations as a person from a democracy organization. They are almost exactly in line with both the Prince's, Crown Prince Salman's principles and with the Manama declaration.

And I would conclude, Mr. Chairman, by reflecting your point earlier that if there is so much concurrence something has to happen to bring these groups together on these points. An international mediator conciliation, I think, is a worthwhile thing to look into. It has been resisted. It has been suggested in Bahrain. But I would argue and quite strongly argue that there are moderates within the opposition, certainly there are moderates within the ruling family and the government. The points that they have put forward in terms of political reform are very, very similar. If the political reform went forward I would then say that the human rights concerns, which are grave and extremely important, can then be addressed in a way that would be much more permanent. What I fear is that the human rights concerns if they are addressed now are simply a Band-aid and that this deep-seated political problem will erupt again almost inevitably.

And I will just conclude by saying that, why would I think that? Because the same issues that were discussed in 2002 are being discussed in 2012. Thank you very much.

[The statement of Mr. Campbell follows:]

**Statement of Leslie Campbell
Senior Associate and Regional Director,
Middle East & North Africa Programs**

**NATIONAL DEMOCRATIC INSTITUTE
FOR INTERNATIONAL AFFAIRS**

Before the

**COMMISSION ON HUMAN RIGHTS
OF THE UNITED STATES CONGRESS**

August 1, 2012

**HEARING ON
"IMPLEMENTATION OF THE BAHRAIN INDEPENDENT COMMISSION
OF INQUIRY REPORT"**

Mr. Chairman and Distinguished Members of the Commission:

Thank you for this opportunity to comment on the human rights and political reform situation in Bahrain.

After five months of political unrest, King Hamad bin Isa Al Khalifa of Bahrain surprised the world by commissioning the Bahrain Independent Commission of Inquiry (BICI) chaired by Cherif Bassiouni. Established on June 29, the Commission was to examine the events of 2011 and report on the causes of the uprising and the government's response. The mandate of the Commission concentrated on the role of the police and military in confronting protestors, cracking down on political dissent and imposing order. While the commission commented on some of the underlying social conditions that prompted the 2011 uprising, it did not dwell on the question of political reform. Yet most Bahrain observers would argue that a political eruption was inevitable in Bahrain, even absent the impetus of the Arab Spring.

In my testimony, I will examine the roots of the political disagreement in Bahrain and, with the report of the BICI as a backdrop, comment on the state of political reform and recommend measures that moderate forces in the country could adopt to re-energize a reform agenda that has emerged in fits and starts since 1999.

Together with the human rights improvements contained in the BICI report, political reform would marginalize radical voices. It would also start a process of reconciliation, catapulting Bahrain into the ranks of those Arab countries now undergoing political modernization.

Every discussion of reform in Bahrain eventually returns to the same basic conundrum. The ruling Al Khalifa family governs the country with the support of a minority of the population, refusing to enact reforms that would empower all Bahraini citizens with a vote of equal weight. Without representative elections and a government reflecting the express will of a majority of the electorate, unrest is bound to continue. Moreover, every effort to implement limited reform without addressing the core question of electoral legitimacy is bound to fail.

Discussion of political reform has been front and center in the country since the ascension of King Hamad in 1999. Focus groups conducted across Bahrain for the National Democratic Institute (NDI) in 2002 resulted in conclusions that could have been written this week. Focus group report author Thomas O. Melia, a former NDI Vice President who went on to become a Deputy Assistant Secretary in the State Department's Bureau of Democracy, Human Rights and Labor (DRL), concluded that "Citizens of the Kingdom of Bahrain, Sunni and Shia alike, are disappointed that the promise of political reform

contained in the National Charter they voted overwhelmingly last year to endorse is not being realized in practice. Many of the widely-touted reforms now appear to be superficial.”

Melia noted that “No one objects to the monarchy *per se*, or questions their Sheikh's elevation to King last year,” but he described “a widely shared sense that the government of Bahrain is not the people's government at all, but rather acts in the interests of the royal family and a small circle around it.”

An NDI election study mission report which looked at Bahrain's October 2002 legislative elections pinpointed some of the reasons for Shia anger.

While the group found that the election was “generally well administered, with no evidence of fraud in favor of any particular candidate or faction,” the NDI mission asserted that “While the seat allocation for the legislative elections made slight adjustments to reflect the population distribution, the system remains inequitable.” The Southern governorate, for example, which is sparsely populated but has a majority Sunni population, received six seats. At the same time, the Northern governorate, which is heavily populated with a Shia majority, only received three additional for a total of nine seats for a vastly larger number of people.

It was possible, the NDI elections observers said, for a candidate “to win a seat with over 50 percent of the vote but only receive a few hundred votes (in the southern constituencies), while it required thousands of votes to win a seat in others (in the central or capital regions).” The mission went on to report that “this allocation system diluted the voting power of the Shia majority, and in fact may exacerbate the sectarian divide; as there has never been an explanation as to how these decisions were taken, it is widely assumed that the government drew these borders to ensure that the Sunnis remain the dominant force even in Bahrain's newly elected bodies.”

The United Nations Development Program (UNDP) “Programme on Governance in the Arab Region” (POGAR) described Bahrain's electoral districts this way: “The composition of these districts has resulted in charges of gerrymandering; the largest districts, mainly Shiite, contain over 12,000 people, while the smallest have only 500 voters.”

The concluding paragraph of the 2002 NDI report reflected the political unease in the country after the 2002 polls and presents a question about King Hamad's intentions that is as valid today as it was ten years ago:

“The King's ultimate destination for the wheels that he set in motion when he took power in 1999 is the subject of some debate. Given Bahrain's history of sectarian strife and the pressures undoubtedly brought to bear by a ruling class unwilling to cede power too quickly, this deliberate process may be a calculated way to acclimate all factors of society to the notion of power-sharing, and predicated on the assumption that an accelerated pace might undermine national stability. The opposition argues, however, that the King's actions to this point may be designed to legitimize the power of the Al Khalifa family and their allies within the Sunni community, and that these initial steps may in fact represent the culmination of the democratic process. The King has given no clear signs that he favors either of these possibilities, and the opposition fears the latter.”

That Bahrain has two large sectarian groups – Sunni and Shia – exacerbates the political unrest and imbues it with the color and rhetoric of a religious divide, even though the core issues revolve around power sharing and not religion *per se*. In fact, the country is quite tolerant of varied religious practices and affords its citizens freedom of speech not found in some neighboring countries. As Melia noted in 2002, “At the same time, many Bahrainis are mindful of the fact their country was until recently a much more repressive place than it is today. They appreciate that they now enjoy the freedom to speak their minds in public, to join associations and attend seminars on political topics – and they are glad to be able to vote at all. Bahrainis realize they have considerably more political rights than their neighbors in Saudi Arabia and other Gulf states, and this tempers their unhappiness with the fitful pace of political liberalization.”

The country's adoption of a bi-cameral system with an appointed upper house – a constant irritant to some in the political opposition – is not, in and of itself, a departure from democratic practice, but granting the appointed chamber equal power was a provocative move which alienated many in the moderate political societies.

While the Tom Lantos Human Rights Commission has convened to take inventory of what has been accomplished since the release of the BICI report, we should also reflect on what has been accomplished (or not) in the political realm, as it is fundamental political reform that will provide the strongest basis for tackling the myriad human rights concerns.

In an attempt to bring people together in early 2011, the Crown Prince released seven principles under which a national dialogue could proceed. It was envisioned by the Prince that the results of the dialogue would be implemented to amend the Constitution and that the resulting draft would be submitted to a popular referendum for approval. These principles were:

1. A fully representative parliament with exclusive legislative authority
2. An elected and representative cabinet
3. Equitable electoral districts
4. Review of naturalization laws
5. Address administrative and financial corruption
6. Review sovereign wealth
7. Address the sectarian impasse

In response, the opposition parties issued what has become known as the Manama Document, putting forth five demands:

1. An elected parliament with the ability to cast votes of confidence regarding the prime minister and other ministers prior to them assuming their positions and to vote to withdraw confidence if they fail in their duties.
2. Fair electoral districts that guarantee political equality – one person, one vote – and are not divided by sectarian lines. This included a call for an independent commission to administer all future election processes rather than leaving this to the jurisdiction of the State.
3. A unicameral parliament with sole power over legislation and regulations, replacing the current bi-cameral parliament (one house elected, one appointed).
4. A trustworthy judicial system, independent of the executive branch both financially and administratively, that acts with transparency and impartiality.
5. An army and security apparatus that is inclusive of persons from all societies and trained to show respect for human rights.

A comparison of the two lists finds them strikingly similar, and in fact the Crown Prince's principles may go further. If we are to take the Prince – and the King – at their word and assume that they favor reform leading to genuine power sharing and, ultimately, a genuine constitutional monarchy, then the next steps are clear. Numerous reports from international organizations that promote and assist democracy, as well as recommendations from Bahraini civil society organizations, have made very similar recommendations over the years while varying slightly in the details.

Consensus, therefore, may actually be within reach on the following issues:

The evolution of Bahrain into a true constitutional monarchy by allowing a free election to determine the composition of a government responsible to the legislature and which exercises true power.

An appointed upper chamber may exist but its powers would be fewer than the elected chamber. The ruling family would retain their titles and prestige.

The delineation of fair electoral districts – within acceptable population variations – giving reasonably equal weight to each vote cast.

An independent election commission to administer elections transparently and fairly, including the question of determining eligibility to vote.

The legalization of political parties which would compete in elections under clear rules and with strict party finance regulations.

The people of Bahrain have been victims of the unrest of the past months. Disrupted lives, lost employment, violence and threats of violence that affect every Bahraini in every walk of life have taken a toll on the economy and on the morale of a nation. Yet moderate voices are still prevalent. Recent entreaties by the Crown Prince to start a dialogue and the positive reaction to his initiatives by Al Wefaq, the largest opposition movement, are signs that political reform can accompany the human rights improvements envisioned in the BICI report.

The prospects for reconciliation are obvious — but it is not clear that the political will exists among all of the political forces. If the King and the Crown Prince show the leadership necessary and the moderate opposition chooses to participate in a reinvigorated process, Bahrain could leapfrog the distrust engendered over the past months and move in a positive direction.

We value the role of this Commission in defending human rights and promoting political development.

Thank you, Mr. Chairman and Members of the Commission.

Background on NDI in Bahrain

NDI began its work in Bahrain in 2002 at the invitation of the Royal Court. Since that time, it has worked with Bahraini municipal councils to provide governance programs and technical training in strategic planning, constituent relations, media relations, cross-municipal collaboration, and other areas. Bahrain's five municipal councils, working in concert with the Ministry of Municipal Affairs, subsequently developed a framework for a Bahrain municipal association.

NDI has also worked with Bahrain political and civil society organizations to enhance their capacity to play a constructive and meaningful role in the political reforms initiated by King Hamad bin Isa Al Khalifa over the years. During the last decade, NDI has offered technical assistance and skill-building workshops to all legally recognized political societies in Bahrain, including all societies represented in parliament. Areas of assistance have included:

- Organizational development to support increased transparency;
- The inclusion of women and youth and the establishment of internal democratic practices;
- Communications and media relations to improve outreach to members and engagement with the government on policy issues;
- Electoral campaigning to aid societies in developing policy-oriented campaign strategies and platforms (as opposed to strictly sectarian or ethnic-based messages).

Due in part to NDI's work in Bahrain, political societies that had boycotted the 2002 parliamentary elections decided to participate in the political process and compete in subsequent parliamentary elections in 2006 and 2010.

In recent years, NDI has continued to provide technical assistance to political societies, focusing primarily on working with those represented in the parliament, which include Al Asalah Islamic Society, Al Menbar National Islamic Society and Al Wefaq Islamic Society. NDI also collaborated with the Bahrain Institute for Political Development (BIPD), a government sponsored training institute.

None of NDI's programs involves funding political parties or organizations, or training groups or individuals involved in protest movements. Its nonpartisan programs are solely intended to support democratic institutions and processes.

Mr. McGOVERN: Thank you very much.

Mr. Malinowski, welcome.

STATEMENT OF TOM MALINOWSKI

Mr. MALINOWSKI: Thank you. Thank you, Mr. Chairman, Congressman Burton, Ms. Woolsey, thank you so much for holding this hearing. And I want to thank you in particular for how energetically and consistently you have focused on this small but very, very important country. It

really needs that kind of focus in the months ahead.

I want to do three things. One, just give you my answer to the question of how they are doing in implementing the recommendations of the Bassiouni Commission Report, make a couple of suggestions about what the United States can do to try to shore up moderates in Bahrain while isolating those who oppose reform, and say a few words, and particularly addressing the issues that Mr. Burton raised about America's strategic interests in Bahrain and the Persian Gulf, and why I think that promoting reform there is a strategic as well as a moral imperative.

In terms of the BICI, I think we all agree that it was a golden opportunity and we all agree that the King of Bahrain deserves enormous credit for having commissioned the report and accepting its very difficult and painful recommendations. And there was some genuine progress in the wake of that report in addressing the concerns that it raised, and I go into some of that progress in my testimony. Absolutely undeniable. But I think it is also undeniable that in the last few months the momentum that followed the release of the report has dissipated.

One of the key recommendations, as we have discussed, of the report was that the government drop charges against people who had been convicted, imprisoned, detained solely for so-called speech offenses, what they said, what they wrote, demonstrations they participated in. And some of those people were released. But many opposition leaders who are convicted often to life in prison for precisely those kinds of offenses are still in prison.

The case of Nabeel Rajab has been discussed. This is why that case is important. It is not because some of us may like him, some do, some don't. That is irrelevant. The issue is that he was convicted. His case is not pending. He was convicted and sentenced to three months in prison for a tweet. You can't say that you are dropping charges against people for free expression if you are charging and convicting them for free expression. So it goes to the heart of what the Bassiouni Commission was recommending.

You mentioned accountability. There have been some investigations, which is good, but the only people to our knowledge who have been held accountable so far are lower-ranking police officers. No one in a position of real responsibility has been held accountable for what the Bassiouni Commission called "systematic torture," in the suppression of dissent in that country.

Abuse of prisoners in police stations has declined considerably. That is one element of progress. But we still have this use of force by riot police, not just against kids who are throwing Molotov cocktails, which one can understand police in that situation reacting strongly, but against unarmed members of the opposition, using bird shot, firing tear gas directly at somebody's face from very close range. Things that are clearly inappropriate and that cause serious, serious harm.

And on top of this all, there has not been dialogue. And I don't think it is correct to suggest that this is because the government has made offers and the opposition has refused. The government, since the very early days, early last year, there has been no offer to the opposition to sit down one-on-one to have a serious conversation about the kind of reasonable solution that my friend, Les Campbell, just outlined that I think everybody believes is achievable if leaders on both sides were to come together. And this is partly because the Crown Prince, who is the main champion of reform within the Bahraini Government, has been marginalized within the government. They send him to Washington, but within Bahrain he has been marginalized. And the effect of all this, and I think Congressman Woolsey mentioned this, is that both sides are becoming frustrated and angry and

increasingly radicalized, and that is dangerous.

And I want to mention there is a problem on the Sunni side. If you look at the pro-government press in Bahrain, and apart from one newspaper it is all pro-government, state-controlled, there is relentless propaganda suggesting that all of these protests are just inspired by Iran. That they are designed not to promote democracy but to impose some sort of Shiite theocracy, and urging the King not to reform. And a lot of this messaging on the pro-government side has taken on a very viciously anti-American character. There is one newspaper called Al Watan, which I want to mention, where every week you have editorials accusing, believe it or not, the United States Government of being in league with the mullahs of Iran and al-Qaeda at the same time to support the democracy protests in Bahrain. Now you might think this is a fringe publication, but it is actually bankrolled by the Defense Minister's brother, and the Defense Minister recently praised the editor for his service to the nation. I just wanted to note the irony that this is the same Defense Minister who eagerly accepts our military assistance. Very complicated on the Sunni side and very dangerous, increasingly.

And then of course on the opposition side you see the youth on the streets. You see the use of Molotov cocktails, violence against police, which is extremely disturbing. We have all rightly called on leaders of the opposition to condemn that violence, and I think they have consistently. But their voices are increasingly not heeded by these young boys on the street who are impatient, who think dialogue isn't getting us anywhere, and of course that is incredibly dangerous.

Now what can we do in all of this? I think there is no question that the Administration has made considerable efforts. In fact, oddly, I think they have done a lot more than Mike Posner mentioned that they had done to try to broker a compromise between the two sides to try to keep the opposition legal, to try to convince them to restrain riot police from acting excessively. But they don't get a lot of credit for what they have done because they don't talk about it a lot. And so people in Bahrain, especially in the opposition side, don't hear it.

And then there is the arms sale and the relationship with the military. Now I can understand why the Administration made that choice. The Crown Prince had come to Washington. He is the champion of the reform in the Bahraini Government. They wanted to give him something to take home to say that he had delivered something from the United States in order to preserve his relevance in the system so that he isn't further eclipsed by the hardliners in the government. I get that. But the question it raises is, if we are going to take those kinds of steps to shore up the moderates in the government, what are we willing to do to shore up the moderates in the opposition who are also in danger of being eclipsed by more radical voices?

So here I have a suggestion. I think you and I, Mr. Chairman, at least agree that it would help if we suspended military sales to the Bahrain Defense Forces. Realistically, I am not sure if that is going to happen because of the stake that the Defense Department has on the island. An alternative approach, one that we have tried with other countries, would be to impose, not to sanction the Government of Bahrain, but to impose very highly targeted sanctions like a visa ban against those individuals within it who have been credibly linked, including by the Bassiouni Commission, to the worst crimes including the torture of dissidents. Remember, the Bassiouni Commission identified a lot of these people. They turned over the evidence to the Bahraini Government which has not acted on it.

And I think so long as the government does not act, it is perfectly reasonable for the U.S.

Government to say that we won't allow those persons to travel to the U.S. That would still enable us to maintain our relationship with the government and even with the military of Bahrain, while isolating only those individuals who are standing against reform and the Crown Prince's agenda in the country. And it would be consistent with what U.S. law already requires. It is just that U.S. law doesn't require us right now to proactively identify the individuals who should be subject to that kind of ban. And I think the Administration can and should do that. If they don't, the Congress could require it either by passing a version of the Magnitsky Rule of Law Act, which in the Senate right now would apply to the entire world and would actually require the Administration to do something along the lines of what I have described, or even behind specific legislation that is similar to the Magnitsky bill. It is something that I would urge you to consider.

And as you do I would keep in mind that although they haven't said so and might deny it, the Bahraini Government has imposed, effectively, a visa ban on certain Americans itself. I was there once, had a very interesting experience, met with the government. I am not sure if they would let me back because I have since written critical things. Many representatives of human rights and democracy organizations have been denied visas. Journalists have been denied. Mr. Chairman, if you are not a member of Congress and you published somewhere what you said today, I imagine you would be denied a visa to visit Bahrain, and that is because of speech. That is because we disagree with them. All I am suggesting is that we do the same for people who have committed very grave crimes. I think that is a reasonable request.

And then finally on the strategic interests, obviously the relationship with the Bahraini military is important to the United States. It is important to the U.S. Congress. They host the 5th Fleet, and I get why. That is something that no one in the U.S. Government would want to lose. But I think we also need to be realistic about this, not idealistic but realistic. That presence in Bahrain is not going to be sustainable if the violence, the human rights abuses reach certain point. If it continues along this trajectory and it becomes something like Syria, we are not going to be able to stay anyway.

But in the meantime, if Bahrain's rulers believe that the United States will continue to depend on them no matter what they do, they will be less likely to heed the kinds of concerns that we expressed here because they will think we need them more than they need us. And so ironically, I think the more we make preserving the base the paramount interest in our relationship with Bahrain, the more likely we are to lose it because they will be more likely to take the kinds of steps that will cause a fundamental breach in the relationship between our two countries. So I think that is something to keep in mind. I am not suggesting that you conclude that the only important issue here is human rights and the strategic relationship. Set that aside. Obviously they are both important, but they are mutually reinforcing. If there isn't progress on one front we are going to be in major trouble on the other. Thank you.

[The statement of Mr. Malinowski follows:]

Testimony of Tom Malinowski
Washington Director, Human Rights Watch:

Tom Lantos Human Rights Commission
August 1, 2012

Implementation of the Bahrain Independent Commission of Inquiry Report

Thank you Mr. Chairman for holding this hearing and for all the work you have done to keep the Congress focused on Bahrain. There is a powerful moral argument for doing so. Anyone who has been to Bahrain, who has met the people who have tried to bridge the country's divisions through reasoned dialogue, and who has witnessed the persecution they

have suffered as a result, will attest to that. But there is also a strategic imperative for the United States in championing human rights in this cosmopolitan and complex nation. We see today in Syria what can happen when an authoritarian government resists popular demands for justice and reform until it is too late. Imagine if something similar were to happen in Bahrain, a country that not only has a close partnership with the United States, but that sits right on the fault line between the Sunni and Shia Muslim worlds, and between Saudi Arabia and Iran. It is not yet too late for Bahrain to avoid this fate, and many people in the country are working hard to avert it. The United States also has a lot more influence in Bahrain than it did in Syria. But the time to use that influence is running short.

Last November, Bahrain had a golden chance to close the dark chapter that began when its government suppressed a pro-democracy movement earlier in 2011. King Hamad had appointed the Bahrain Independent Commission of Inquiry (BICI), chaired by the esteemed international jurist Cherif Bassiouni, to look into the human rights violations committed when the country's pro-democracy movement was suppressed last year. Bassiouni wrote a fair-minded report, documenting the arbitrary arrest and torture of opposition leaders and urging far-reaching reforms to punish those responsible and end human rights abuses. To his credit, the king accepted the report and promised to implement it. The government dropped charges against some dissidents accused of speech "crimes," reinstated many people who had been dismissed from work and school for attending protests, and reduced abuse of prisoners in formal detention facilities. But since then, the momentum has dissipated.

There has been no real resumption of dialogue between the government and opposition to pursue what moderates on both sides recognize as the solution to Bahrain's crisis -- a constitutional monarchy in which government ministers are chosen by an elected parliament rather than appointed by the king.

The BICI's call to release political detainees has also not been fully heeded. The courts have agreed to retry key opposition leaders, but the government still refuses to release them, though their convictions were based on nothing more than the content of their speeches and participation in peaceful meetings and rallies challenging the monarchy. These include Abdulhadi al Khawaja, who staged a long hunger strike earlier this year to protest his continuing detention. They also include Ibrahim Sharif, the Sunni leader of a secular-left party, whose detention, and very existence, demonstrates something that hard-liners in the government don't want us to know -- that opposition to their authoritarian rule is not purely sectarian, that many Sunnis joined their Shia compatriots in demanding reform when the Arab Spring came to Bahrain last year.

Meanwhile, the government has once again started to arrest and prosecute dissidents for exercising their right to free expression. On July 9, 2012, a court in Manama sentenced the popular human rights and opposition activist Nabil Rajab to three months' imprisonment for a Twitter posting in which he called for Bahrain's prime minister to resign and for claiming the prime minister was unpopular in a village he had recently visited (thus, allegedly, "insulting" the people of the village).

There has been little progress in implementing the BICI's recommendation that those responsible for deaths and torture of opposition activists during Bahrain's state of emergency last year be investigated and prosecuted. The government has said that 70 officers have been investigated, but the highest known rank facing prosecution is a police lieutenant, and many of those facing trial are low-ranking non-Bahrainis serving in the riot police. No senior officials have been held accountable, despite the BICI's conclusion that torture was a systemic problem.

Bahrain has made progress in stopping the abuse of persons in custody once they are brought to a police station. But protesters still are often subjected to brutal beatings before they arrive at a formal facility. Defense lawyers are also reporting that some prisoners convicted in the crackdown are being denied vital medical care. And the police have continued to use crowd control tools like bird-shot and tear gas as offensive weapons, sometimes firing them directly at protesters at very close range -- including, recently, at the leaders of the main opposition party, Wefaq, as they were walking peacefully to a demonstration.

On top of all this, there is no longer any approaching milestone -- no committee to be appointed, or report to be issued, or deadline to be met -- that might give moderate leaders in Bahrain reason to ask their people to be patient. The absence of hope is radicalizing both sides.

Relentless messaging in official media has convinced many Sunni supporters of the monarchy that opposition calls for democracy are an Iranian plot to impose a Shiite theocracy on Bahrain. This pro-monarchy propaganda has increasingly taken on an anti-American tone. One newspaper in particular, *Al Watan*, has published article after article accusing the United States and the CIA of backing the opposition, in league, believe it or not, with both al Qaeda and Iran, and urged the expulsion of US diplomats. Before you conclude that this is some fringe publication, let me note that *Al Watan* is

reportedly bankrolled by the brother of Bahrain's defense minister. The minister himself, who oversaw the fierce crackdown starting in March 2011, recently met the editor of *Al Watan* and "praised his outstanding work in serving the nation," according to the Bahrain News Agency. I suppose he sees no contradiction between praising the publication of proposterous conspiracy theories about the United States and receiving US military assistance.

Meanwhile, in opposition strongholds, protesters frustrated by the lack of progress and cynical about prospects for peaceful dialogue are increasingly turning to violence. In this climate, the toughest youth, the ones who fight back, become the heroes. Many of us have rightly called upon opposition leaders to denounce violence by their followers, but the hard truth is that those who preach nonviolence (as most opposition leaders still do) risk being marginalized (or, as in the case of Nabeel Rajab, are jailed on bogus charges). More and more, the youth on the streets are going their own way; the leaders are following them, not the other way around.

When I met Bahrain's chief of public security in Manama in April, he showed me videos of protesters throwing Molotov cocktails at police. In the opening sequences, the gas bombs are thrown from a distance; as the weeks go by the protesters get closer, until they are right in the officers' faces before dousing them with flames. The chief wanted to show me what his officers go through, and he succeeded. Inadvertently, the videos also showed that repressive tactics are failing. Protesters are not retreating -- they are losing their fear.

Much of Bahrain's police force consists of Sunni foreigners, recruited from countries like Syria, Pakistan, and Yemen. Sent to subdue Shiite neighborhoods that are alien territory, they seem bewildered by the youth who come at them every night. One of the BICI's most important recommendations was that members of Bahrain's Shia community be integrated into the police force. This has not happened, and it's hard to see how it can right now. Bahraini Shia are not likely to join the police until progress on the political front restores at least some degree of trust between them and their government.

If King Hamad hopes to break this vicious cycle of violence, he will have to assert the authority he is so eager to preserve and make a bold gesture soon, even at the risk of angering his hardline family members and supporters. The best way to do this would be to release Bahrain's imprisoned opposition leaders, to give the non-violent opposition the space to protest peacefully, and to resume dialogue. These steps would be mutually reinforcing: if freed and given a stake in the political process, the detained leaders might have the moral authority to calm opposition supporters and restore their faith in political dialogue and compromise.

What should the United States do to promote this outcome?

Some critics of the Obama administration have accused it of siding with Bahrain's ruling family and being silent about its repression. The truth is more complex. Last year, State Department officials made an all-out effort to broker a compromise between the government and al-Wefaq, a deal that ultimately fell apart. When the king decreed emergency rule, the United States helped convince him not to ban the main opposition party and, later, to appoint the Bassiouni Commission and release many detainees. But few Bahrainis in the opposition give the United States any credit for its actions because it has exerted pressure quietly, always leavened with public pledges of fealty to the US-Bahraini partnership. The contrast with America's condemnation of abuses in Syria and Libya is, to them, obvious and painful.

I can understand why the administration decided to resume some military sales to Bahrain following the Bahraini crown prince's visit to Washington in May. The administration wanted to give the reformist crown prince (who just yesterday urged greater restraint by Bahraini police) something he could bring home; at the very least, they hoped, this would help him and other moderate elements in the ruling family maintain their relevance, so that at some point in the future they could assert themselves and push a democratic agenda. But I don't think that's the message that the hard-line leaders of Bahrain's defense forces, who are, after all, the recipients of this aid, took away from the administration's decision. They more likely concluded that they don't have to allow the crown prince to reform Bahrain to get American largesse -- they simply have to send him to Washington.

And if the United States is willing to sell arms to Bahrain to shore up moderates in the government, what will it do to shore up moderates in the opposition, so that they too stay relevant? Isn't it just as important to give them something that they can bring back to their people, to show them that the international community heeds their legitimate concerns, and that their commitment to non-violence will bring rewards?

I think there is one step that the US government could take, Mr. Chairman, that would be just, that would help advance the recommendations of the BICI, and would help show moderate voices in the Bahraini opposition that the United States heeds their concerns as well. The United States should begin to deny visas and access to the US banking system to those officials and members of the security forces in Bahrain who have been credibly linked -- including by the BICI

investigation – to serious crimes such as the torture of opposition activists in detention. Remember, the Bassiouni Commission conducted a thorough investigation of these crimes, turned over the evidence to the Bahraini government, and urged it to hold these individuals accountable. Accountability and respect for the rule of law is critical to restoring trust between the Bahraini people and their government. And the king of Bahrain accepted this principle when he accepted the BICI's recommendations. But the government has not acted.

So long as the government does not act, so long as the persons responsible for these abuses remain untouched in Bahrain, it is perfectly reasonable for the US government to say that it will not allow those persons to travel to the United States or put their money in US banks. This would not be a sanction against the Bahraini government. It would enable the United States to maintain its current relationship with Bahrain, including a relationship with the Bahraini military as a whole, penalizing and isolating only those individuals who have credibly been accused of serious human rights violations. It would implement with respect to Bahrain a longstanding principle of US law, that those who commit grave crimes overseas should not be admitted to US soil.

US law, under the Immigration and Naturalization Act, already makes aliens inadmissible to the US if they “ordered, incited, assisted, or otherwise participated in the commission of any act of torture.” The administration could, and should, apply this provision proactively, developing a list of Bahrainis who merit exclusion, while announcing publicly that it is doing so, and that it will continue until Bahrain deals with the problem of accountability itself. Alternatively, the Congress could require the administration to act, by passing the Senate-adopted version of the Magnitsky Rule of Law and Accountability Act, which applies targeted sanctions to human rights violators world-wide, or adopting similar legislation specific to Bahrain.

As you consider this, Mr. Chairman, keep in mind that the Bahraini government has itself imposed a de-facto visa ban on certain Americans. I was allowed to visit Bahrain once, but Human Rights Watch staff who focus primarily on Bahrain have been denied visas for months. Employees of other human rights and democracy promotion organizations and journalists have also been banned. Even a delegation from the US Institute for Peace was turned back at the airport several weeks ago, apparently because of USIP publications that the government took issue with. Bahrain denies Americans visas when it disagrees with what they say or write. It could hardly complain if the United States denied Bahrainis visas when they are credibly alleged to have committed crimes.

Let me close with a few words about why I believe that resolving the crisis in Bahrain is important to the United States.

We all know the role that Bahrain plays in hosting the US Navy's 5th Fleet, and helping the US military project its power in the Persian Gulf and contain Iran. US military leaders want to preserve their foothold in Bahrain, and one can understand why, in their view, this should be a paramount priority in US policy towards the country. It is also true that the US security partnership with Bahrain gives it a degree of influence with the ruling family, which the administration naturally wishes to preserve.

But it is important to remember what is equally true -- that America's military presence on the island won't be sustainable if the government responds to protest by intensifying violent repression to an intolerable point. If Bahrain's rulers believe the United States will continue to depend on them no matter what they do, they will be less likely to heed US concerns, increasing the likelihood of an outcome that forces a fundamental breach between the two countries. Showing a willingness to reconsider the partnership may be the best way to save it.

And then there is a larger, regional concern. Indeed, the problem with US policy toward Bahrain is not that it has taken geopolitics into account. It's that US officials may be calculating the geopolitics incorrectly. There is a growing feeling in the Middle East that, however high-minded President Obama's rhetoric about democracy may be, the United States will always line up with its autocratic Sunni allies in the Gulf against their opponents, especially if those opponents are Shiite. To many, it looks like the United States opposes dictators like Syria's Bashar-al Assad not for the sake of oppressed people, but to aid one side in a Saudi-Iranian cold war. The Iranian government, as well as every anti-American group in the region, benefits from this perception. Bahrain is the place where the United States can disprove it.

I came away from my visit to Bahrain in April believing that there is still time for Bahrain to resolve its crisis, and for the United States to help. The government is persecuting its critics, but not killing them on a large scale as in Syria. As everyone we met told us, Bahrain is a small country: The protagonists on both sides know each other, and there still seems to be room for compromise. But the window is rapidly closing, and once it shuts it will be hard to turn back. Preventing this outcome by holding Bahrain to the commitments it made to the Bassiouni Commission, and encouraging political compromise, is America's most urgent interest in Bahrain.

Mr. McGOVERN: Thank you.

Mr. Sollom?

STATEMENT OF RICHARD SOLLLOM

Mr. SOLLLOM: Good afternoon, Mr. Chairman and distinguished members of the Tom Lantos Human Rights Commission. Mr. Chairman, in the interest of time I would like to summarize my remarks and ask that my full testimony be entered into the record.

Mr. McGOVERN: Without objection.

Mr. SOLLLOM: In addition, I would like to submit two recent PHR reports on Bahrain by Physicians for Human Rights.

Mr. McGOVERN: Without objection.

Mr. SOLLLOM: As deputy director of PHR, I have traveled to Bahrain three times over the past 18 months to investigate human rights violations, most recently this past April. When I testified before this commission last year, I was hopeful that the kingdom of Bahrain would begin to improve its human rights record. Instead, I find the government fixated on rhetoric rather than results.

I will focus my comments today on three areas of concern. The targeting of doctors, the militarization of Bahrain's health system, and excessive use of force. First, I would like to update you on the ongoing case against the Bahraini doctors. Forty eight of the country's leading medical specialists were detained, tortured, and forced to sign false confessions last year. A military court convicted them of spurious charges including attempting to overthrow the regime. Following international pressure, the Bahraini Government did transfer these 48 cases from military to civilian court.

The BICI devotes ten percent of its 500-page report to the events at Salmaniya Hospital, and concluded that allegations against the medics were unfounded. However, while nine medics were acquitted last month, another nine face up to five years in prison. The Court of Cassation will issue its verdict on the doctors' final appeal on October 1st. In addition to these 48 medics, I would like to draw your attention to three others who currently languish in Jaw Prison in Manama. They are Younis Ashoori, Hassan Salman al-Maatouq, Ahmed al-Mushatat. Contrary to government assertions, these three cases demonstrate that, indeed, not all cases were transferred to civilian courts and that not all medics have been released from detention.

The second and related concern is the ongoing militarization of Bahrain's largest hospital, Salmaniya Medical Complex. Over the past 18 months, the government has implemented policies and committed acts that instill widespread fear among many who seek medical treatment there. According to sick and wounded civilians whom I interviewed in April of 2012, this fear is due to, one, the ongoing presence of state security forces inside the hospital. Two, the systematic interrogation of incoming patients and visitors. And three, the subsequent beating, detention and prosecution of untold numbers of Shi'a who are suspected of having participated in demonstrations. Eight months following the BICI report, our assessment is that the government continues to violate principles of medical neutrality, harass Shi'a medical workers and impede patients from receiving care.

A third area of concern is the continued use of excessive force in Bahrain. For the past 500 days, Bahraini authorities have waged an unprecedented campaign against Shi'a civilians by weaponizing toxic chemical agents, so-called tear gas. I spoke with 16 survivors of such attacks. One young man reported that Bahraini police fired a tear gas cannister directly at him, fracturing facial bones and rupturing his left eye. His medical records show that surgeons were unsuccessful in saving his eye. He is now permanently blind.

Bahraini authorities go one malicious step further and carry out raids in Shi'a neighborhoods, storming down doors and breaking windows for the sole purpose of terrorizing Shi'a families with tear gas inside their homes. Over the past year we have documented the serious long-term harm that results from these unprovoked and flagrant attacks. Miscarriages, severe respiratory distress resulting in premature death, and genetic mutations causing deformities are some of the health consequences we predict will become more prevalent in Bahrain as a direct result of police violence.

Government assertions that perpetrators of human rights abuses are being held accountable are tenuous, and allegations of torture persist. I received three corroborated testimonies from three young protesters who reported being tortured by police in makeshift detention facilities such as at the former international youth hostel next to an existing police station in Manama. Of the more 2,900 arrests made during the ten-week state of emergency last year, the BICI received 559 allegations of torture. If the government were committed to ending impunity, it would investigate all of these abuses and the 20 deaths that the BICI attributed to Bahraini security forces alone. As of last month, the government has charged approximately 15 low-ranking security officials regarding abuses against protestors. To date, I am unaware of any high-ranking official who has been held to account, this despite the BICI conclusion that such a pattern of abuse could not have happened without the knowledge of higher echelons of security forces.

Employing international advisors, conducting human rights training seminars and establishing new codes of conduct are all well and good, but if the government truly wanted to improve their human rights record it would stop tear gassing families inside their homes and it would simply stop torturing.

In conclusion, I propose the following actions on the part of the U.S. Government. Members of Congress should support Congressman McDermott's Medical Neutrality bill, H.R. 2643, the Administration should withhold all military assistance to Bahrain until the government makes measurable progress on human rights, and it should continue to deny export licenses for tear gas to Bahrain until the government adheres to U.N. guidelines on the use of force and firearms.

Thank you again for inviting me here today, and I would be happy to answer any questions you might have.

[The statement of Mr. Sollom follows:]

**Written Testimony of Richard Sollom, MA, MPH
Deputy Director, Physicians for Human Rights (PHR)
Before the Tom Lantos Human Rights Commission
Hearing: "Implementation of the Bahrain Independent Commission of Inquiry Report"
Wednesday, August 01, 2012
1:00 PM – 3:00 PM
Rayburn 2237**

Introduction

Good morning, Mr. Chairman and distinguished members of the Tom Lantos Human Rights Commission.

On behalf of Physicians for Human Rights (PHR), I would like to thank Chairman McGovern and Chairman Wolf for holding this important hearing today, and for the invitation to testify before you.

Mr. Chairman, I ask that my full testimony be entered into the record, as well as our two reports on Bahrain.

Physicians for Human Rights (PHR) uses medicine and science to investigate and expose human rights violations. We work to prevent rights abuses by seeking justice and holding offenders accountable. As PHR's Deputy Director, I have had the opportunity to travel to Bahrain three times over the past 18 months to investigate human rights violations, most recently this April. During this April 2012 investigation, I assessed the ongoing human rights situation on the ground, and observed continuing human rights violations committed by Bahraini security forces against civilians. This investigation resulted in the publication of two separate reports. The first, which we released in May 2012, is entitled "Under the Gun: Ongoing Assaults on Bahrain's Health System." The second report, released today, August 1, is entitled "Weaponizing 'Tear Gas': Bahrain's Unprecedented Use of Toxic Chemical Agents Against Civilians." Both reports were co-authored by myself and Holly Atkinson, MD, FACP, Past President of PHR, Assistant Professor of Medicine and Director of the Human Rights Program at Mount Sinai School of Medicine, Assistant Professor of Public Health at Weill Medical College of Cornell University.

Bahrain still smolders amid ongoing civil unrest 18 months after protesters began calling for political reform. Governments in the region have resorted to lethal force or have precipitated outright civil war in response to the outcries for political reform and human rights in the context of the "Arab awakening." Bahrain's Sunni monarchy notably has silenced dissent and punished the opposition by rounding up doctors and peaceful protesters, torturing many of them, filing trumped-up charges, and imposing harsh prison sentences. The vicious crackdown in Bahrain has received global attention and warranted a special international commission of inquiry into Bahrain's excessive use of force and human rights violations. Throughout this time, Physicians for Human Rights has played a leading role in defense of our medical colleagues whose rights have been severely violated in Bahrain.

Last year, following international pressure, the King of Bahrain established the Bahrain Independent Commission of Inquiry (BICI) to investigate alleged human rights violations in response to the February and March 2011 protests. The final report details myriad abuses on the part of the Bahraini security forces, including acts of torture and excessive use of force. The Government of Bahrain then established a National Commission to implement recommendations from the BICI final report, but the Government has yet to take substantive action on key recommendations. Since the crackdown began in 2011, Bahraini security forces continue to operate with impunity.

I will focus my comments today on three categories of rights violations I have documented in Bahrain: the targeting of doctors, the militarization of Bahrain's health system, and excessive use of force.

Attacks on Medical Professionals

Last year, 48 of Bahrain's leading medical specialists were targeted, detained, tortured, and forced to sign false confessions. A military court convicted them of fabricated charges, including inciting hatred of the regime, occupying Salmaniya Hospital (the country's largest hospital, which employs some 4,000 staff), and attempting to overthrow the government. The BICI devotes 10 percent of its 500-page report to the events at Salmaniya Hospital and concluded that allegations against the medics were unfounded. Following international pressure, the Government of Bahrain transferred some of the medics' trials from military to civilian court. While nine medics were acquitted last month, another nine face up to five years in prison. The Court of Cassation will issue its verdict on the doctors' final appeal on October 1, 2012.

In addition to the 48 medics arrested and detained last year, three others currently languish in Jaw prison. They are Younis Ashouri, Hassan Salman al-Maatouq and Ahmed al-Mushatat. Contrary to the Government of Bahrain's assertions, these three cases demonstrate that indeed not all of the medics' cases were transferred to civilian courts and that not all medics have been released from detention. Although the BICI report recommended that the Government of Bahrain independently and impartially investigate allegations of torture according to the standards in the United Nations "Istanbul Protocol," to date no investigation has been conducted regarding the medics' allegations of torture while in detention.

In addition to facing judicial proceedings, these medical professionals were removed from their positions at Salmaniya Hospital. Many of those who held high-level positions at the hospital were removed from their posts without being reinstated to other positions. Other physicians and nurses were removed from their posts and transferred to departments outside of their area of expertise. So far, the Government of Bahrain has not rectified this injustice and has not offered reparations. What has happened to Bahrain's health care system is a reflection of the broader problem facing the country –

that suspected political opponents are silenced, harassed, or outright attacked and perpetrators of abuse face no accountability for their actions.

Militarization of Health Care

Over the past 18 months, the Government has implemented policies and committed acts that instill widespread fear among many who seek medical treatment. Eight months following the BICI report, our assessment is that the Government continues to violate principles of medical neutrality, harass Shi'a medical workers, and impede patients from receiving care. According to sick and wounded civilians whom I interviewed in April 2012, this fear is due to:

1. The ongoing presence of State security forces inside Salmaniya Hospital
2. The systematic interrogation of incoming patients and visitors, and
3. The subsequent beating, detention, and prosecution of untold numbers of Shi'a who are suspected of having participated in street protests.

On 16 March 2011, the Bahraini government invited 1,500 Arab Gulf-state soldiers (two-thirds from Saudi Arabia) into the Kingdom. It also stationed light infantry tanks outside Salmaniya Hospital. At the same time, the Government of Bahrain sent its own heavily armed and masked security forces inside hospital wards where they beat, tortured, and interrogated wounded protesters and the medical workers who treated them. Physicians for Human Rights documented these serious breaches of medical neutrality in its April 2011 report, "Do No Harm: A Call for Bahrain to End Systematic Attacks on Doctors and Patients."

According to four family members of patients at Salmaniya Hospital whom PHR interviewed in April 2012, guards stop all incoming cars and pedestrians. They first ask each person his or her name and village of residence, from which the guards can easily discern whether that person is likely Shi'a or Sunni. Next, the guards demand to know from visitors the reason they are there, and from incoming patients the nature of their medical issues. Anyone presenting with physical wounds or suspected teargas-related injury is brought to security forces inside Salmaniya Hospital for further interrogation. Three patients also reported that anyone driving a wounded protester to Salmaniya Hospital is suspect, and one such person was even accused of having caused the injury. Throughout the hospital, there are now 400 newly installed security cameras operated by the Ministry of Interior, according to an engineer PHR interviewed.

As a result of the continuing presence of security forces at the facility, wounded individuals are instead seeking treatment at private facilities or in private homes that are used as makeshift clinics, where treatment options are often limited. Even patients who have injuries unrelated to involvement in protests are afraid to go to Salmaniya Hospital because they fear that security forces there will suspect them of being a protester. The ongoing militarization of Bahrain's health care system thus leaves injured protesters and politically inactive civilians alike without accessible treatment for their injuries.

In addition to targeting medical professionals at Bahrain's public hospital, the government has also made it difficult for private medical workers to perform their jobs independently. On January 31 of this year, the Ministry of Health issued a "circular" to all private hospitals and clinics stating that all private facilities were required to report to government security authorities all incoming patients "with injuries due to suspected criminal activities and/or accidents irrespective [of] their causes," and citing criminal penalties for noncompliance. This interference with medical professionals' duty to provide impartial care forces medical workers to become agents of the state, and constitutes an overt violation of medical neutrality.

As PHR documents in our report released in May 2012, I interviewed individuals who were injured during protests who were afraid to seek urgently needed medical care in private facilities for their injuries, for fear that they would be reported to the authorities. A tear gas injury, for example, would alert medical professionals that they could be a protester. Some physicians have refused to treat anyone with protest-related injuries, limiting treatment options for individuals who have been injured by state security forces. The militarization of the health system has caused a breakdown in access to health care and the trust of patients in Bahrain's medical facilities.

Excessive Use of Force

Bahraini authorities have waged an unusually relentless campaign against its majority Shi'a population for over 500 days by weaponizing toxic chemical agents—so called tear gas. In Bahrain, law enforcement officials have deployed tear gas to punish protesters, inflict suffering, and suppress dissent. Usually perceived by the international community as a benign tool for crowd control, tear gas, especially when used in large quantities and in enclosed spaces, poses serious health risks and even causes death. Since February 2011, the Bahraini government has unleashed a torrent of these toxic chemical

agents against men, women, and children, including the elderly and infirm. I spoke with 16 survivors of such attacks. One young man reported that Bahraini police fired a tear gas canister directly at him, fracturing facial bones and rupturing his left eye. His medical records showed that surgeons were unsuccessful in saving his eye. He is now permanently blind.

Yet Bahraini authorities go one malicious step further and carry out raids in Shi'a neighborhoods, storming down doors and breaking windows for the sole purpose of terrorizing families with tear gas inside their homes. I interviewed several members of a large family this past April, for example, who were forced from their home after police stormed it, attempted to abduct a 15-year-old boy, and fired canisters containing toxic chemical agents into the house causing a 14-year-old girl to fall unconscious. Law enforcement officials then reportedly surrounded the exits, inhibiting escape. I also met with two sisters who reported that police shot tear gas canisters directly into their home on five separate occasions. On the second occasion, they reported police ripped protective covers off of the family's air conditioners and pulled sealant away from the windows from the outside, before throwing tear gas canisters through a window and yelling, "If you want freedom, come out to us." They reported that in the third incident, police broke through the front door and threw a tear gas canister into their home. Such attacks appear to discriminate against Bahrain's Shi'a majority population. Preliminary analysis of data suggests that the majority of Shi'a neighborhoods (comprising 80% of all neighborhoods in Bahrain) have been exposed to toxic chemical agent attacks at least once per week since February 2011. Sunni-dominated neighborhoods have largely remained free from toxic chemical agent attacks.

As PHR concluded in our report released today, the unlawful and unrestrained use of tear gas causes life-threatening harm to Bahraini citizens. Injured protesters whom PHR investigators examined suffered from blunt force trauma and lacerations to the head, torso, and limbs due to the impact of metal canisters being fired at them by law enforcement officials at close range; other civilians had family members die allegedly from complications related to toxic chemical agent exposure, or reported suffering miscarriages following persistent exposure to tear gas. PHR concluded that (1) Government authorities have routinely violated every U.N. principle governing police use of force, and that (2) Bahraini law enforcement officials have also effectively transformed toxic chemical agents into weapons used to assail Shi'a civilians inside their homes and cars. Such unprovoked and flagrant assaults on families—who pose no threat to the safety of others—flout international human rights law and constitute torture, cruel, and inhuman treatment. The weaponized toxic chemical agent attacks against Bahraini civilians are intentional—and may be official policy—because of the frequency of the attacks by officials throughout the police force and the lack of accountability for those who perpetrate the attacks.

These attacks on civilians demonstrate a complete lack of regard by the Government of Bahrain for the safety, health, and well-being of its own citizens. In the absence of a thorough and impartial investigation into law enforcement officials' excessive use of force and the establishment of credible accountability mechanisms, law enforcement officials will continue to assail civilians in a system of impunity. Government assertions that perpetrators of human rights abuses are being held accountable are tenuous, and allegations of torture persist. I received corroborated testimonies from three young protesters who reported being tortured by police in makeshift detention centers, for example, at the former international youth hostel next to an existing police station. Of the more than 2,900 arrests made during the 10-week state of emergency last year, the BICI received 559 allegations of torture. If the Government were committed to ending impunity, it would investigate these abuses and the 20 deaths that the BICI attributed to Bahraini security forces. As of last month, the Government of Bahrain has charged fifteen low-ranking security officials regarding abuses against protesters. To date, I am unaware of any high-ranking official who has been held to account, despite the BICI conclusion that such a pattern of abuse could not have happened without the knowledge of those in the higher echelons of the security forces.

Employing international advisors, conducting human rights trainings, and establishing new codes of conduct are all well and good; but if the Government truly wanted to improve their human rights record, it would stop tear gassing families inside their homes, and it would simply stop torturing.

Key recommendations in the BICI report include the establishment of a standing independent body to investigate complaints of excessive use of force and an independent and impartial mechanism to hold government actors accountable for their responsibility in attacks on civilians. In the time since the BICI report was released, Bahraini law enforcement officials have continued to use excessive force against protesters and bystanders alike. Those within the Bahraini security apparatus responsible for using excessive force, including weaponizing tear gas, have not been held to account.

Countries like Bahrain that have so profoundly abused tear gas as a means to preemptively assault civilians should lose access to these toxic chemical agents. All other countries that have deployed these chemicals as per U.N. principles and with due respect for human life and dignity should reevaluate their use given the dangerous health consequences wrought by tear gas and should utilize these agents with extreme caution. The Government of Bahrain should immediately

implement the BICI report recommendations that call for impartial investigations of excessive use of force and attacks on civilians and for effective accountability mechanisms.

Twenty-five years ago, PHR documented the long-term health effects of tear gas used indiscriminately against civilian protesters in South Korea. As physicians we were then compelled to question whether the further use of these toxic chemical agents could be condoned under any circumstances. The extensive and persistent use of tear gas in Bahrain – unprecedented in the 100-year history of tear gas use against civilians throughout the world—compels PHR to once again call the international community’s attention to the known and still unknown serious health consequences of tear gas, including death. As human rights advocates and health professionals, we are ethically obligated to highlight the toxic and lethal effects of tear gas and its indiscriminate and illegal use in Bahrain.

Conclusion

When I testified before this commission last year, I was hopeful that, with pressure from the United States Government and members of the international community, the Kingdom of Bahrain would begin to make meaningful and permanent reforms that would reduce, if not erase, the blemish of last year’s events from Bahrain’s human rights record. Instead I find a Government fixated on rhetoric rather than results. It is time for the Government of Bahrain to live up to its promises, and to the expectations of its citizens.

Recommendations

I propose the following actions on the part of the US Government:

Members of Congress should support the Medical Neutrality Protection Act, introduced by Congressman McDermott, H.R. 2643, which would:

1. Suspend non-humanitarian foreign assistance to countries violating medical neutrality;
2. Ban the issuance of visas to officials who ordered or engaged in any violation of medical neutrality;
3. Add reporting on violations of medical neutrality to annual State Department human rights country reports; and
4. Encourage United States missions abroad to conduct investigations of alleged violations of medical neutrality.

The Administration should withhold all military assistance to Bahrain until the Government of Bahrain makes measurable progress on human rights, including an end to the militarization of its public health system. It should also continue to deny export licenses for tear gas to Bahrain until the Government of Bahrain adheres to U.N. Guidelines on the Use of Force regarding its tear gas use, investigates the weaponization of tear gas, and establishes accountability for law enforcement officials who use excessive force or otherwise violate the U.N. Guidelines. The Administration should, furthermore, take the lead on seeking the appointment of a U.N. Special Rapporteur on Medical Neutrality. Finally, the Administration should ensure that policy decisions regarding Bahrain support human rights protections and progress toward democracy.

I believe that through these efforts, the United States government can become an international leader in the protection and promotion of medical neutrality. I thank you again for the opportunity to appear before you today, and I am happy to answer any questions you might have.

Mr. McGOVERN: Well, I thank you all very much for being here and I thank you for your testimony. In interest of time, because we have this room for a limited period of time and I know some of my colleagues have to go, I want to yield first to my friend from Indiana, Mr. Burton, for some comments and questions.

Mr. BURTON: First of all, let me thank all of you for taking your time to come here, and we all want to make sure that human rights violations are eliminated or at least minimized. And toward that end, I appreciate what you folks are trying to do.

I would just like to go through a few observations that I have. I am not sure I am going to be able to ask any questions because I have some constituents coming. But if somebody is in a movie theater and they holler fire, they may not be responsible for the injuries that take place but they do cause a mass exodus. And sometimes radicals who stir people up aren't directly involved in an

action, but they are the ones who stir it up and try to cause the problems that end up hurting a lot of people. I think that is one of the things that should be considered.

I believe that the government, the royal family, should and wants to negotiate without any obstructions. And after what you said, I hope that that happens. Of the report's recommendations, according to the information I have 18 of the 26 recommendations have been worked out and seven are still pending and there is one that is not yet applicable. I don't know which one that is.

As far as law enforcement in concerned, they have hired the Miami-Dade police chief, former Chief Timoney, John Timoney, to come up with a new code of conduct, and I am sure that he is expressing the need for no human rights violations. There have been 122 cases of misconduct. There may be more. That is all that I have in front of me. Twenty one officers have been indicted or convicted, including a lieutenant colonel, and I guess one of them was for murder. So there may be steps that have to be taken beyond this, but there has been some steps taken in the right direction.

I believe in dialogue and I talked to the Crown Prince about that. He said that he wants that as well, and according to their ambassador, and I can only take her at her word, she says the opposition failed to take advantage of each opportunity for negotiation and dialogue. I hope that is not the case, but I hope you continue and they continue to try to get everybody together because that is far preferable to the carnage that occurs when people are firebombed in their homes or when people are hurt from tear gas in these demonstrations.

Talked about this being one of the worst human rights records in the world. I can't believe anybody thinks it is worse than China, but nevertheless that is one of the things that I observed.

Now you talked about the gerrymandering. In Illinois, we are going to lose possibly five seats because of what the Democrats did to us in gerrymandering. In Texas, it is just the opposite. So I want to tell you in this election year and around the world, gerrymandering is a way of life. I don't know how in the heck you are ever going to stop it. But I hope you will figure out a way to do it because I think it would be great. As a matter of fact, I had a guy in the opposition party call me in my home one day, and he said, where do you live, Danny? And I told him. I said, what do you want to know for? You are the opposition. He says, well, I don't want to put you in with Carson because I don't want you two running against each other, so I am going to give you a great district. Well, I didn't object to that but nevertheless gerrymandering is a fact of life, and I think you know what I am talking about.

Somebody said that the Crown Prince has been marginalized. I hope before I leave you can tell me who marginalized him, because I did not get that impression when I was there.

It was also said that there was a quid pro quo for weapons. I don't believe our government does that, but if you can give me an indication of where there was a quid pro quo for weapons I would like to know what it is. I think it is important that we do make sure that there is stability in the region not only from the 5th Fleet, but so that the Bahrainis have the ability to protect themselves as well.

You talked about the visas and stop people from getting visas who have committed these atrocities or whatever you call them. I don't know how you decide who doesn't get the visas. Is it a court of law or is it somebody that just makes a comment from a human rights group? I mean there has to be some validity to the charges against them if you are going to take away a visa right.

You talked about unprovoked attacks. That is a subjective comment. I mean if somebody is throwing a firebomb at somebody's house and a lot of people's kids are in there that might provoke somebody. In combat in war, many times people do things beyond the pale because of the provocation that took place by injuring somebody that is in close proximity to them.

Tear gas. Tear gas is used in the United States. We have used it here not too far back. We had the demonstrators on Wall Street. We have had people out in California, in Stockton, and people all over the place, and sometimes the government has to go in and break them up, and sometimes they have to take them to jail at least for a period of time.

Students at the university. I was at the university and I spoke, as did my wife, and I had them show me some movies or videos of people beating the hell out of students at the university. And those students were beaten up not because they were participating in any operation against the government, they were being beaten up by people who were on the other side of the issue. And they documented that for me. Law enforcement. Well, we will pass on that.

Let us see, 92 percent according to the information I have of the people who have been laid off or lost their jobs have been rehired and they are working on the other eight percent. I don't know how you decide whether they are getting a better job or a worse job or less money. Once again, I think unless you look at all of them you can't come up with an answer, so it is fairly subjective.

I think beating Bahrain, who has been an ally of ours forever, over the head is not the best way to get them to change. I think the best way to get them to change is through engagement, and I think that you and people like you who say they are willing to come to the table, I give you my word that I will talk to the people in their government and say I hope that you will come to them and sit down at the table and try to work out your differences. Now you may not reach 100 percent agreement but you may reach some. But I was convinced, and I hope I was convinced accurately that the Crown Prince does believe that there ought to be a negotiation, and I think he wants to do that.

And finally, let me just say that I really appreciate, I know you guys have been involved with a lot of hard work, Doctor. I know that you have worked in a number of countries. I saw what your background is. And human rights violations whether in a hospital, a medical situation or on the street is something that should not be tolerated. But Bahrain has been an ally. They have been a friend of ours from the standpoint of security. We have got the 5th Fleet there. And so while there have been some violations of human rights in the past, I do believe that they want to get away from that and get on with solving the problems so that there will be stability in the country. So I will contact them and tell them that I hope that they will adhere to what you said today and sit down with you, and I hope that everything will be worked out.

And with that, thank you very much. I am sorry I have to leave. But if you want to, if they want to respond to who is marginalizing the Crown Prince, I would like to know who that is.

Mr. MALINOWSKI: Sure. When I say he has been marginalized, what I mean in particular is that he had specific responsibilities until last year. He was in charge of the dialogue process. He was in charge of a number of institutions in Bahrain that were very important in promoting economic development, being less dependent on oil and on Saudi Arabia, and promoting education and more broad-based economic development in the country, and he was literally stripped of all of those responsibilities.

Mr. BURTON: By whom?

Mr. MALINOWSKI: Well, ultimately you have to ask his father that question. There are other members of the family, the Defense Minister, the head of the armed forces, the Prime Minister, who is the longest serving Prime Minister anywhere in the world, who are seen as --

Mr. BURTON: It is his uncle, is it not?

Mr. MALINOWSKI: -- that is right -- who are seen as much more hardline and opposed to compromise. The inner workings of the family I should not be commenting about because I don't know. But the result was that he was stripped of those responsibilities. He is, I think, committed to a reform agenda, but he is less capable of pursuing it today than he was then.

And on dialogue, I do want to make sure that I just quickly address that. There was an offer, I think, a genuine offer from the Crown Prince to the opposition early last year to sit down and talk things through. And I think most independent analysts believe that the opposition made a mistake early last year in not accepting that offer. But I think since then it is also fair to say that offer has not been renewed. There was a dialogue, as the Bahraini Government will tell you, in which they invited about 300 people of whom a tiny fraction were members of the opposition, and anybody could make a speech about anything they wanted. I was thinking of an analogy for this. I mean imagine if the the House leadership had a problem with President Obama over, say, I don't know, the budget.

Mr. BURTON: They do.

Mr. MALINOWSKI: Right. And you said, President, you need to sit down with us and we need to work this out. Let us have a real dialogue. And the President came back to you and said, Congressman, I am all for a dialogue. I am going to invite you to the White House next week, but by the way I am also inviting the Audubon Society, the Birdwatchers Club, the Chamber of Commerce, the people who are concerned about traffic on Route 66, and they can all make a speech for ten minutes. You wouldn't come.

Mr. BURTON: That is a very creative analogy, very creative. I think I will have to remember that.

But let me just say, I met with the Crown Prince. I met with other leaders in the government related to the royal family. I do not believe he has been marginalized. They may have changed his responsibilities. But as I said to you before, I will do what I can to see that a dialogue does take place between the ruling government and the people who are having difficulties. But I hope that you will carry back the message that the way to solve problems is not through firebombing and attacking and those sorts of things. That only leads to more and more violence, because any government who is attacked with firebombs and their families are threatened and everything else, is going to respond. They are just going to do that.

Thank you, Mr. Chairman.

Mr. MATAR: Consistent about this, about refusing the violence, and as I said, we are inviting the Crown Prince or we are ready to accept his invitation. We totally appreciate your support for such an initiative. I hope this hearing today will be a historical day where after this hearing we will see the negotiation with the ruling family will start after this hearing.

Mr. McGOVERN: Thank you, Mr. Matar.

Ms. Woolsey?

Ms. WOOLSEY: Thank you. When I visited Bahrain it was to sit the, no end because it went from the Arab Spring to the Arab continuing, and at the same time we were having the Occupier Movement that continues in our country, and so it was just so clear to me. And I said to the members of the regime that we met with, the King, the Crown Prince, the Prime Minister that this is what is happening in this world. People who aren't being heard or feel like they are not benefiting from the benefits that they are bringing to their countries want their fair share. And they aren't going to be quieted.

And it was so obvious that the Crown Prince, indeed, has one set of ideas, and there is a hardline in the royal family that doesn't think like he does. But I said the same thing to them that Bahrain could be an example of how to make this work. It is a tiny, I don't know if it is wealthy but is well off, I think it is just a lovely country, could be an example that we, this doesn't have to be. You don't have to have all this acting out. Because people are going to be heard. They are going to be heard in our country too. If they don't feel like they are getting their fair share, they aren't, they are going to demand it, and they are going to do it in Bahrain.

Now one of the disturbing things that I learned while I was there was that the lower house, what is it called? Okay, that that was the elected members. Well, the Shi'a were resigning in great numbers, and they did, so I think that which then resulted in a new election where even more Sunni represent now. So I ask you as part of the opposition, Matar, how did that benefit the opposition when you are not part of the discussion there in your government?

Mr. MATAR: As I said from the beginning, Bahrain is considered as an authoritarian regime. Just think, why Bahrain is considered as authoritarian regime and they have election? Why Bahrain is considered in a lower ranking than Qatar, which they don't have a parliament? Their ranking is below Oman, and Oman does not have an elected parliament also, and they don't have even Constitution there. So why Bahrain is worse? This can give you an image how real the election and how power is our parliament in Bahrain.

We are ready to be engaged. We are not asking to go for constitutional monarchy tomorrow. We are ready to engage on a clear road map where the moderates in this regime --

Ms. WOOLSEY: I am sure that and I believe in your beliefs for you, but being part of a real democracy, inside-outside works better than just outside. You have people inside elected by their people and then the outside groups, it really -- I am surprised that that happened that way. I am sorry it happened that way.

I do have a question for you, Tom. No, no, I don't. It is for Mr. Sollom. Are there other countries that take their doctors and try them, and if so, who are those other countries? And then as a part of that what is the fate of those who were convicted in June? How are they being treated, and the ones that are still in custody?

Mr. SOLLUM: Sure. Well, let me start with the latter. There is a group of 48 medical specialists, so mostly doctors but also nurses, hospital administrators, paramedics, et cetera. They

were divided into two groups. Twenty faced felony charges and up to 15 years in prison, and the other group of 28 faced misdemeanor charges. Their trial is ongoing, the group of the 28. Those facing felony charges, nine were acquitted last month so that is very good news. The bad news, unfortunately, is that nine still face these felony charges with reduced sentences but still up to five years. Their final appeal at the highest court of appeal, at the Court of Cassation, was supposed to happen this past Monday. They deferred, which is customary in Bahrain, and that is now scheduled for October 4th. It should also be noted that these nine medical specialists who are some of the country's leading medical specialists, actually some, I believe, were doctors of the royal family members. In any event, they can be arrested at any time. So it is a precarious situation.

Regarding attacks on doctors throughout the world, it is actually one of the reasons why Physicians for Human Rights was founded by physicians over 25 years ago. I, myself, over the past couple of years, have been to Libya and Egypt, Bahrain several times, and just in those countries we see this disturbing pattern of where physicians specifically have been targeted by their governments. And one of the reasons, I would argue, is that these are people on the front line often times who are treating protesters or opposition people and sometimes they are then targeted as a result of them doing their ethical responsibility of treating these people.

Ms. WOOLSEY: Okay, I know we have a limited time so I will yield to our chairman.

Mr. McGOVERN: Well, thank you very much. And you have been an excellent panel. This has been fascinating. I just want to say a few things and ask a couple of very quick questions because we need to be out of this room shortly.

Let me make it clear that Bahrain is an ally of the United States and that alliance is important and that friendship is important. But it is also true that a friend can be a critic. There is nothing inconsistent about that. So by raising some of these issues like the issues of human rights doesn't mean that we are trying to trash our relationship with the country of Bahrain. It means that we care about human rights and we care about democracy and strong civilian institutions. Those are all very, very important.

I think it is also important to state that the issue of human rights is not going to go away. One of the reasons why this commission was formed was to focus on the issue of human rights in a way that a lot of the other committees in Congress don't always do. And so we are not going away. I mean it may be different members of Congress, but this commission will remain and it will continue to focus on human rights. So this issue is not going to go away.

Mr. Malinowski, you talked about kind of the Magnitsky model. As you offer the Magnitsky bill in the House, which was originally global, then in committee it got Russian-specific, it may be global again, who knows, by the time it reaches the floor with the Russia trade agreement. But I think that is something that we ought to pursue for this reason. In governments where people who commit human rights violations are not held accountable where there is a culture of impunity, there has to be some consequence for these people who behave in a bad way who are guilty of human rights violations. And if that consequence is that you are on a list that you cannot come to the United States, and hopefully other countries will follow suit, and also assets that you have in the United States can also be frozen, I mean I think that is a signal that maybe the world is kind of coalescing around this concept that when you commit human rights violations there is a consequence.

And that is why I think in the case of Bahrain it is so important to the people in the security

forces who have been guilty of human rights violations are held to account. Because it shows there is a true commitment to human rights, and it shows that within the country if you do something bad, you are guilty of human rights violations, you will be held to account.

I guess my two questions. First of all, to all of you who are kind of monitoring the human rights and kind of the democracy building in Bahrain, this issue of the Bahraini Government being less willing to give you access. I mean I want to be clear, your interpretation of why, is it you believe because of the reports that you have written, or could it be that you applied for a visa too late in the process or it conflicted with some other activities going on? I just want to be clear that your interpretation is the Bahraini Government is denying you visas because of what you are writing and what you say.

Mr. MALINOWSKI: Well, I will speak for us, for Human Rights Watch. As I mentioned, I was given a visa at one point. It took months of back and forth, endless, eventually I did and met with senior government officials and had a very good visit. Had the opportunity to be arrested, which was a wonderful opportunity to talk to some of the police officers, slightly tongue in cheek.

But our researchers who specialize in Bahrain and are therefore well known to the Bahraini Government have been waiting for months and months and months for their visa applications to be approved with no response. They are not told for the most part you will never be allowed to come, they are just, well, it is not the right time, or give us a little bit more time or what, we haven't given you a visa? Let me look into that. And then months pass and nothing happens. It is not just human rights groups. It is also journalists. The U.S. Institute for Peace, not a human rights group, had a delegation that arrived at the airport in Manama a few weeks ago. They were turned back, and they were told it is because of things on the USIP website that were critical of the Government of Bahrain.

So it is not an absolutely consistent pattern. Some people do get in or maybe they get in once and they write something and they don't get in again. But I would call it an effective visa ban on certain American citizens based on what they have written and said about the government in the past.

Mr. McGOVERN: Mr. Sollom, do you --

Mr. SOLLUM: Sure. I am thinking back when Tom and I were sitting in your office about ten or eleven months ago with Bahrain's Foreign Minister in which we originally talked about this, and he gave us all assurances at that time that we were welcome to his country at any time. That we were to give him several days' notice and everything would be arranged. We took him up on that offer and I was immediately given a pretty rare five-year multiple entry visa. In January of this year I went back to Bahrain, I guess that was my second trip, and was not let in and was held at the airport for, gosh, about 12 hours.

My third trip I had requested to go for four weeks, and I actually would like to be on the record for saying why Physicians for Human Rights asked for such a long period of time. We are well known for doing epidemiologic work. This type of research enables us to quantify the prevalence and incidence of human rights violations. Had we received a visa for four weeks, we could have uncovered human rights violations perhaps on the various sides. Instead, we were given five days, not the days that I had requested. We had to change air tickets and lost quite a bit of money in the process, but we were allowed to be in the country for 120 hours.

So when the government criticizes me and my organization specifically for unbalanced

reporting, well, I would respectfully ask that when we do request to go in the country for a longer period of time there is a reason behind it. My third request was never responded to, so as Tom said, it is almost like an implicit ban.

Mr. McGOVERN: Mr. Campbell?

Mr. CAMPBELL: Well, if I could add, there is a long history of this, I mean I have been involved in Bahrain a long time. But one instance is that NDI had a resident representative in Bahrain invited there by the royal court. He had a residency permit that was renewed each year by the royal court. But when we ran afoul of the authorities, and when I say ran afoul, it really had to do with what we were saying or doing, he was deported. He was initially given 24 hours. He actually had a child that died in Bahrain, was buried in Bahrain. He was given 48 hours to leave. They eventually extended it, I think, for a week, but he was deported. And he had his passport taken and was escorted to the airplane. And we have had many staff people turned around at the airport. But this has been going on for a long, long time.

Personally, I am not sure that that is the biggest issue in the world, honestly. I mean this is part of the, I think we all recognize that what we do is inherently difficult. It has these kinds of difficulties. We understand that relationships of governments are not always going to be perfect because sometimes we are critical, or in the case of NDI, sometimes we are working with opposition parties although we always work with the government.

I think the bigger issue is whether or not there is a way of having an open channel of communication. And to me what has changed over the past couple of years, but particularly since the events of the Arab Spring in February 2011, is that that channel of communication is very, very difficult, and it is very difficult to sort of discuss and say, look, this is what we are trying to do and here is what we offer. So I think that is what has changed.

Mr. McGOVERN: You all made recommendations in your testimony about what the United States can do. Obviously we would like to see that the BICI report recommendations get fully implemented. I mean that is obviously something we all care about and it is something we can actually measure whether or not it is being implemented. I mean if there is one thing we can do right now, what is it?

Mr. Matar, do you want to --

Mr. MATAR: Yes, regarding the recommendations, it would be great if some member of the Congress or the Senate can push for mediation and for opening this dialogue. And I just announced that we are ready for it and we can --

Mr. McGOVERN: Mr. Burton is going to take care of that.

Mr. MATAR: Yes, great. And we would like to see that Congress is moving forward to bridge the gap between the assessment of all the international neutral observers and the assessment of U.S. Government, specifically about the situation of our judicial system, about the political rights, and about the torture and secret detention center and all type of torture. So the first thing is bringing a good assessment, then we can move forward and have a much, let's say a constructive role in this issue in Bahrain.

Mr. McGOVERN: Mr. Campbell?

Mr. CAMPBELL: If I could make one recommendation it would be, and honestly, it is more to the Administration and certainly not to this commission, but to the Administration. And I was a little surprised at Assistant Secretary Posner's comments today to tell you the truth. I thought the tone had changed a little bit for the worse from past comments he has made. But when we talk about Bahrain being a friend and an ally, I agree, but sometimes I think that that comment is made about the government, the ruling family. It is not really made about the people of Bahrain. And our distinguished colleague, Matar Matar, was a member of parliament, is a leading member, a leader of what is indisputably the largest political society in the country that has the largest number of adherents and members. And so I would sort of suggest that, for example, addressing comments to this gentleman who has a political background who is clearly representing a large number of people, is just as important as dealing with a government minister who may or may not be as representative.

So my only recommendation is that I think Bahrain has dug in, Saudi Arabia has dug in, I mean Saudi Arabia, I think, has drawn a line in the sand, the Arab Spring stops here. And I think the dialogue has to be with the Bahraini people, and I know that is difficult and I know it is easy to say that, difficult to do it. But my only recommendation, and perhaps I am overreacting to Mike Posner, but is to make sure that we are addressing our comments broadly to the people and not just to the representatives of the government.

Mr. McGOVERN: I think that is a good point. Thank you. And before Mr. Malinowski and Mr. Sollom kind of conclude, I mean we need to figure out a way in the short term to, as Mr. Campbell said, kind of open up channels of dialogue. Because what ends up happening for us is you issue reports or there is an article in the newspaper, we have briefings then we meet with the government and they dispute what is in the paper and what is in the reports, and just kind of ping-pong back and forth. And it just seems to me that rather than us kind of being the intermediaries, there ought to be more direct communication, which I think would be beneficial to everybody. And we need to figure out how to do that. I mean when we had that meeting with the Foreign Minister, I think it was important for me because I am getting two different sides of the story here. I think that meeting was helpful. I think a lot of the promises that were made weren't followed through with, but nonetheless I think everybody in one room together having a very frank conversation on these issues, I think is very, very important.

And the reason why I asked the issue about the visas is because I think that is a legitimate issue, I mean a very legitimate issue from somebody who tries to observe human rights. If we can't get people in there to monitor the situation, if you can't get people in there to take testimonies, if you can't get people in there to observe, then it is just very hard to get information. And I think the more difficult it is to be able to get human rights monitors to go into Bahrain, I think that reflects poorly, I think, on the government.

But anyway, let me let you finish with your one recommendation that we could do soon.

Mr. MALINOWSKI: Well, the solution to this problem can only come through dialogue, so of course the main thing we should be doing is promoting that and encouraging, frankly, mediation. The problem is, whatever Mr. Posner may have said, the Administration has proposed that. It has been pushing it for months and months and months. Individual members of Congress have made that suggestion to the government and the answer has been no, we are not interested in that.

So barring that, assuming that this crisis continues for the foreseeable future, the one thing we can do is to try to keep the good guys alive on both sides so that when the time is more ripe for compromise they are still alive. The Administration has invested a lot in trying to keep the good guys on the government side alive, and I appreciate what they have done and why they have done that. But I think much more needs to be done and they need to be much more focused on trying to keep the good guys alive on the opposition side. So as Mr. Campbell said, addressing them more, telling them more about what the United States is doing, and I believe taking some actions like the one I proposed, which would help to show them that their concerns are being heeded even as the U.S. Government is selling arms to the government, it is also taking some steps to heed their concerns, providing some measure of justice through our own laws when there is none inside of Bahrain. I think that would allow leaders like my friend here to be able to go back to those youth on the street who are throwing Molotovs, and to say with greater credibility, be patient, because we do have friends who are going to stand by us. If he can't say that we are going to have more violence.

Mr. McGOVERN: Mr. Sollom?

Mr. SOLLUM: I agree with the thoughtful comments that my colleagues just made. If I could just add one particular point regarding the 60-page report that Physicians for Human Rights released today. If I could ask for your support, Congressman, in helping us dialogue, actually, with the government. I understand that the government having read our report called it absurd, and that there is actually no medical or scientific evidence to support our claims. I would just like to say that I would appreciate more thoughtful comments from the government. And there are 72 peer-reviewed journal articles and medical and scientific journals that talk about the toxic effects of these toxic chemical agents which we cite in this report. Physicians for Human Rights would be more than happy to meet with government officials and talk about our findings, because these are quite alarming not only for Bahrain but for the entire world. So if you could support that in any way that you could informally we would greatly appreciate it.

Mr. McGOVERN: No, I think that is a good idea. I think it is something we would all support. I mean and part of it is, I think, through dialogue at least we get to agree on what the facts are and then we can decide what to do from there.

But again, thank you all very much for being here. Mr. Matar, thank you in particular for being here. We appreciate it. This has been an excellent panel and we will probably do this again. So thank you.

[Whereupon, at 3:42 p.m., the commission was adjourned.]

Written opening remarks submitted for the record by Rep. Keith Ellison:

One Hundred and Twelfth Congress
Tom Lantos Human Rights Commission

Statement of Representative Keith Ellison
Tom Lantos Human Rights Commission Hearing
“Implementation of the Bahrain
Independent Commission of Inquiry Report (BICI)”
2237 Rayburn HOB –Wednesday, August 1, 2012 – 1:00---3:00 PM

Good afternoon. I first want to extend my gratitude to Congressmen Jim McGovern and Frank Wolf for holding this important hearing. I think it's timely and appropriate for this Commission to revisit the human rights situation in Bahrain seven months after the release of the BICI report.

As a body committed to the promotion of human rights, it is incumbent upon us to evaluate the extent to which the Government of Bahrain has implemented the recommendations of the BICI report. That is what I hope we accomplish here today. I am grateful to all of the panelists who will help us achieve that goal.

The status of human rights and governance in Bahrain was a concern to me even before popular demonstrations broke out in February 2011. The previous year, in October of 2010, Bahrain held parliamentary elections that were widely viewed as flawed. More than 200 people were arrested and many groups such as Human Rights Watch accused Bahraini security forces of torturing members of the political opposition.

In response to these concerns, I wrote a letter to the King of Bahrain to raise questions about the Bahraini government's conduct during the elections. I urged the Government of Bahrain to protect freedom of expression and to release all prisoners of conscience.

That was in November of 2010, three months before the Arab Spring came to Bahrain. Since that time, of course, the situation has deteriorated greatly. We have seen peaceful demonstrations violently suppressed, mass arrests, the discriminatory firing of hundreds of workers, and ongoing reports of torture. The government has upheld charges against medical personnel who provided critical health care services to injured demonstrators. Permit requests for peaceful demonstrations have been denied since the end of June. The denial of visas for human rights officials and journalists to enter the country appears to be official government policy. Human rights advocates have endured near-death hunger strikes, and some still languish in Bahraini jails, simply for their political views.

I want to specifically raise the case of Nabeel Rajab, who is currently serving a three-month sentence for “tweeting” a call for the prime minister to resign. As I mentioned a moment ago, my letter to the King of Bahrain two years ago respectfully requested the release of all political prisoners. It is deeply troubling that free expression continues to be suppressed in Bahrain today.

The Government of Bahrain should be recognized for the legitimate steps it has taken to right the wrongs of its past. It should know that the United States will commend actions it takes to protect human rights and embrace the political aspirations of its people. But it should also know that the people of Bahrain, human rights organizations and the international community will hold it accountable for its shortcomings.

I want to thank today's panelists again for focusing Congress' attention on the extent to which the Government of Bahrain has honored its commitment to uphold the recommendations of the BICI report. Your testimony today will help us better understand the current situation in Bahrain and how

we can work toward the full realization of human rights in the country.

Thank you.

Written statement submitted for the record by Rep. Jim McDermott:

**Tom Lantos Human Rights Commission hearing on the implementation of the
Bahrain Independent Commission of Inquiry Report
August 1, 2012, 1:00-3:00pm in Rayburn 2237
Rep. Jim McDermott (D-WA)**

Statement into the hearing record

I want to thank the co-chairs of the Tom Lantos Human Rights Commission, Congressmen James McGovern and Frank Wolf, for holding this important hearing on the implementation of the Bahrain Independent Commission of Inquiry Report.

I also want to thank the Assistant Secretary of State for Democracy, Human Rights, and Labor Michael Posner for his leadership on this issue. His commitment to human rights in Bahrain, as demonstrated in numerous visits to the country and forceful rhetoric, is appreciated by me and my colleagues who are following this issue closely. I welcome Assistant Secretary Posner to today's hearing and look forward to his testimony.

On May 13, 2011, this Commission held a hearing on the current human rights situation in Bahrain. Two senior officials from the State Department -- Under Secretary for Political affairs William Burns and Assistant Secretary for Near Eastern Affairs Jeffrey Feltman -- declined the invitation to testify, which was disappointing. It indicated to me that the Department of State may not be taking a holistic look at the crisis in Bahrain involving political, economic, and sectarian dimensions and choosing to look at it solely as a human rights issue.

The protests in Bahrain were the most intense of its kind that the Kingdom of Bahrain had seen in modern history. The response to the legitimate grievances of the Shiite majority regarding political and economic opportunities was equally unprecedented. It involved thousands of arrests, and in some cases, convictions of individuals from all walks of life.

As Ranking Member of the Trade Subcommittee on House Ways and Means Committee, I have been particularly concerned about the protection of labor rights of the Shiite community.

I understand that most of the workers who were fired for participating in protests were reinstated in their jobs, though some 150 workers remain in limbo. That said, those who have returned continue to face discrimination in their professional environment. This will likely remain the case unless the Bahraini government focuses on mending the sectarian divide that has grown since the protests began.

On the issue of labor unions, there are questions of whether Bahrain is upholding its labor standards that is consistent with the Labor Chapter of the U.S.-Bahrain free trade agreement. I understand that the Office of Trade and Labor Affairs in the Bureau of International Labor Affairs at the Department of Labor is reviewing AFL-CIO's allegation on this issue and look forward to reading the report when it is published.

The fact is, the Kingdom of Bahrain has not done enough since the Bahrain Independent Commission of Inquiry Report was released in order to address the factors that led to the protests. Senior officials who ordered excessive force against peaceful protesters have not been held accountable while those who have engaged in peaceful political expression continue to be detained and prosecuted. This is unacceptable.

There was much hope and anticipation on the part of the United States and the international community that with the completion of the BICI report that meaningful, lasting reforms would follow. This has not yet happened. A stable Bahrain is not just in the interest of the Bahraini people, it is in the interest of the United States. I urge the government to begin the difficult but necessary process of national reconciliation immediately.

Written statement submitted for the record by Walid Maalouf:

Testimony of Walid Maalouf
Expert on Middle Eastern Issues
Former US Public Delegate to the UN
Former Director Public Diplomacy USAID
www.walidmaalouf.com

The Tom Lantos Human Rights Commission
House of Representatives (112th Congress)
Washington, DC 20515
Wednesday, August 1, 2012

**Re: Hearing on the implementation of the Bahrain Independent
Commission of Inquiry Report**

Mr. Chairman,

Thank you for the opportunity to present my point of view of the situation in Bahrain in a written statement for the record to be included in the upcoming hearing on Wednesday, August 1. I strongly believe that the security developments in Bahrain are very much affected by the regional conflict between Iran and its Middle Eastern allies (Assad's Syria and Hezbollah) and those nations of the Arab world that are allied with the West, particularly the United States of America. Therefore, as the Syrian internal conflict continues to escalate, and, if the Assad regime collapses by the force of the free Syrian Army and its allies, Bahrain's security and stability will be further jeopardized by the Shiaa community which is been used by Iran and Hezbollah to destabilize the GCC countries.

Retaliation against Bahrain and Lebanon:

Hezbollah, as an extension of Iran, is fully capable of immediately creating instability in Bahrain and

Lebanon as retaliation for the fallout of Assad.

Facts of the relationship between the so-called opposition in Bahrain and Hezbollah:

1. Al Wefaq's Islamic Party leader, Ali Salman, meeting with Hezbollah's Secretary-General Hassan Nasrallah. This meeting was broadcast on Hezbollah's pro-Iran propaganda channel Al Manar TV, and showcases the close relationship between Al Wefaq's Islamic Party and Hezbollah. Hezbollah leader Nasrallah praised the importance of solidarity between the two groups. (in the Bahrain Pulse <http://bahraimpulse.com/tag/hizbollah/>)

2. In March 2011, Mr. Hassan Nasrallah offered material support to the Bahraini opposition in a nationally televised speech.

3. Bahraini youth are seen receiving Al Qaeda and Hezbollah-style training. They crawl under barbed wire and walk in a paramilitary fashion. The fire and explosions heard are to highlight the mujahedeen fearlessness; they want to prove that they are unstoppable and can overcome any challenge. It shows their readiness to fight and die. (in the Bahrain Pulse <http://bahraimpulse.com/tag/hizbollah/>)

4. According to a confidential Bahraini Government Report submitted to the United Nations, specific evidence was presented linking Bahraini citizens to Hezbollah training camps in Syria.

5. In April 2011, Bahrain expelled 20 Lebanese citizens with known associations to Hezbollah.

6. The leader of Hezbollah supports the dictatorship regime in Syria against the will of the people who are seeking better governance and a more democratically established constitution. At the same time, he supports the Bahrain Shiaa community's riots against the government of Bahrain.

7. There are constant diplomatic conflicts between the government of Bahrain and the government of Lebanon regarding Hezbollah and some Lebanese citizens living in Manama.

Conclusion:

What has been happening in Bahrain it is not even close to the Arab Spring. The destabilization of Bahrain as a small country, a peaceful country, a diverse country and a strong ally of the United States with its US 5th fleet just a few kilometers from Iran in the Bahrain territory is a political move by Iran and its proxy army of Hezbollah using the Bahraini Shiaa community to bring chaos and unrest to the GCC countries. Exactly like Lebanon, a small country, a peaceful country, a diverse country in which Hezbollah is ready for a military takeover at the appropriate moment. We thought, Lebanese and Bahrainis, that Secretary-General Hassan Nasrallah's arsenal is to take on Israel; but it appears that he is taking on Lebanon and Bahrain.

Thank you.

Walid Maalouf, former US Public Delegate to the United Nations and former Director of Public Diplomacy at USAID, has been a professional businessman and diplomat in the metropolitan Washington DC area for more than 20 years and tackles international issues on cultural, educational and political levels.

Written statement submitted for the record by Husain Abdulla:

Statement of Husain Abdulla, Director
Americans for Democracy and Human Rights in Bahrain
Before the Tom Lantos Human Rights Commission

Hearing: “Implementation of the Bahrain Independent Commission of Inquiry Report”

Wednesday, August 1, 2012
1:00 – 3:00 p.m.
Rayburn 2237

I would like to thank the distinguished Chairmen of this Commission for holding this important hearing, and for the privilege of submitting this written statement on behalf of Americans for Democracy and Human Rights in Bahrain (ADHRB). I would especially like to thank Chairman McGovern for his unparalleled leadership and advocacy in support of human rights and democracy in Bahrain.

ADHRB is an independent, non-profit organization that fosters awareness and support for the pro-democracy movement in Bahrain by advocating for the rights of Bahraini people to key actors within the US government and the general public. ADHRB cultivates relationships between Bahraini activists and US policymakers to give Bahrainis a voice on issues that directly affect them, including the continued crackdown on protests in Bahrain.

After protests broke out in February of last year, the Government of Bahrain responded with violence: civilian protestors were attacked, detained, tortured, and some were even killed, while activists were charged and tried before pseudo-military courts in trials that lacked fundamental due process protections. The international community expressed its unequivocal opposition to these attacks, prompting the Government of Bahrain to establish the Bahrain Independent Commission of Inquiry (BICI), a body tasked with investigating allegations of abuse.

Following months of investigation, the BICI issued its report and recommendations last November, concluding that government security forces had used excessive force against protestors, that they had committed torture and abuse against detainees, and that the military court trials were flawed and required review before civilian courts. Shortly thereafter, the King of Bahrain established a National Commission to monitor the implementation of the BICI recommendations. The National Commission announced the completion of its work in March of this year, declaring that implementation of the BICI report recommendations had been “comprehensive and far-reaching.”

Regrettably, implementation of the BICI report recommendations has been anything but comprehensive. Of significance, the Government of Bahrain has not fully established an independent mechanism for determining accountability for acts of torture and other human rights abuses committed by security forces (paragraph 1716 in the BICI report), nor has it established an independent body to investigate allegations of torture, ill-treatment, and excessive force (paragraph 1722(a)). Rather, the role of determining criminal accountability for torture and other abuses by security forces (1716) and investigating allegations of torture and other abuse (1722(a)) is being undertaken by the Public Prosecution Office—a unit itself accused of using evidence obtained through torture and ill-treatment— rather than by an independent body.

The government has failed to implement many other critical recommendations by the BICI as well. Moreover, the Government of Bahrain continues to attack protestors on the street, put pro-democracy advocates on trial for participating in protests, and allow human rights abusers to get away with impunity. For over a year, the Government of Bahrain has demonstrated a lack of sincerity in its commitment to human rights. The slow progress made in implementing the BICI recommendations is only the latest of many examples.

On behalf of ADHRB, and the many Bahrainis and Bahraini-Americans we work with, I strongly urge the United States Government, and this Congress, to support the tens of thousands of Bahrainis seeking reform. The United States Government is uniquely positioned to influence the trajectory of the pro-democracy movement in Bahrain. Bahrain and the US share a mutual security interest in maintaining the presence of the US Fifth Fleet in Bahrain. Yet, there is strong reason to believe that if the pace of reform in Bahrain remains slow or becomes stagnated, Bahrain could become unstable, leading to greater insecurity in the region. The US Government must act now, before conditions deteriorate further, to support the aspirations of the Bahraini people for greater political freedom.

Accordingly, ADHRB recommends the following actions:

The current administration should:

Continue to monitor the Government of Bahrain's compliance with the Leahy Amendment, which prohibits the provision of assistance or training to foreign security forces when credible evidence exists that an individual or unit within those forces has committed a gross violation of human rights; and

Determine whether US-trained military or police in Bahrain were involved in the repression of peaceful protestors. If so, reevaluate the International Military Education and Training (IMET)- funded program used by the US Department of Defense to train foreign police and military members, and consider either amending training practices or reducing IMET funding to Bahrain.

Members of the House of Representatives should:

Support H. J. Res. 80, a joint resolution that would condition the future sale of defense and service items to Bahrain on the Government of Bahrain's full

implementation of key BICI recommendations, including holding security forces who committed torture and other human rights abuses accountable for their actions.

Through these efforts, Congress and the Administration can demonstrate to Bahraini citizens the value of their aspirations for democracy and human rights.

Written statement submitted for the record by Ambassador Houna Ezra Ebrahim Nanoo:



*Ambassador's Office
Embassy of the Kingdom of Bahrain
Washington DC*

Statement for the Record

**Her Excellency Houda Ezra Ebrahim Nonoo
Ambassador of the Kingdom of Bahrain to the United States
Tom Lantos Human Rights Commission
Washington, D.C.
August 1, 2012**

Thank you for the opportunity to submit this statement for the record.

The Kingdom of Bahrain is proud to be a stalwart ally of the United States and the home of the U.S. Navy's Fifth Fleet. Our friendship with America began over 100 years ago when American missionaries traveled to Bahrain and established a clinic that would become the American Mission Hospital and founded the first church in the Arabian Gulf. Since that time, our two countries have worked closely together to ensure regional security and to advance our mutual interests.

Following the ascension of His Majesty King Hamad bin Isa Al Khalifa in 1999, Bahrain has undertaken an expansive program of political and economic reform unprecedented for the region in which we live. Following the adoption of the National Action Charter in 2001, Bahrain has established a bicameral parliament, held three free and fair elections, enacted progressive labor reform, expanded women's rights, and undertaken a number of other important initiatives. Our progress as a nation was recognized at the highest levels of American government, including by President George W. Bush. In 2006, Bahrain became the first country in the Arabian Gulf to conclude a free trade agreement with the United States in large part due to the success of our reform program.

The events of February and March 2011, and the period immediately thereafter, remain painful for all Bahrainis. In the government's efforts to restore law and order after the outbreak of violent protests, many mistakes were made. We particularly regret the unfortunate loss of life of all Bahrainis who mobilized to take advantage of their right to free speech and free expression.

In the end, Bahrain's government understood that accepting the truth is essential for any society that wishes to emerge united and peaceful from a challenging period. Both during and after the unrest,

many serious accusations were levied against the Bahraini government. Many of these accusations were based in truth, but many were hyper sensationalized and false. We understood that for Bahrain to move forward as a country, we needed an honest account of what occurred. From this, Bahrain could work to enact necessary reform.

The decision by His Majesty to form an independent commission to investigate the demonstrations in Bahrain during February and March 2011 was an attempt to honor this principle. It was also the first time a commission of this kind has been formed in the Arab world.

In an internationally televised broadcast, the commission's chairman, Dr. Cherif Bassiouni, delivered a stinging critique of the government. The truth he revealed was painful to hear, but the full accounting of our mistakes provided an unprecedented opportunity for reform.

Following the release of the report on November 23, 2011, Bahrain has worked earnestly to implement the Commission's recommendations. **To date, Bahrain has fully implemented 18 of the report's 26 recommendations. Work on seven of them has begun and they are in various stages of implementation. One is not yet applicable.**

A variety of bodies have been responsible for implementing the BICI Report's recommendations. The National Commission, which brought together 20 leading members of Bahraini society was established following the report's release and submitted its final report in March 2012. In order to ensure continued progress on BICI-implementation, the Ministry of Justice established the BICI Follow up Unit. This unit released its interim report in 2012.

According to information contained in both reports, the following actions have been taken to date:

All public sector employees dismissed during the unrest in February and March 2011, with the exception of those charged with criminal acts of violence, were reinstated. Currently 92 percent of all private sector employees who meet the same standard have been reinstated.

All students not charged with acts of violence have been reinstated at their schools and regained any scholarships they may have lost.

All charges against protestors relating to freedom of speech have been dropped; this affected 343 people. The government of Bahrain amended relevant statutes to expand freedom of expression.

The mandate of Bahrain's National Security Agency (NSA) has been restricted solely to intelligence gathering. It will no longer have the power to arrest and detain individuals on its own authority.

An extensive training program for NSA personnel began on Jan. 22, 2012. It includes courses on promoting and respecting human rights and conducting operations in an appropriate and professional manner.

A memorandum of understanding (MOU) was signed between the Ministry of Interior (MOI) and the International Committee of the Red Cross (ICRC). This MOU permits the ICRC to visit Bahraini prisons and empowers it to hold training courses on human

rights and international humanitarian law for MOI personnel.

A review of all verdicts handed down by the Court of National Safety is ongoing. To date, the death sentences handed down by the court for two individuals convicted of murdering two policemen were overturned.

The Supreme Judicial Council special committee is reviewing all convictions in the Court of National Safety with a view of commuting all sentences of people charged with offences involving political expression excepting those who advocated violence.

Video cameras have been installed in all detention centers to ensure video and audio recording of all police interrogations.

The Ministry of Interior issued an order referring all cases related to deaths, torture, and inhumane treatment by members of the police to the public prosecutor.

The Special Investigations Unit has investigated over 122 cases of misconduct. These investigations led to charges against 21 different police officers, including a lieutenant-colonel. These officers were charged with a variety of crimes up to and including murder.

John Timoney, former chief of the Miami Dade Police Department, and John Yates, former assistant commissioner of the Metropolitan Police in London, were appointed to oversee a comprehensive reform of Bahrain's police department.

A Police Code of Conduct was developed in compliance with United Nations best practices, including the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

The Ministry of Interior is currently implementing an order requiring that the ministry's Inspector General take all necessary steps to guarantee all suspects to not be held incommunicado, be shown a warrant upon arrest, be given prompt access to legal representation, and be granted family visitation in accordance with the Bahrain Code of Criminal Procedure.

A victim's compensation fund has been established to provide material compensation for abuse and mistreatment. Affected individuals either have the choice to settle their claims bilaterally or to seek redress in Special Compensation Courts (SCC). To date, the Civil Settlement Office at the Ministry of Justice settled 17 claims for compensation totaling \$2.6 million.

The Ministry of Justice and Islamic Affairs launched the "Civil Settlement Initiative." Under this initiative, applicants can settle their claims quickly and in a consensual manner. According to the BICI Follow Up Unit, 17 death cases have been reviewed and approved by the civil settlement office and awarded BD 1,020,000 (\$2,600,000). These settlements are in the process of being paid to recipients, without prejudice to any criminal liability.

The initial reconstruction of 22 places of worship that were demolished, due to their lacking proper permits, during the unrest in February and March 2011 has begun. As of

July 15, 2012 work on five places of worship is nearing completion, eight sites have been prepared for work, and allocation to nine more sites has been granted.

Anti-torture laws have been reformed to bring existing Bahraini law into greater compliance with the Paris Protocols.

The National Human Rights Institution, an independent organization, was established to serve as a permanent watchdog for human rights in Bahrain and to promote and enhance human rights in the Kingdom.

The Information Affairs Authority (IAA) has engaged the French media regulatory firm IMCA to advise it on broadening access to the media, developing professional broadcasting standards, and strengthening the ethical code for people working in the media.

IMCA will assist the Government of Bahrain to reform laws and administrative schemes to bring them in accord with the best international standards.

An IMCA team, consisting of specialists in new digital technologies, radio broadcasting, and audience measurement and analysis, also provide training to IAA employees and media professionals.

The IAA has also been working on a new media law in line with the BICI recommendations and international covenants to protect the freedom of expression and press.

The IAA has signed a memorandum of understanding with the Management Consulting Center of Excellence to prepare a media code of conduct for Bahrain Radio and TV, to ensure the respect of a media code of conduct, within a framework of pluralism, neutrality, credibility, rule of law, and preserving national unity. The IAA has already signed training contracts with international media outlets (BBC and Radio France).

The IAA has also been tasked with developing a general media strategy aimed at strengthening national unity and offering more balanced coverage of the political opposition parties.

The cabinet has approved legislation and legislative amendments to the penal code that will have the following effects:

- Freedom of speech is now protected to the highest international human rights standards. Political expression can no longer be the basis of convictions.
- All forms of torture are criminalized, the minimum sentence for torture has been increased, and there is no longer a statute of limitations on bringing claims of torture. The law follows international standards, including recommendations by the U.N. Committee Against Torture.
- The establishment of an independent and impartial National Human Rights Institution in accordance with the Paris Principles (which represent the

international standard for such institutions).

- The Attorney General will have exclusive jurisdiction for investigating and prosecuting officers for crimes of torture or mistreatment.
- There can be no derogation from the arrest and detention provisions in the penal code in times of national safety.

The above mentioned actions demonstrate the Government of Bahrain's ongoing commitment to implementing progressive reform aimed at addressing issues resulting from the unrest of February and March 2011. The government will not cease working to affect positive change because to do so would be un-Bahraini.

Ultimately, Bahrain's government understands that we have a political problem that must be resolved through a negotiated accommodation with the political opposition. Unfortunately, the government's commitment to peaceful dialogue has not been reciprocated by the opposition. Last year during the height of the unrest, His Royal Highness, Crown Prince Salman bin Hamad Al Khalifa, repeatedly called on the opposition to join him in meaningful dialogue without preconditions aimed at resolving the crisis. The opposition's rejection of this offer had material consequences for the situation on the ground and was cited by the BICI report as a serious mistake.

The opposition's rejection of dialogue continued with their withdrawal from the comprehensive National Dialogue held in July 2011, their boycott of the September 2011 by-elections, and their refusal to participate in the National Commission tasked with implementing the BICI report's recommendations.

Furthermore, the opposition continues to refuse to condemn violence against police officers – who are frequently targeted in coordinated Molotov cocktail attacks that have left hundreds of officers seriously wounded. These attacks intensified followed a sermon by Ayatollah Isa Qassim in January 2012 in which he called upon his followers to “crush the police.” This activity is utterly reprehensible and must be condemned.

Although the opposition has demonstrated a repeated unwillingness to engage seriously for a redress of their grievances, the Government of Bahrain once again extends an invitation for peaceful, comprehensive, and multilateral dialogue with members of both the Sunni and Shi'a opposition. Only together can we forge a new national unity for the betterment of Bahrain.

Through its actions over the past eight months, the Government of Bahrain has demonstrated its commitment to implementing the recommendations contained in the BICI report. The progress is measurable, verifiable, and significant. Bahrain welcomes the interest of our friends in the U.S. Congress who are eager to share our successes and let us know when we can do more. Together, we can continue to shape the next chapter in the historic relationship between our two countries.

Thank you again for this opportunity.

Written statement submitted for the record by Amnesty International USA:

**Tom Lantos Human Rights Commission
U.S. Congress**

**Hearing:
“Implementation of the Bahrain Independent Commission of Inquiry Report”
August 01, 2012**

Statement by Amnesty International USA

Amnesty International USA welcomes this opportunity to address the Tom Lantos Human Rights Commission on the important subject of human rights in Bahrain. We believe that the U.S. Congress has a crucial role to play in supporting human rights and accountability for the people of Bahrain.

Amnesty International’s vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other internationally recognized human rights standards. For more than 50 years, Amnesty International has been helping to build a world where human rights are respected, protected, and fulfilled.

Today in Bahrain, repression of freedom of expression is continuing with impunity. Despite government promises to introduce reforms following its violent crackdown on protesters in 2011, few improvements have been seen on the ground.

The Government of Bahrain is refusing to release scores of prisoners who are incarcerated simply because they exercised their rights to freedom of expression and association. Indeed, Bahrain’s government has sentenced and imprisoned a number of nonviolent critics and activists, making them prisoners of conscience.

In her testimony to the Tom Lantos Human Rights Commission, Bahrain’s Ambassador to the United States Houda Ezra Ebrahim Nonoo stated, “All charges against protestors relating to freedom of speech have been dropped.” Unfortunately, the Government of Bahrain continues to use criminal charges to persecute individuals exercising their right to freedom of expression. Bahraini authorities have charged, convicted, and imprisoned peaceful protestors following nonviolent criticisms of the government. Several major examples follow below.

Jailed for a Tweet: Nabeel Rajab

Nabeel Rajab, the President of the Bahrain Centre for Human Rights, has been sentenced to three months in prison and is currently being held in al-Jaw prison. Rajab was sentenced for libel following a tweet in which he commented on the patriotism of al-Muharrag residents in Bahrain following a visit to the community from the Prime Minister. He had suggested in his tweet that the Prime Minister was only welcomed by the people of Al-Muharrag community because the community needed government funds. Rajab is a prisoner of conscience and must be released immediately.

Jailed for Talking to the Media: Medical Workers

In March and April of 2011, 20 health workers and doctors were arrested in connection with the anti-government protests. Some of the health workers were reportedly tortured. Charges against them included “possession of unlicensed weapons,” “inciting hatred to the regime and insulting it,” “instigating hatred against another sect,” “occupation of a public building (Salmaniya Medical Complex),” “destroying public property,” and “calling for the overthrow of the regime by force.” Some, but not all, of these charges were later dropped.

No evidence was presented to prove that the 20 medical workers committed any crime. Amnesty International USA believes the accusations against them are unfounded. The real reasons for their arrest were said to be the fact that most of them had been vocal in giving interviews to foreign media and accusing the government of gross atrocities against protesters.

The medical workers were tried before a military court in Bahrain, and the twenty defendants were sentenced to between 5 and 15 years in prison. More recently, nine of the medical workers had their sentences reduced to between one month and five years in prison, following a transfer to civilian courts and subsequent appeals. Another two doctors, who were originally sentenced to 15 years in prison, had their appeal rejected because they were not present during the whole appeal process. The sentences of 15 years in prison imposed against them by a military court still stand until they appeal. The other nine were found not guilty.

All of the medical workers must have their convictions overturned and their sentences quashed. Six of the medical workers have not yet completed their sentences, but pending their appeals, are currently not in prison. Should they be rearrested, they would be prisoners of conscience, detained solely for peacefully exercising their rights to freedom of expression and assembly.

Imprisoned Opposition Activists: Future Hearings Behind Closed Doors

13 prominent Bahraini opposition activists are serving prison terms ranging from two years to life imprisonment on bogus charges related to their participation in pro-reform protests in early 2011. To make matters worse, a Bahraini judge recently decided to move all future hearings of 13 prominent Bahraini opposition activists behind closed doors, where they would be filmed.

In response to the move, the 13 men have asked their lawyers not to represent them in court any longer. The men maintain their innocence and are prisoners of conscience, placed behind bars for peaceful political activities. Several of the defendants have spoken out in previous court hearings to describe their alleged torture and other ill-treatment in detention, which included sexual assault and other acts of torture to coerce “confessions.”

Among these 13 prisoners of conscience are **Ebrahim Sharif** and **Abdulahdi Al-Khawaja**. Sharif is a prominent Sunni Muslim Bahraini who was sentenced to 5 years in prison and is considered by Amnesty International a prisoner of conscience. Sharif is a political reformer who led the National Democratic Action Society (Waad), a secular opposition party that brought together Sunnis and Shia Bahrainis to protest for democratic reforms. The 2011 US Department of State Human Rights

Report described the charges faced by Sharif in his trial as “dubious.”

Al-Khawaja is a political and human rights activist who recently carried out a 110-day hunger strike in prison. The White House Office of the Press Secretary noted “continued concern for the well-being of jailed activist Abdulhadi Al-Khawaja” during his hunger strike, and called on the Government of Bahrain “to consider urgently all available options to resolve his case.”

Bahraini authorities have produced no evidence that Sharif, Al-Khawaja, or any of the other 11 jailed opposition activists were doing anything but exercising their basic human rights prior to their arrests and imprisonment.

Bahrain Teachers Association: Leaders Arrested and Sentenced

The Government of Bahrain has also imprisoned and allegedly tortured the former President of the Bahrain Teachers Association, Mahdi ‘Issa Mahdi Abu Dheeb, and convicted former Bahrain Teachers Association Vice President Jalila al-Salman, for peacefully exercising their right to freedoms of expression, association and assembly.

Abu Dheeb is serving a 10 year sentence in al-Jaw prison, and al-Salman was sentenced to three years in prison and has been released on bail pending appeals. Their convictions must be overturned immediately, and Abu Dheeb must be released from prison.

Conclusion

Each of these examples demonstrates that the Government of Bahrain continues to violate the human rights of peaceful, nonviolent critics. Amnesty International continues to call for the immediate and unconditional release of all prisoners of conscience in Bahrain. Amnesty International urges the Bahraini authorities to carry out an independent investigation into all allegations of torture in detention and to bring those responsible to justice in fair trials.

Written statement submitted for the record by Brian Dooley:

Written Testimony of Brian Dooley
Director, Human Rights Defenders Program
Human Rights First

Hearing on

“Implementation of the Bahrain Independent Commission of Inquiry Report”

before the

Tom Lantos Human Rights Commission
August 1, 2012

To the Honorable James McGovern and Members of the Commission:

Thank you for convening this hearing to examine the ongoing human rights crisis in Bahrain. We are grateful, Mr. Chairman, for your advocacy of human rights as a core objective of U.S. foreign policy in Bahrain.

I appreciate the opportunity to elaborate upon the work Human Rights First has done recently regarding violations of human rights in the Kingdom of Bahrain. In its extensive dealings with activists and monitoring of the political situation within Bahrain, our organization highlights five main areas of concern. These issues are particularly notable in that the lack of concern for human rights in these areas has contributed to the deterioration of stability and political legitimacy within the country. As such, they should be of particular concern to the U.S. in its dealings with the Bahraini government:

1) Lack of access to Bahrain for international human rights observers and media

Human Rights First has made four visits to Bahrain over the last 14 months to report on the human rights situation, but was denied entry in both January and June of 2012. The denial of access to independent human rights monitors and international media remains a serious problem in Bahrain, with journalists facing severe restrictions or not being allowed into the country at all.

Until Bahrain allows reasonable access to human rights experts, journalists and others to the country there will always be the suspicion that it has much to hide. This lack of transparency inhibits rather than encourages the reform to which the Government of Bahrain insists it is committed. The UN Special Rapporteur on Torture, Juan Mendez, planned to visit Bahrain in March this year, only to be told a few weeks before that he should not come. In a media interview on June 26 he said: “The focuses of greatest concern are those countries which do not invite me, or which do invite me and then cancel, like Bahrain.”

Real reform must include a genuine change in police actions. More than 160 policemen were convicted by Bahrain's military court last year for refusing to join the crackdown. They were each sentenced to between four and 12 years in prison. Dropping charges against them -- and all the others convicted by the sham military court -- would be a start to restoring confidence. So would bringing an immediate halt to torture and establishing a mechanism to video record all police interrogations, a step recommended by the Bahrain Independent Commission of Inquiry (BICI) last year. An initiative to install high-tech closed circuit televisions in all police stations has apparently begun, but this will take many more months to complete. Using even ordinary camcorders in the meantime would send a positive signal of intent.

3) Criminal charges against medical personnel and other innocent civilians

On June 14, a Bahraini court announced its verdict in the case of 20 Bahraini medics prosecuted for treating injured protestors, exposing the truth behind the Bahrain regime's false claims of reform. Eleven of the 20 had their guilty verdicts confirmed, while nine – including five of the six women originally charged—were declared innocent. New jail sentences ranged from one month to five years.

These verdicts were declared as a result of appeals to the original sentences, given by the military court to the 20 medics in September 2011. The medics were arrested, detained and tortured into giving false confessions that year, and were released from custody while their appeal was under way. Most of the June 14 sentences were reduced sentences from the original ones. These verdicts came as Human Rights First was once again denied access to visit Bahrain. They demonstrated, predictably, that the dictatorship still refuses to listen to international calls for reform.

Human Rights First and other leading international human rights organizations have detailed the injustice of the medics' treatment and called for charges against them to be dropped throughout the trial. Yet the regime pressed on with the flawed prosecution. It appears as though the medics were targeted primarily for treating injured protestors, and for informing international media about the number of casualties and the extent of their injuries.

On July 4, 2012, the verdicts for 28 Bahraini medics were delayed once again. The judge ordered the court to delay the verdicts, now scheduled for September 4, in order to consider allegations of torture against the medics during their detention last year. The leaders of the Bahrain Teachers Association, Mahdi Abu Deeb and Jalila al-Salman continue to be prosecuted for participating in pro-democracy protests and calling for a teacher's union strike in March 2011. Al Salman told Human Rights first she was tortured in custody last year. She was sentenced to three years and Abu Deeb to ten. She is out of custody while the "appeal" proceeds; he remains in jail.

The U.S. embassy in Bahrain has sent observers to monitor some of these trial sessions, but so far has not publicly spoken about its assessment of the fairness of these court proceedings.

4) Lack of accountability for human rights violations

As Reuters and other major news agencies have recently reported, in June 2012 the Bahraini regime announced efforts to prosecute and bring to justice members of their police force accused of human rights violations. They connect these efforts to a larger investigation into the police force's use of torture and other misconduct since the uprising began in February of 2011.

The Internal Affairs Authority, a government body, has at various points made reference to the ongoing investigation and prosecution. At one point, it claimed that a group of policemen—number unknown—had been sentenced to five years in prison. At another point, they claimed that 19 police officials had been sentenced to three months.

Nawaf Hamza, a government official representing the Public Prosecution's Special Investigation Unit, has issued several statements on these efforts: "15 policemen have been questioned and informed of the charges against them. The investigation of the remaining complaints and those involved is ongoing," he said recently.

However, their trials appear to happen in secret. The names of the accused have never been made public. Little documentation of these men ever having spent time in prison, or even having appeared in court, has been provided. In order for the Bahraini government to prove that it is truly committed to reform, and to the prosecution of wrong-doing within its bureaucracy, it must provide clear and verifiable evidence that its claims are backed by real action.

5) Attacks on human rights defenders and other pro-democracy activists

One good way to assess a country's record on human rights is to look at how it treats its leading human right activists—if and how it protects them, defends their rights to free speech and association, and

recognizes them as important figures in civil society.

In Bahrain the record is clear. The Bahraini Center for Human Rights (BCHR) is one of the civil society organizations targeted by the Bahrain regime. It was outlawed by the Bahraini government in 2004 two years after its founding, after its then-president Abdulhadi Alkhawaja was arrested for criticizing the Prime Minister of Bahrain. Alkhawaja was arrested again in 2011 and sentenced to life in prison in an unfair military trial for his part in the pro-democracy protests last year.

Despite not being formally recognized by the government, BCHR continues to advocate for basic freedoms and rights, to combat discrimination, and support victims of government repression. The BCHR has won several international awards over the last year, including the 2012 Roger Baldwin Medal of Liberty.

Nabeel Rajab, current President of the Bahrain Center for Human Rights (BCHR), was jailed in May 2012 for criticizing the government. He was released but jailed again in July 2012 after criticizing Bahrain's Prime Minister in a tweet. He is currently still in prison.

Zainab Al Khawaja, another leading activist, has also been prosecuted for peacefully protesting and criticizing the government. She also spent several weeks in jail, and on June 27 was hit in the leg by a tear gas canister fired at close range by a police officer in an apparently deliberate assault.

Bahrain was among the countries assessed by the UN's Human Rights Council in Geneva under the Universal Periodic Review (UPR) in May 2012. Soon after, however, threats started to appear in the Bahraini media, including on Twitter, against Bahrain activists who had spoken in Geneva about the regime's violations. In fact, when she saw the threats, the President of the Human Rights Council, Laura Dupuy Lasserre, commendably drew public attention to them and expressed her concern that there would be repercussions for the activists on their return home.

"... I wish to remind you that we are all duty bound to ensure that nobody is persecuted on his return to his country for having participated in meetings of the human rights council or other bodies," she told the Bahrain government.

Lasserre's intervention hit a nerve in Bahrain. Anwar Abdulrahman, editor in chief of the Gulf Daily News, part of the pro-government media, hit back with an open letter to UN Secretary General Ban Ki Moon on May 29. He claimed with some degree of surrealism that in Bahrain "freedom of speech, participation in rallies, television and radio interviews by those calling themselves NGOs or opposition is so taken for granted here as to be almost out of control, even by European standards." More ominously, he suggested that "many terrorist organizations today operate under the guise of human rights organizations..."

Then on May 31 the Gulf Daily News ran a letter to the editor describing some of the activists in Geneva as "the disloyal bunch." It named "Abudulnabi Al Ekri, Essa Al Ghayib, the infamous Mariam Al Khawajah, Dr. Nada Dhaif, writer Lamees Dhaif and Hadi Al Mousawi," saying that "the bunch's, in particular Mr. Al Ekri's, mission to humiliate us [Bahrain] by further tarnishing Bahrain's reputation."

The harassment of prominent activists continues. Yousif Almuhafda of the BCHR was named and

his photo featured in Bahrain's media in May. "They put my picture in newspapers and said I told lies to the media," he told Human Rights First.

Journalist Reem Khalifa was apparently the target of a police attack on June 29. An eyewitness to the incident told Human Rights First that she had been recognized by a policeman who threw a stun grenade at her. Leading human rights lawyer Mohammed al-Tajer is being prosecuted on politically-motivated charges after being tortured while in detention for three months last year.

As long as Bahrain refuses to free those in jail, drop charges against those it is still prosecuting and allow all activists to promote human rights without fear, it can't be seen as serious about reform.

Recommendations for the U.S. Government

Senior U.S. government officials should publicly condemn abuses by the Bahrain government and call for accountability at the highest levels of authority for human rights violations. In the absence of such public statements, the general public, including human rights defenders, are left to understand that the U.S. supports the status quo. The U.S. government should publicly call for the names of security officers who are being prosecuted to be made available, and the U.S. should send representatives to observe their trials.

The U.S. government should publicly state that its current and future relationship with the Bahrain government is dependent on it respecting international human rights standards and holding violators accountable, and that a relationship of long-term, mutual benefit cannot be pursued unless Bahrain respects international human rights standards.

As the U.S. government proceeds with various packages of support to maintain its relationship with the Bahraini military, the Departments of State and Defense should consider the timing of such transfers as signals of support for current behavior of the Bahraini government. They should also be able to certify that U.S. goods meant for strategic purposes will not be used by the Bahraini government for violations of human rights. The administration should continue to notify Congress and the public when such transfers are imminent to properly vet these standards.

Concrete steps should include U.S. Government public actions to:

- Urge the Bahrain government to begin immediately real reform and diversification of its security sector, to make its police force representative of the whole community and to end discriminatory practices in hiring or promotion.

- Present its views on the fairness of each of the trials its observers have monitored in Bahrain since May 2011. Without a public declaration, it could be inferred that the U.S. supports the proceeding.

- Call for access for international human rights observers and journalists, and identify those who should be but are not allowed into the country.

- Name those Bahrainis it believes are being held or charged with politically-motivated offenses, and publicly call for charges to be dropped against them.

- Urge that the decisions against all 502 people convicted by the military Court of National Safety last year be immediately and unconditionally revoked since they were politically motivated and were conducted through unfair military process.

Thank you, Mr. Chairman, for your leadership, and for the opportunity to submit testimony. I look

forward to any questions you may have going forward as we continue to monitor the situation in Bahrain.

Documents submitted for the record by Physicians for Human Rights:



Under the Gun: Ongoing Assaults on Bahrain's Health System

Physicians for Human Rights
May 2012

Physicians for Human Rights

Physicians for Human Rights (PHR) is an independent, non-profit organization that uses medical and scientific expertise to investigate human rights violations and advocate for justice, accountability, and the health and dignity of all people. We are supported by the expertise and passion of health professionals and concerned citizens alike.

Since 1986, PHR has conducted investigations in more than 40 countries around the world, including Afghanistan, Burma, Bahrain, Libya, Congo, Rwanda, Sudan, the United States, the former Yugoslavia, and Zimbabwe.

- 1988 — First to document Iraq's use of chemical weapons against Kurds
- 1996 — Exhumed mass graves in the Balkans
- 1996 — Produced critical forensic evidence of genocide in Rwanda
- 1997 — Shared the Nobel Peace Prize for the International Campaign to Ban Landmines
- 2003 — Warned of health and human rights catastrophe prior to the invasion of Iraq
- 2004 — Documented and analyzed the genocide in Darfur
- 2005 — Detailed the story of tortured detainees in Iraq, Afghanistan and Guantánamo Bay
- 2010 — Presented the first evidence showing that CIA medical personnel engaged in human experimentation on prisoners in violation of the Nuremberg Code and other provisions
- 2011 — Championed the principle of noninterference with medical services in times of armed conflict and civil unrest during the Arab Spring

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Introduction

In February 2011, protesters in Bahrain took to the streets to demand political reform. The Government of Bahrain responded by attacking protesters with tear gas, bird shot, and other weapons, detaining and torturing perceived opponents, and targeting health professionals who treated protesters.

Following international pressure from governments, human rights defenders, and other members of civil society, the King of Bahrain established the Bahrain Independent Commission of Inquiry (BICI), chaired by international law expert M. Cherif Bassiouni, to investigate allegations of abuses.

The Commission investigated events surrounding the Government's crackdown in February and March of 2011 and issued its findings in November of that year. The final report details myriad abuses on the part of the Bahraini security forces, including acts of torture and excessive use of force.

The Government of Bahrain then established a National Commission to implement recommendations from the BICI final report, but the Government has yet to take substantive action on key recommendations. Since the crackdown began in 2011, Bahraini security forces continue to operate in a system of impunity.

It is within this overall culture of repression that the Government of Bahrain militarized its health system.

On 16 March 2011, the Bahraini government invited 1,500 Arab Gulf-state soldiers (two-thirds from Saudi Arabia) into the Kingdom. It also stationed light infantry tanks outside the country's largest hospital—the sprawling Salmaniya Medical Complex—which employs some 4,000 staff. At the same time, the Government of Bahrain sent its own heavily armed and masked security forces inside hospital wards where they beat, tortured, and interrogated wounded protesters and the medical workers who treated them. Physicians for Human Rights (PHR) documented these serious breaches of medical neutrality in its April 2011 report, *Do No Harm: A Call for Bahrain to End Systematic Attacks on Doctors and Patients*.

Militarization of Bahrain's public health system

Two PHR investigators, Holly Atkinson, MD, and Richard Sollom, MPH, returned to Bahrain in April 2012 to assess the current human rights situation and to investigate potential ongoing violations of medical neutrality in Bahrain since April 2011. The team conducted 102 in-depth qualitative interviews, examined medical records and radiographic images, conducted two site visits to Salmaniya Hospital and an “underground clinic,” and interviewed patients, doctors, and government officials.



A Bahraini doctor holds a sign in front of the Ministry of Labour in Isa Town, south of the capital Manama, during a demonstration of Shiite employees who were dismissed from their jobs. His sign says “Consulting Neurosurgeon, Salmaniya Medical Complex, Suspended for Treating Wounded Protesters, 5 May 2011.” Photo: AFP/Getty Images

Under the principle of medical neutrality, State authorities must ensure safe access to medical facilities and transport, and ensure the safety of medical workers and their patients. At the same time, medical workers must provide impartial care to all who seek their help. Over the past 14 months, however, the Government of Bahrain has denied a largely Shia segment of its population these rights, resulting in widespread fear among many who seek medical treatment.

According to over a dozen sick and wounded civilians whom PHR investigators interviewed in April 2012, this fear is due to:

the ongoing presence of State security forces inside Salmaniya Hospital
the systematic interrogation of incoming patients and visitors, and
the subsequent beating, detention, and prosecution of many Shia who are suspected of having participated in street protests.

In addition to conducting 102 interviews, PHR investigators visited Salmaniya Hospital twice in April 2012 and confirmed eyewitness accounts that two to four Bahraini national guards man each of the nine exterior gates into Salmaniya Medical Complex.

According to four family members of patients of Salmaniya Hospital whom PHR interviewed, guards stop all incoming cars and pedestrians. They first ask each person his or her name and village of residence, from which the guards can easily discern whether that person is likely Shia or Sunni. Next, the guards demand to know from visitors the reason they are there, and from incoming patients the nature of their medical issues. Anyone presenting with physical wounds or suspected teargas-related injury is brought to security forces inside Salmaniya Hospital for further interrogation. Three patients also reported that anyone driving a wounded protester to Salmaniya Hospital is suspect, and one such person was even accused of having caused the injury. Throughout the hospital, there are now 400 newly installed security cameras operated by the Ministry of Interior, according to an engineer PHR interviewed.

The CEO of Salmaniya Medical Complex, Dr. Waleed Khalifa al-Manea, confirmed such systematic interrogation and told PHR investigators that he had personally raised the issue of ongoing interrogation of patients inside the hospital with the Ministry of Interior and urged it to stop. PHR is still receiving reports at the time of this writing that interrogations persist inside the government-run hospital.

Jassam, a 20-year-old student, reported that after police had detained and tortured him, they transferred him to a military hospital because of his serious condition. There, he said, a state prosecutor interrogated him and threatened to bring back the police to beat him more if he did not sign a pre-typed confession. Jassam refused to sign it until he had a defense attorney look at it. The prosecutor replied, "I don't need your signature in any case." Jassam was discharged on 8 March 2012 and went into hiding.

Bahraini authorities with whom PHR investigators spoke point out that they have a duty to provide security at state-run medical facilities. But by using this obligation as a pretext for militarizing medical facilities, the Bahraini government is instilling fear among a wide sector of society that is afraid to seek necessary medical care, thus worsening health outcomes.

A 20-year-old male from Hamad Town reported to PHR that he was too afraid to go to Salmaniya Hospital even though he had been severely wounded. He had taken part in a peaceful protest on 9 February 2012 in Karbabad. The police arrived shortly after the protest began and started to chase the protesters. He fled into a friend's home where he and several other protesters hid. The police began searching the neighbors' homes, and 30 minutes later they arrived at the house where this group of protesters was hiding.

Around three dozen police forced their way into the home, and some protesters ran to the second floor. Some of his fellow protesters tried to climb down from the roof top into the garden below. He was the last one on the rooftop. The police yelled at him, and then one of the police officers pushed him over the edge of the 20-foot-high roof.

He landed on his right elbow and saw that he was badly wounded. He could not move his hand. He did not go to the emergency room at Salmaniya Hospital for fear of being detained and tortured by security forces there. He said that he was afraid because he had protested and knew others who had gone to Salmaniya Hospital and were interrogated and immediately detained.

The incident took place late at night, and so his friends could not take him to a private hospital because none had emergency departments that could treat serious injuries. He had to wait until the next day to go to a private hospital where he underwent surgery. PHR investigators examined medical records and X-rays, which corroborate his testimony.

PHR investigators spoke with another 21-year-old man who was severely wounded during a peaceful protest in his village, Saar, on 28 January 2012.

He reported that police arrived and shot tear gas canisters directly at the crowd of 50-60 protesters. He heard shots being fired and saw thick clouds of yellow smoke in front of him.

About 30 seconds after they started firing the tear gas into the crowds, he was hit in the face with a tear gas canister. He immediately fell to the ground. His face was bloody and he couldn't see. He felt someone grab his arm and helped him up and took him to a nearby home. There they gave him first aid before transferring him to another home nearby where a doctor lived. The doctor cleaned the facial wounds, gave him an injection, and helped stop the bleeding.

When asked why he did not go to Salmaniya Hospital, he smiled as if it were a naïve question. He answered simply, "Because I'd be arrested." He was treated the next day at a private hospital. X-rays that PHR reviewed revealed broken facial bones, which corroborate his testimony.

PHR investigators in Bahrain separately interviewed four men in their twenties, from Karzakan village, who had all participated in the same peaceful protest in their town on 15 February 2012.

Sayed recounted how police blocked all entrances to the area with their vehicles, while other police continued on foot and chased down protesters. The four men ran inside a home to seek shelter, but the police stormed the building.

Sayed was the first of the four to get caught. He reported that one police took out a knife and stabbed him in his left shoulder and then plunged the knife a second time into his left upper back.

Sayed managed to escape and ran out the door. He called a paramedic friend who took him to a doctor's home for emergency care. When asked why he did not go to the ER at Salmaniya Hospital, Sayed laughed and said, "With these wounds, I'd be arrested." Physical examination revealed injuries highly consistent with his testimony.



A Bahraini Shiite Muslim boy holds an exploded tear gas canister in the capital Manama during an anti-government rally on March 29, 2012, against the excessive use of tear gas by Bahrain security forces to disperse demonstrations in Shiite villages. Photo: Getty Images

In Al Makasha, PHR investigators interviewed Mohamed, who had taken part in a peaceful demonstration on 17 February 2012, the one-year anniversary of last year's Pearl Roundabout demonstrations. He described how police beat him until he lost consciousness, but was later too afraid to go to Salmaniya Hospital for fear of detention and further torture.

Shortly after Mohamed and the other approximately 100 peaceful demonstrators began marching and chanting, Mohamed saw police in dark blue uniforms begin to chase after the crowd. One police officer beat Mohamed on his head using a black club. He fell to the ground and lost consciousness. He woke up several minutes later to find another police officer kicking him in the stomach, face, and both hands. He covered his face with his hands, but the police officer continued to kick him. Another police officer picked up a red brick and used it to hit Mohamed over the head. He then took out a knife and stabbed Mohamed three times in his right hip and buttocks while he was lying on the ground.

According to Mohamed, the officer twisted the knife after each of the three stabbings. Mohamed said he lost consciousness a second time. Mohamed believes the police left him for dead.

After they left the scene, a neighboring family came to help Mohamed and other wounded protesters. A doctor and nurse later sutured his wounds and gave him pain medication.

The next day, Mohamed's family took him to a private hospital where he was X-rayed and underwent surgery. Even though they had to pay for treatment, they preferred to take him there rather than to Salmaniya Hospital where he said he would have been arrested. PHR examined his wounds and medical records, which corroborate his testimony.

Fear of arrest at Salmaniya Hospital is reportedly so widespread that even people who have never protested are afraid to seek medical care there. One private-sector physician told PHR that he treats many injured patients who fear arrest at public hospitals, and so prefer to be seen by doctors like him.

Hassan, for example, had been studying abroad and returned to Bahrain on 3 April 2012. Three days later he was walking back home from visiting relatives in Sitra when he came upon a street protest. Although a bystander, he was shot at by police and was injured in his right foot. Fearing to go to a hospital, he waited for two days until the pain was too severe, and then went to a private clinic where his wound was sutured. Because he has diabetes, he faces further wound-healing complications.

Forty-five-year-old Ali reported that on 8 April 2012 he was filling his car with gasoline when a fire started, causing severe burns on his right lower leg. He refused to go to Salmaniya Hospital because he feared that security forces there would consider him to be a protester injured during a street demonstration.

Burn victims are especially fearful of interrogation and arrest at Salmaniya because of the increased use of "Molotov cocktails" by some protesters. PHR investigators spoke with one such protester who reported that he had unintentionally burned himself while throwing a hand-made incendiary bomb during a violent protest. He was also treated by a physician in private practice.

The increased use of private facilities among patients too afraid to seek treatment at Salmaniya Hospital led the Ministry of Health to issue a "circular" to all private hospitals and clinics, according to a focus group of eight physicians PHR surveyed. This 31 January 2012 Government circular stated that private hospitals and clinics were now obligated to report to Government security authorities all incoming patients "with injuries due to suspected criminal activities and/or accidents irrespective [of] their causes.... Violation of these requirements shall constitute collaboration with such activities and is criminalized by law."

This Ministerial law further militarizes health care by forcing medical workers to be agents of the state and by creating a conflict of dual loyalties, wherein health professionals have competing obligations to their patients and the government. As one doctor in private practice told PHR, "I had to call the police because my patient had been hit by bird shot pellets. They arrived within

30 minutes and took him away."

5

Another physician at a private hospital told PHR that some private clinics will not treat any patients with protest-related injuries. To protect his patients with such wounds—albeit at his own risk—he purposely omits writing in the medical record the patient’s history, cause of injury, or any other information related to excessive use of force by Bahraini security forces.

Although Government officials in Bahrain hasten to point out similar laws in the West that require, for example, reporting of gun-shot injuries, the obvious difference is that health workers in those countries do not hand over their patients to security forces who were responsible for causing the injuries and who then torture the sick and wounded. The 2012 Bahraini law not only subordinates the needs of the patient to that of the state, it propagates fear among the population.

A 27-year-old man named Ali reported to PHR that he came upon a street protest while walking near his home in Karanah on 22 March 2012. He said that as soon as he saw the protesters, he turned to walk away, but then police began firing tear gas from all directions.

Ali reported that one canister of tear gas suddenly smashed into his head, and he fell to the ground. When he regained consciousness, family members were surrounding him, wiping blood from his head and face. They carried him home and called a human rights activist whom they thought could recommend someone who would give Ali emergency care at home. A paramedic came to their house, provided first aid, and advised that Ali go to a private hospital for possible surgery. Knowing of the Government circular to private hospitals, Ali lied to the medical staff and said that he had fallen from a horse. (CT scan revealed internal hemorrhage and a fractured skull.)

The physician told Ali that because he had serious injuries, he had to report him to the authorities. Bahraini police arrived shortly thereafter and began to interrogate and video-record Ali while in the intensive care unit. One police asked Ali, “Do you want to apologize to the King now?” Ali replied that he had nothing to apologize for, that he was only on his way to eat when he happened upon the demonstration.

Next the police asked, “Why did you call Nabeel Rajab? Do you think Nabeel is more legitimate than the Government?” Ali answered, “He’s a human rights activist. He could help me. If I went to Salmaniya [Hospital] they’d arrest me.”

When they asked, “Who came to your home and stitched you?” he said that he “was too afraid to ask who he was.” The next day a forensic doctor from the Ministry of the Interior came to the hospital to examine Ali, and he told this doctor the truth, that he was hit in the head by a teargas canister.

The doctor took photographs of the wounds and said to Ali, “You’re lucky to have survived. Others from the same injury have died.” The MOI official then told Ali what he was going to report had happened: “The police fired up into the air, and the canister fell down and hit you on the head.”

Another patient, a 43-year-old mother, reported that she was too afraid to tell the truth at a state-run hospital of how she broke her foot. She recounted how on 14 February 2012 police attacked her home in Sanabis, firing two tear gas canisters inside her house. One hit her foot breaking several bones.

When she arrived at the Salmaniya Hospital emergency room, she lied and said she had fallen. “You cannot tell the truth at Salmaniya,” she said. She further explained that if she had admitted that police had broken her foot by shooting tear gas at her, she would have been arrested.

Not only patients, but medical workers as well are subjected to interrogation by Bahraini security forces. One senior surgeon whom PHR interviewed in a safe location reported that he had been summoned by the police and asked about a patient of his, “Why did you operate on this criminal?” He replied simply, “I am a doctor. I must treat everyone equally.”

“There is still much fear about Salmaniya,” according to one specialist physician who works both in private practice and at Salmaniya Hospital. Another doctor concluded that the events over the past year at Salmaniya Hospital have left an “indelible stain” on this once prestigious medical facility. Bahrain’s image will forever be tarnished, he noted, unless the government reverses course and ends militarization of healthcare.

Politicization of Bahrain’s public health system

To justify the militarization of Salmaniya Hospital, senior government authorities charged Shia health professionals with trying to take control of the medical complex, according to a group of eight physicians PHR surveyed.

Last year, Bahraini security forces targeted, detained, and tortured 48 of some of the country’s leading health professionals and forced them to sign confessions. A military court quickly convicted them on fabricated charges, including inciting hatred of the regime, occupying Salmaniya Hospital, and attempting to overthrow the Government.

These allegations were confirmed to be unfounded by the King of Bahrain’s own Commission of Inquiry. Under heightened international pressure last year, the Bahraini government transferred the medics’ trial from military to civilian court, released them on their own recognizance, suspended them from work, and restricted their travel. Twenty medical workers face felony charges and up to 15 years’ imprisonment; the other 28 face misdemeanor charges. Among these 48 medical workers, 47 are Shia.

PHR investigators spoke with a group of eight senior medical workers who have concluded that the Bahraini government, led by the Prime Minister and Minister of Interior, sought to take over the one last ministry outside Sunni control — the Ministry of Health, which until last year was seen as a Shia stronghold.

According to two other Bahraini sources whom PHR interviewed, hardliners within the Government took advantage of the chaos of the Arab Spring, detained and convicted some of the leading Shia physicians and nurses within the health ministry, and supplanted them with Sunni partisans. Many of these physicians were chairs of medical departments at Salmaniya Hospital, who were subsequently removed from those positions of authority.

The Ministry of Health, which oversees the administration of Salmaniya Hospital, transferred other specialist physicians and nurses to medical departments outside their area of expertise. The Ministry of Health replaced some of these department chiefs with doctors, reportedly Sunni, with far less training and experience. And although the current Minister of Health is Shia, most observers say his holding this office allows the Government to appear non-sectarian. According to the senior medical professionals PHR interviewed, the real power lies with the new Deputy Minister of Health, Dr. Aisha Mubarak Bu Unek, who is Sunni. She reportedly wears a Bahraini Defense Forces military uniform when present at Salmaniya Hospital.

Such politicization of healthcare only further shreds the fabric of a nation in political turmoil. Healthcare should remain beyond politics. Today in Bahrain, those who would heal the country’s wounded have become objects of persecution. Bahrain’s targeting of some of its leading medical professionals epitomizes a disturbing sectarian breach that must be addressed and mended. Dropping all politically motivated charges against each of the 48 medical workers is one way toward meaningful dialogue and reconciliation.

Policy Recommendations

To the Government of Bahrain:

Drop all politically motivated charges against each of the 48 medical workers.

Immediately allow open access to health care facilities for all those in need of medical care.

Repeal the 2012 circular requiring medical professionals to report all patients suffering from injuries to Government authorities.

Adhere to United Nations guidelines on the use of force.

Ensure that police trainings on human rights and use of force are substantive and appropriate in scope.

Establish accountability mechanisms for all those responsible for torture, excessive use of force, and other human rights violations.

Ensure comprehensive training on the proper use of force and adherence to international law for all current members of security forces, as well as any new individuals seeking to join the forces.

To the United States Government:

Withhold all military assistance to Bahrain until the Government of Bahrain makes measurable progress on human rights, including an end to the militarization of its public health system.

Ensure that policy decisions regarding Bahrain support human rights protections and progress toward democracy.

To the International Community:

Support the establishment of a UN Special Rapporteur on Medical Neutrality.



*A Bahraini doctor attends an anti-government rally outside the United Nations office in the Bahraini capital Manama on December 14, 2011.
Photo: Getty Images*



Weaponizing Tear Gas: Bahrain's Unprecedented Use of Toxic Chemical Agents Against Civilians

August 2012

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About Physicians for Human Rights

Physicians for Human Rights (PHR) uses medicine and science to investigate and expose human rights violations. We work to prevent rights abuses by seeking justice and holding offenders accountable.

Since 1986, PHR has conducted investigations in more than 40 countries, including on:

- 1987 — Use of toxic chemical agents in South Korea
- 1988 — Iraq's use of chemical weapons against Kurds
- 1988 — Use of toxic chemical agents in West Bank and the Gaza Strip
- 1989 — Use of chemical warfare agents in Soviet Georgia
- 1996 — Exhumation of mass graves in the Balkans
- 1996 — Critical forensic evidence of genocide in Rwanda
- 1999 — Drafting the UN-endorsed guidelines for documentation of torture
- 2004 — Documentation of the genocide in Darfur
- 2008 — US complicity of torture in Iraq, Afghanistan, and Guantánamo Bay
- 2010 — Human experimentation by CIA medical personnel on prisoners in violation of the Nuremberg Code
- 2011 — Violations of medical neutrality in times of armed conflict and civil unrest during the Arab Spring



PHR shared
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Cover photo: Bahraini anti-riot police fire tear gas grenades at peaceful and unarmed civilians protesters, including a Shi'a cleric, in June 2012. <http://www.youtube.com/watch?v=Qxau15hdjgk>.

Opposite: Bahraini boy displays one of several exploded tear gas canisters fired into his family's house.
Photo: Richard Sollom, PHR.

“[T]he evidence already assembled regarding the pattern of use of tear gas, as well as its toxicology, raises the question of whether its further use can be condoned under any circumstances... [T]here is an important role for the independent [health] professional: to study, document, analyze, and report on such hazards and to advise government on what does and does not carry an acceptable risk. If a weapon is found to present too serious a risk, it is then the responsibility of those in charge of public safety to decide on alternatives.”

*Dr. Howard Hu and other medical investigators from Physicians for Human Rights,
in “Tear Gas—Harassing Agent or Toxic Chemical Weapon?”
The Journal of American Medical Association*

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Acronyms

BICI	Bahrain Independent Commission of Inquiry
CIDT	Cruel, inhuman, or degrading treatment
CWA	Chemical warfare agent
CWC	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction
CS	o-Chlorobenzylidene malononitrile
CN	Chloracetophenone
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CR	Dibenz (b, f)-1, 4-oxazepine
IACHR	Inter-American Commission on Human Rights
ICRC	International Committee of the Red Cross
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
OC	Oleoresin capsicum
PAVA	Pelargonic acid vanillylamide
PCSI	Peripheral chemosensory irritant
PHR	Physicians for Human Rights
MENA	Middle East and North Africa
RCA	Riot control agent



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Executive Summary

The tiny Persian Gulf Kingdom of Bahrain still smolders amid ongoing civil unrest 18 months after protesters began calling for political reform. Governments in the region have resorted to lethal force or have precipitated outright civil war in response to the outcries for political reform and human rights in the context of the “Arab awakening.” Bahrain’s Sunni monarchy notably has silenced dissent and punished the opposition by rounding up doctors and peaceful protesters, torturing many of them, filing trumped-up charges, and imposing harsh prison sentences. The vicious crackdown in Bahrain has received global attention and warranted a special international commission of inquiry into Bahrain’s excessive use of force and human rights violations. Throughout this time, Physicians for Human Rights (PHR) has played a leading role in defense of our medical colleagues whose rights have been severely violated in Bahrain.

Less visible is the unusually relentless and indiscriminate campaign that Bahraini authorities have waged against the majority Shi’a population for more than 500 days by weaponizing toxic chemical agents—so called tear gas. In Bahrain, law enforcement officials have deployed this toxic agent to punish protesters, inflict suffering, and suppress dissent. Usually perceived by the public and security forces as a benign tool for crowd control, tear gas, especially when used in large quantities and in enclosed spaces, poses serious health risks and even causes death. Since February 2011, the Bahraini government has unleashed a torrent of these toxic chemical agents against men, women, and children, including the elderly and infirm.

Twenty-five years ago, PHR documented the deleterious and long-term health effects of tear gas used indiscriminately in South Korea against civilian protesters, including toxic pulmonary damage and death, as well as possible miscarriages. As physicians we were then compelled to question whether the further use of these toxic chemical agents could be condoned under any circumstances.

The extensive and persistent use of this so-called nonlethal chemical agent now in Bahrain—unprecedented in the 100-year history of tear gas use against civilians throughout the world—compels PHR once again to call the world’s attention to the known and still unknown serious health consequences of tear gas, including death. As human rights advocates and health professionals, we are ethically obligated to highlight the toxic and lethal effects of tear gas and its indiscriminate and illegal use in Bahrain.

Methods

This report’s findings are based on field research that PHR conducted in Bahrain (7-12 April 2012) to investigate excessive use of force by law enforcement officials since June 2011—the end of Bahrain’s state of emergency. The medico-legal team (Richard Sollom, MA, MPH and Holly Atkinson, MD) conducted 102 in-depth interviews with Bahrainis who reported human rights violations, corroborating eyewitnesses to these alleged events, civil society leaders, and government officials. Other forms of corroboration that PHR conducted or utilized in this study include: Physical examinations, evaluation of medical records, and review of radiographic, photographic, and video evidence. In addition, this report contains results from an analysis of 28 countries whose security forces have deployed toxic chemical agents against civilians in situations of civil unrest.

This report documents two interconnected means by which the Bahraini government unlawfully uses toxic chemical agents against civilians: (1) Government authorities have routinely violated every U.N. principle governing police use of force. (2) Bahraini law enforcement officials have also effectively transformed toxic chemical agents into weapons used to assail Shi'a civilians inside their homes and cars.

Bahraini government violates UN principles on the use of force during protests

While current international law allows governments to use some chemical agents for crowd control purposes, Bahraini law enforcement officials routinely violate every U.N. principle of their use. Specifically, PHR documents in this report that Bahraini authorities:

- (1) Fail to exercise restraint before resorting to force;
- (2) Use disproportionate force when responding to protesters; and
- (3) Fail to minimize damage and injury to demonstrators.

Such unrestrained use of toxic chemical agents against civilians has caused superfluous—and sometimes life-threatening—harm to men, women, and children in Bahrain. Injured protesters whom PHR investigators examined suffered from blunt force trauma and lacerations to the head, torso, and limbs due to the impact of metal canisters being fired at them by law enforcement officials at close range.

Police hit one bystander in the head with a tear gas canister while he was walking near the site of a protest in Karanah, causing a fractured skull and intracranial hemorrhaging. "You're lucky to have survived," the doctor who performed the CT scan told this victim, "Others from the same injury have died."

Bahraini government violates human rights law by weaponizing toxic chemical agents

Equally unprecedented is the Government of Bahrain's transformation of toxic chemical agents into weapons used methodically to attack Shi'a civilians inside their homes and cars. Such unprovoked and flagrant assaults on families—who pose no threat to the safety of others—flout international human rights law and constitute torture, cruel, and inhuman treatment. Specifically, the report documents that Bahraini law enforcement officials:

- (1) Subject men, women, children, vulnerable, disabled and elderly persons to torture, cruel, and inhuman treatment;
- (2) Unlawfully enter families' homes and destroy property;
- (3) Intentionally commit acts that impair people's health; and
- (4) Discriminate against one religious sect by targeting Shi'a neighborhoods.

The weaponized toxic chemical agent attacks against Bahraini civilians are intentional—and may be official policy—because of the frequency of the attacks by officials throughout the police force and the lack of accountability for those who perpetrate the attacks.

Two sisters from Shela told PHR investigators that police shot tear gas canisters directly into their home on five separate occasions. On the second occasion, they reported police ripped protective covers off of the family's air conditioners and pulled sealant away from the windows from the outside, before throwing tear gas canisters through a window and yelling,

“If you want freedom, come out to us.” They reported that in the third incident, police broke through the front door and threw a tear gas canister into their home.

PHR investigators also interviewed several members of a large family—ages 3 to 65—who were forced from their home after police stormed it, attempted to abduct a 15-year-old boy, and fired canisters containing toxic chemical agents into the house causing a 14-year-old girl to fall unconscious. Law enforcement officials then reportedly surrounded the exits, inhibiting escape.

Such attacks appear to discriminate against Bahrain’s Shi’a majority population. Preliminary analysis of data suggests that the majority of Shi’a neighborhoods (comprising 80% of all neighborhoods in Bahrain) have been exposed to toxic chemical agent attacks at least once per week since February 2011. Sunni-dominated neighborhoods have largely remained free from toxic chemical agent attacks.

Bahrain’s misuse of toxic chemical agents endangers the health of civilians and causes severe and long-term pain and suffering

Physicians for Human Rights warns that the ongoing 18-month siege and widespread use of toxic chemical agents against a civilian population has caused inestimable physical harm and will continue to inflict as yet unknown negative health effects among this population. Bahraini law enforcement officials’ persistent targeting civilians in enclosed spaces may lead to serious long-term health consequences, including miscarriages and severe respiratory distress resulting in premature death.

PHR spoke with two families who had family members who allegedly died from complications related to toxic chemical agent exposure. In both cases, deceased individuals were only exposed to toxic chemical agents in the privacy of their homes, and died despite treatment in the hospital. PHR met with relatives of Muhammad, a young asthmatic man from a Shi’a village, who died of acute respiratory failure following 25 days of hospitalization after exposure to toxic chemical agents. Muhammad’s family reported that he was routinely exposed to tear gas and sought medical care in private hospitals, but never told doctors about his severe adverse reactions to the gas for fear of being reported to authorities and sent to prison.

Policy recommendations

Countries like Bahrain that have so profoundly abused tear gas as a means to preemptively assault civilians should lose access to these toxic chemical agents. All other countries that have deployed these chemicals as per U.N. principles and with due respect for human life and dignity should reevaluate their use given the dangerous health consequences wrought by tear gas and should utilize these agents with extreme caution.

To the Government of Bahrain:

End all attacks on civilians, including tear gas attacks on civilians and homes.

Given the harmful effects of tear gas misuse in the country, suspend all use of tear gas until such time as the Government of Bahrain conducts a full and impartial investigation of the events detailed in this report, retrains the national security forces in the proper use of tear gas, and holds the perpetrators of excessive or improper use of force accountable. After such initial benchmarks are met, adhere to United Nations guidelines on the use of force and to the Bahraini penal code in order to stem future misuse of tear gas.

- Establish an independent body consisting of individuals familiar with human rights and legal norms regarding the use of force to investigate the deliberate misuse of toxic chemical agents in Bahrain.

Disclose information about the varieties of toxic chemical agents used by law enforcement officials in Bahrain, given the disturbing evidence of the harmful effects of toxic chemical agents from PHR's investigation as well as the BICI Report. This information will be important to the current treatment of exposed Bahraini citizens, and to drive future scientific research on the effects of all toxic chemical agents.

Allow scientists, health professionals, and epidemiologists to conduct critical toxicological and survey research on the use and effects of tear gas in Bahrain.

To the international community:

Suspend global exports of tear gas and its relevant precursor chemical agents to Bahrain until such time as the Government of Bahrain conducts a full and impartial investigation of the events detailed in this report, retrains the national security forces in the proper use of tear gas, and holds the perpetrators of excessive or improper use of force accountable.

Convene an interdisciplinary group of health professionals, lawyers, law enforcement officials, and public health experts to draft guiding principles on the proper use of all toxic chemical agents, especially those classified as lachrymatory agents, and to determine whether the application and toxicity of certain lachrymatory agents necessitate re-classification under the Chemical Weapons Convention.

Support scientific research into the health effects of tear gas, including research on the possible connection to miscarriage and/or genetic disorders as well as long-term respiratory sequelae of excessive exposure.

Review international, regional, national, and local guidelines on tear gas use and ensure that they follow the parameters of the UN Guidelines on the Use of Force, including mechanisms for accountability for misuse.

To the United States:

Continue to deny export licenses for tear gas to Bahrain until the Government of Bahrain adheres to UN Guidelines on the Use of Force regarding its tear gas use, investigates the weaponization of tear gas, and establishes accountability for law enforcement officials who use excessive force or otherwise violate the UN Guidelines.

Revoke tear gas licenses for other countries that show warning signs of improper use of tear gas or other riot control items against peaceful civilians.

As a matter of policy, ensure that all tear gas and related materials are listed on the State Department's US Munitions List, given the fatal consequences of the improper use of tear gas.

Provide stricter end-use monitoring of tear gas and related materials through the Department of Defense.

Ensure that any military assistance to Bahrain comports with the Leahy Law and section 502(b) of the Foreign Assistance Act of 1961.

Fully support international efforts to draft guiding principles on the proper use of all toxic chemical agents, and lead the international community in supporting scientific research on the health effects of these agents.

Methods and Limitations

This report's findings are based on field research that Physicians for Human Rights conducted in Bahrain (7-12 April 2012) to investigate reported violations of medical neutrality and excessive use of force by law enforcement officials¹ in Bahrain during the previous year. Extensive desk research (using Lexis-Nexis, ProQuest, and PubMed databases) supplemented this analysis. The PHR team was comprised of Richard Sollom, Deputy Director at PHR, and Holly Atkinson, Assistant Professor of Medicine and Director of the Human Rights Program at Mount Sinai School of Medicine, and Assistant Professor of Public Health at Weill Medical College of Cornell University.

The team conducted 102 semi-structured interviews with Bahrainis who reported human rights violations, corroborating eyewitnesses to these alleged events, civil society leaders, and government officials. To select these information-rich cases, field researchers conducted purposeful sampling to garner both cases that highlighted individual human rights violations (intensity sampling) as well as cases that described cross-cutting themes (heterogeneity sampling). Chain (or snowball) sampling was employed to locate corroborating witnesses, who were interviewed independently from the original source, for probative evidence. Other forms of corroboration that PHR conducted or utilized in this study include:

- (5) Physical examinations by a PHR physician of victims of reported human rights violations
- (6) Evaluation of medical records of victims of reported human rights violations
- (7) Visual verification of actual locations of reported human rights violations
- (8) Review of photographic, radiographic, and video evidence

Interviewees were deemed credible (and data from their testimony was included in this report) if they purported to witness the event, gave a consistent account of events following repeated probes, and reported events that coincided with dates and times of known events.

To ensure consistency, investigators followed a semi-structured interview format with probes detailing the who, what, why, when, where, and how a reported human rights violation took place. To allow for unanticipated issues to arise, investigators combined semi-structured questions with open-ended interviewing. Interviews were conducted in English or with Arabic interpreters and were held in private settings, often in the witnesses' homes. In-depth interviews lasted between 60 and 90 minutes. PHR investigators obtained oral, informed consent from each participant following a detailed explanation of PHR, the purpose of the investigation, and the potential benefits and risks of participation. All interviews were made anonymous by removing identifying information from the interview record. An Ethics Review Board convened by PHR approved this study. To minimize the impact on their physical, mental, and social integrity, interviewees in this report are referred to under single-name pseudonyms, and some identifying information has been removed.

By its nature this study is subject to limitations in duration, scope, and access. The April 2012 field investigation was relatively short in duration as the research team's travel was limited; the Government of Bahrain only permitted investigators to enter the country for a five-day period. The Government of Bahrain has withheld key data that would contribute to full analysis of all reported violations throughout the country, such as information on types of toxic chemical agents with severe and possibly lethal effects used on civilian populations. Notwithstanding these limitations, the study produced sufficient firm data on which to make informed recommendations.

1 PHR uses the term *law enforcement officials* to mean "all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention." U.N. Code of Conduct for Law Enforcement Officials art. 1(a), U.N. Doc. A/34/46 (17 Dec. 1979).

Background

Bahraini protesters calling for political and economic reform began to march on the streets of Bahrain's capital Manama in early 2011. Mostly young and Shi'a,² they planned their first demonstration³ for 14 February.⁴ Inspired by recent protests in Egypt and Tunisia, Bahraini protesters camped in Pearl Square, the nation's symbolic center.⁵ These unarmed citizens peacefully called for a new constitution, an elected government, greater authority for Parliament, greater political freedom, and the elimination of discrimination by minority Sunnis in the ruling class against the majority Shi'a population.⁶

Patterns of toxic chemical agent misuse in Bahrain

The Bahraini government responded to protests with violence and minimal concessions. In response to the unrest, government law enforcement officials attacked unarmed protesters with toxic chemical agents,⁷ rubber bullets,⁸ and birdshot.⁹ In the first days of the protests, several people died and dozens were wounded.¹⁰ As protests continued, Bahrain's law enforcement officials began to use toxic chemical agents routinely against civilians.¹¹ In April 2011, PHR investigators documented cases where Bahraini forces launched toxic chemical agents in enclosed spaces, including homes.¹²

In March 2011, the King of Bahrain declared a three-month state of emergency as pro-democracy protests spread.¹³ Even under a state of emergency, which authorized Bahrain's armed

2. Kenneth Katzman, Congressional Research Service, *Bahrain: Reform, Security, and U.S. Policy* 7, 21 Mar. 2011, <http://www.fas.org/sqp/crs/mideast/95-1013.pdf>
3. This report uses the terms *demonstration*, *protest*, and *assembly* interchangeably.
4. According to the Bahrain Youth Society for Human Rights, "Bahrain Youth Society for Human Rights will monitor human rights violations against demonstrators and foreigners in Bahrain, on February 14, 2011, where a group of young people asking to demonstrate peacefully against human rights violations and calling for freedom of opinion and expression and other political demands." Bahrain Youth Society for Human Rights, <http://byshr.org/> (last visited 21 Jun. 2011).
5. Michael Slackman, *Bahrain Takes the Stage With a Raucous Protest*, New York Times, 15 Feb. 2011, <http://www.nytimes.com/2011/02/16/world/middleeast/16bahrain.html>. The Pearl Roundabout, found in the center of capital city Manama, is surrounded by the Bahrain Central Market, Marina, Pearl and City Center Roundabout and the Abraj Al Lulu (Pearl Towers) apartment complex, which is named after the Pearl Monument (no longer standing). The Pearl Monument contained six dhow "sails" reaching skyward (representing the Gulf Cooperation Council's six member nations), which joined together to hold a pearl at the top (signaling Bahrain's history of pearl cultivation).
6. *Bahrain: Reform, Security, and U.S. Policy*, *supra* note 2, at 7.
7. *Footage shows crackdown in Bahrain*, Al Jazeera, 13 Mar. 2011, <http://english.aljazeera.net/news/middleeast/2011/03/201131375850321229.html>.
8. *Id.*
9. Kristen Chick, *Bahrain's Calculated Campaign of Intimidation*, Christian Science Monitor, 1 Apr. 2011, <http://www.csmonitor.com/World/Middle-East/2011/0401/Bahrain-s-calculated-campaign-of-intimidation>.
10. *Clashes rock Bahraini capital*, Al Jazeera, 17 Feb. 2011, <http://www.aljazeera.com/news/middleeast/2011/02/201121714223324820.html>.
11. Physicians for Human Rights, *Do No Harm: A Call for Bahrain to End Systematic Attacks on Doctors and Patients* 10 (2011), <http://physiciansforhumanrights.org/library/reports/bahrain-attacks-on-doctors-2011-04-22.html>. Several groups documented Bahraini law enforcement officials' use of riot control methods including toxic chemical agents and rubber bullets. See e.g., *Bahrain Forces Quash Protests*, Reuters, 25 Mar. 2011, <http://www.independent.co.uk/news/world/middle-east/bahrain-forces-quash-protests-2253207.html>. Christopher Hope, *Coalition criticized for allowing sales of arms used to suppress democracy protests in Libya and Bahrain*, The Telegraph, 5 Apr. 2011, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/libya/8427138/Coalition-criticised-for-allowingsales-of-arms-used-to-suppress-democracy-protests-in-Libya-and-Bahrain.html>. Bahrain: *Investigate deaths linked to crackdown*, The Muslim News, 29 Mar. 2011, <http://muslimnews.co.uk/news/news.php?article=19930>; Human Rights Watch, *Bahrain: Martial Law Does Not Trump Basic Rights*, 16 Mar. 2011, <http://www.hrw.org/news/2011/03/16/bahrain-martial-law-does-not-trump-basic-rights>
12. *Do No Harm: A Call for Bahrain to End Systematic Attacks on Doctors and Patients*, *supra* note 11, at 16, 17. See also Bahrain Youth Society for Human Rights, *The Riot Police Continuously Attack Civilians*, 27 Jan. 2010, <http://byshr.org/?p=177>.
13. See Barbara Surk and Reem Khalifa, *Bahrain's King Declares State of Emergency*, The Washington Times,

forces to “take necessary steps to restore national security,”¹⁴ international law prohibits governments from restricting the ‘non-derogable’ right to life and the right to be free from torture and cruel, inhuman or degrading treatment.¹⁵ Bahrain’s state of emergency was lifted, moreover, on 1 June 2011;¹⁶ all of the rights violations PHR documents in this report occurred after June 2011.

Bahrain established the Royal Independent Investigation Commission (later known as the Bahrain Independent Commission of Inquiry) in June 2011¹⁷ to investigate alleged gross human rights violations in response to the February and March 2011 protests, as reports of excessive use of toxic chemical agents against civilians mounted.¹⁸ The commission later found that anti-riot police¹⁹ used toxic chemical agents disproportionately to disperse protesters,²⁰ but since that pronouncement, police officers’ approach to dealing with protesters appears to have become even less restrained.²¹

Manufacturers of toxic chemical agents deployed in Bahrain

Toxic chemical agent canisters in Bahrain appear to come from at least four main manufacturers: Brazilian company Condor Non-Lethal Technologies;²² US-based Nonlethal



A Bahraini man displays an exploded canister of CS gas which was shot into his house. Photo: Richard Sollom, PHR

Associated Press, 15 Mar. 2011, <http://www.washingtontimes.com/news/2011/mar/15/official-saudi-soldier-shotdead-bahrain/>; Bahrain king declares state of emergency after protests, BBC News, 15 Mar. 2011, <http://www.bbc.co.uk/news/world-middle-east-12745608>. “A state of national safety or martial law shall be proclaimed only by Decree. In all cases, martial law cannot be proclaimed for a period exceeding three months. This period may not be renewed except with the consent of the majority of the members of the National Assembly present”. Constitution of the Kingdom of Bahrain art. 36(b), 14 February 2002, available at <http://www.unhcr.org/refworld/country.LEGAL,,LEGISLATION,BHR,4562d8cf2,48b54f262,0.html>.

14. Bahrain’s King Declares State of Emergency, *supra* note 13.

15. International Covenant on Civil and Political Rights art. 4(2), 16 Dec. 1966, 999 U.N.T.S. 171 (acceded 20 Sep. 2006). See also, Human Rights Watch, *Bahrain: Martial Law Does Not Trump Basic Rights*, 16 Mar. 2011, <http://www.hrw.org/news/2011/03/16/bahrain-martial-law-does-not-trump-basic-rights>.

16. Bahrain ends state of emergency imposed after protests, BBC News, 1 Jun. 2011, <http://www.bbc.co.uk/news/world-middle-east-13616798>.

17. HM King Hamad Sets up Royal Independent Investigation Commission, Bahrain News Agency, 29 Jun. 2011, <http://bna.bh/portal/en/news/462963>.

18. See Do No Harm: A Call for Bahrain to End Systematic Attacks on Doctors and Patients, *supra* note 11, at 16.

19. Riot police in Bahrain wear dark blue military fatigues with flak helmets and olive green pouches, black boots, and bulletproof vests. Bahrain has hired foreign mercenaries to serve as riot police. Bahrain Youth Society for Human Rights, *The Riot Police Continuously Attack Civilians*, 27 Jan. 2010, <http://byshr.org/?p=177>; Ian Black, *Bahrain security forces accused of deliberately recruiting foreign nationals*, The Guardian, 17 Feb. 2011, <http://www.guardian.co.uk/world/2011/feb/17/bahrain-security-forces-sunni-foreign>.

20. Bahrain Independent Commission of Inquiry (BICI Report), Report of the Bahrain Independent Commission of Inquiry, ¶ 1117 (2011), <http://www.bici.org/bh/BICReportEN.pdf>.

21. See Bill Law, *Bahrain restricts protests on uprising anniversary*, BBC, 14 Feb 2012, <http://www.bbc.co.uk/news/world-middle-east-17025148>.

22. Evidence from media sources suggests that the toxic chemical agents used against Bahraini protesters were manufactured by companies in Brazil, the US and France. The Brazilian newspaper *Época* reported in December 2011 that images of a toxic chemical agent canister carrying a “made in Brazil” stamp had been published online by Bahraini activists. The canister appears to be a GL-202 Long Range Tear Gas Projectile produced by Brazilian company Condor Non-Lethal Technologies. José Antonio Lima and Liuca Yonaha, *Gás lacrimogéneo “made in Brazil” é usado na repressão no Bahrein, dizem ativistas*, *Época* (16 Dec. 2012) <http://revistaepoca.globo.com/Mundo/noticia/2011/12/gas-lacrimogeneo-made-brazil-e-usado-na-repressao-no-bahrein-dizem-ativistas.html>. Condor Non-Lethal Technologies, *GL-202 Long Range Tear Gas Projectile*, Condor Nao Letal, http://www.condoraoletal.com.br/eng/index.php?option=com_content&task=view&id=91&Itemid=93 (last visited 6 Jun. 2012).

Technologies, Inc.²³ and Federal Laboratories (also known as Defense Technology);²⁴ and France-based SAE Alsetex/Etienne Lacroix Group.²⁵

Condor Non-Lethal Technologies has stated that while it does supply weapons to more than 35 countries, including some in the Arab world, it never exported weaponry to Bahrain.²⁶ Although Condor would not reveal its clients for reasons of commercial competitiveness, the company noted that troops from at least five different countries in the region were operating inside Bahrain (possibly with Condor-made toxic chemical agents) at the request of the Bahraini government.²⁷ At the time of this writing, the Brazilian government has yet to report on alleged exports of Condor's toxic chemical agents to Bahrain.²⁸

In February 2012, the group "Anonymous" hacked the website of US-based company Combined Systems Inc.,²⁹ which exports riot-control equipment to armies around the world.³⁰ The company has yet to address allegations that it has been a primary riot control agent (RCA) supplier to MENA governments embroiled in the Arab Spring.³¹ Although Combined Systems Inc. refuses to comment on whether it exports toxic chemical agents to Bahrain, sources have documented the use of canisters bearing its logo in Egypt.³²

Governments are the arbiters of whether products such as chemical agents are exported to other countries; they have the responsibility to grant or deny export licenses for various products.

History and development of toxic chemical agents

Definition and origins. Tear gas is a term used to refer to a group of toxic chemical agents that disable people exposed to them by irritating the lungs, skin, or eyes.³³ These agents are also called lachrymatory agents, peripheral chemosensory irritants (PCSI), riot control agents and harassing agents,³⁴ and qualify as "less-lethal" weapons.³⁵ Toxic lachrymatory chemical

23. In December 2011, the New York Times reported that tear gas shells made by US company Nonlethal Technologies were "being swept off the street each morning" in Bahrain. Nicholas Kristof, *Repressing Democracy, With American Arms*, New York Times (17 Dec. 2011), http://www.nytimes.com/2011/12/18/opinion/sunday/kristof-repressing-democracy-with-american-arms.html?_r=1.

24. Bahrain Watch Blog, *Arms Watch Tracking the Governments and arms dealers fueling the bloodshed*, 14 Feb. 2012, <http://bahrainwatch.org/arms.html>.

25. A photograph published in The Telegraph shows a collection of spent toxic chemical agent canisters in Bahrain's Pearl Square, which appear identical to canisters produced by France's Etienne Lacroix Group. The Telegraph, *Bahrain protests escalate: Saudi Arabia sends troops to help restore security*, <http://www.telegraph.co.uk/news/picturegalleries/worldnews/8381142/Bahrain-protests-escalate-Saudi-Arabia-sends-troops-to-help-restore-security.html?image=6> (last visited 6 Jun. 2012); Etienne Lacroix Group, *Munitions, Grenades, Dispersers*, Lacroix DS, <http://www.lacroixds.com/catalogue.html> (last visited 6 Jun. 2012).

26. Gás lacrimógeno "made in Brazil", *supra* note 22.

27. *Id.*

28. The Brazilian government noted that it would have no investigative power over Condor's sale of toxic chemical agents to Bahrain given that the contract would be between two private parties. Rasheed Abou-Alsamh, *Who will investigate the use of Brazilian tear gas in Bahrain?*, 11 Mar. 2012, <http://www.rasheedsworld.com/wp/2012/03/who-will-investigate-the-use-of-brazilian-tear-gas-in-bahrain/>.

29. The Atlantic Wire, *Anonymous Marks Bahrain Protest by Hacking U.S. Tear Gas Company*, 14 Feb. 2012, <http://www.theatlanticwire.com/global/2012/02/anonymous-marks-bahrain-protest-hacking-us-tear-gas-company/48669/>.

30. Washington Post Blog, *Anonymous marks Bahrain anniversary by hacking U.S. tear gas company*, 14 Feb. 2012, http://www.washingtonpost.com/blogs/blogpost/post/anonymous-marks-bahrain-anniversary-by-hacking-us-tear-gas-company/2012/02/14/qIQaiOVDR_blog.html.

31. Amnesty International, *USA repeatedly shipped arms supplies to Egyptian security forces*, 7 Dec. 2011, <http://www.amnesty.org/en/news/usa-repeatedly-shipped-arms-supplies-egyptian-security-forces-2011-12-06>.

32. *Id.*

33. Toxic chemical lachrymatory agents induce incapacitation by irritating the respiratory system, mucous membranes, skin or eyes. Indiana State Department of Health, *Facts about Riot Control Agents*, <http://www.in.gov/isdh/24339.htm> (last visited 7 Jun. 2011).

34. *Id.*

35. Less-lethal weapons include tear gas, water cannons, rubber bullets, pepper spray, lasers, conducted energy devices, and Fentanyl. Parliamentary Forum on Small Arms and Light Weapons, *Policy Statement on Less*

agents are among the most commonly used types of riot control agents.³⁶ At least 15 chemi

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cals have been used worldwide as harassing agents,³⁷ with CS gas³⁸ being the most commonly used by law enforcement for crowd control.³⁹ PHR uses the term “toxic chemical agents”

Precursors to today’s lachrymatory riot control agents⁴⁰ may have been used against civilian populations as early as 1912,⁴¹ and militaries employed toxic lachrymatory agents as weapons for the first time in 1914.⁴² Some of the chemicals used in today’s riot control agents, however, evolved from chemical weapons developed as early as the 1800s.⁴³ CS gas was identified as a lachrymatory agent in 1928⁴⁴ and was weaponized in the mid-1950s.⁴⁵ The letters “CS” stand for the initials of B.B. Corson and R.W. Stoughton, American chemists who discovered the properties of the chemical in 1928.⁴⁶ Toxic lachrymatory agents and other chemical warfare-agents (CWAs) were used extensively throughout both World Wars I and II.⁴⁷ The United States used CS gas on the battlefield for the first time during the 1960s Vietnam War.⁴⁸

Responding to widespread use of chemical weapons on the battlefield during WWI, over 30 countries signed a UN protocol in 1925 that prohibited the use of poisonous gases in war.⁴⁹

Lethal Weapons, 20 Feb. 2011,

http://parliamentaryforum.org/sites/default/files/parforum_policy_statement_on_less_lethal_weapons_final.pdf.

36. Facts about Riot Control Agents, *supra* note 33.

37. Howard Hu, et al., *Tear Gas – Harassing Agent or Toxic Chemical Weapon?*, 262 JAMA 660 (4 Aug. 1989). Among these chemicals are CA gas, which was one of the first toxic chemical lachrymatory agents used and is now obsolete, and CN gas, which was discovered in 1869 and has been replaced largely by CS gas. USAF Institute for National Security Studies, *Nonlethal Weapons: Terms and References*, INSS Occasional Paper 15, 25 (1996), available at <http://www.usafa.edu/df/inss/OCP/ocp15.pdf>.

38. CS gas is known scientifically as o-chlorobenzylidene malononitrile with a molecular formula of C₁₀H₅CIN₂. When combined with other agents, it can be easily dispersed. B.L. Danto, *Medical problems and criteria regarding the use of tear gas by police*, 8 Am J Forensic Med Pathol 317, 319 (1987); Jay P Sanford, *Medical aspects of riot control (harassing) agents*, 27 Annu Rev Med. 421, 423 (1976).

39. Yakubu. G. Karagama et al., *Short-term and long-term physical effects of exposure to CS spray*, 96 J R Soc Med 172,172 (2003).

40. Ethylbromacetate, a strong lachrymatory agent, was developed in 1858 and later became the first “combat gas” of World War I. The chemical chloracetone largely replaced ethylbromacetate in 1914. An even more potent lachrymator, xylol bromide, was first used in 1915. Eric Croddy, *Chemical and Biological Warfare: A Comprehensive Survey for the Concerned Citizen* 118 (2001).

41. French authorities used Ethylbromoacetate to control violent mobs and incapacitate criminals. *Id.*

42. The French army reportedly launched grenades containing the substance Ethylbromacetate at the German army. *Id.*

43. The invention of chlorine, one of the earliest recognizable chemical weapons, is attributed to the Swedish chemist Carl Scheele in 1774. Office of The Surgeon General, Department of the Army, United States of America, *Medical Aspects of Chemical and Biological Warfare* 10 (1997), available at <http://www.opas.org.br/ambiente/quimicos/fulltex/armas/textos/chebio/chebio.pdf#page=24>. British chemist John Davey created phosgene, a choking agent nearly ten times as toxic as chlorine, in 1812. Together with chlorine, phosgene was responsible for more deaths in WWI than any other chemical agent. Scientists in both Germany and the United Kingdom created sulphur mustard (SM) in 1860. Invented explicitly as a weapon of mass destruction, SM was the earliest form of mustard gas. Ladislaus Szinicz, *History of chemical and biological warfare agents*, 214

Toxicology 167, 174-175 (2005), available at <http://www.sciencedirect.com/science/article/pii/S0300483X05002829>.

44. CS, Oxford English Dictionary (2d ed. 1989, online version Mar. 2011).

45. *Tear Gas – Harassing Agent or Toxic Chemical Weapon?*, *supra* note 37, at 661. CS gas was used in Cyprus and British Guyana in 1956. Brian Rappert, *Non-Lethal Weapons as Legitimizing Forces? Technology, Politics, and the Management of Conflict* 35 (2003).

46. Oxford English Dictionary, *supra* note 44; *Medical problems and criteria regarding the use of tear gas by police*, *supra* note 38, at 319.

47. Initially, CWAs were available only to countries with advanced chemical industries; however, by the end of the century they were produced and used by countries with less-developed industries as well as terrorist organizations. James A. Romano, Jr., et al., *Chemical Warfare Agents: Chemistry, Pharmacology, Toxicology, and Therapeutics* 627 (James A. Romano Jr. et al. eds., 2d ed. 2008).

48. *Non-Lethal Weapons as Legitimizing Forces?*, *supra* note 45, at 35.

49. There are currently 132 States Party to the Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, 17 Jun. 1925, available at <http://www.icrc.org/ihl.nsf/FULL/280?OpenDocument> (Bahrain ratified 12 Sep. 1988).

However, countries continued to develop and stockpile chemical and biological weapons following WWI and throughout the 20th century.⁵⁰ The need for comprehensive international standards regulating the use and development of chemical weapons became apparent, especially following countries' abuse of many different chemical agents both for use in combat during war and against their own civilians.⁵¹

In 1997, the Chemical Weapons Convention (CWC) effectively prohibited the use of chemical and biological weapons in warfare, and promoted disarmament.⁵² The CWC, however, allows law enforcement officials to use some chemical agents during periods of peacetime or civil unrest.⁵³ The convention calls permissible chemicals "riot control agents" and stipulates that these agents must have effects which disappear shortly after exposure.⁵⁴ Lack of state consensus at the time of the CWC's drafting may explain why the Convention does not forbid use of chemical agents by law enforcement personnel. It has been suggested that domestic regulation of chemical agents did not take precedence and therefore was unable to be resolved.⁵⁵

Global use. Within the past year and a half, governments of Arab Spring countries including Bahrain,⁵⁶ Egypt,⁵⁷ Libya,⁵⁸ Syria,⁵⁹ Tunisia,⁶⁰ and Yemen⁶¹ have deployed toxic chemical agents against civilians. Other governments that have recently deployed toxic chemical agents

50. *History of chemical and biological warfare agents*, *supra* note 43, at 167-181; Organisation for the Prohibition of Chemical Weapons, *Basic Facts on Chemical Disarmament*, <http://www.opcw.org/news--publications/publications/history-of-the-chemical-weapons-convention/> (last visited 19 Jun. 2012).

51. Examples include abuse of chemical agents in Vietnam (by the United States) and Iran (by Iraq) as well as their use against civilians by the Iraqi government and Japanese terrorists. *Chemical Warfare Agents: Chemistry, Pharmacology, Toxicology, and Therapeutics*, *supra* note 47, at 628-630; *History of chemical and biological warfare agents*, *supra* note 43, at 172.

52. The Chemical Weapons Convention (CWC) was the result of 12 years of negotiations, which aimed to prohibit "the development, production, acquisition, stockpiling, retention, transfer, or use of chemical weapons." Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction ("Chemical Weapons Convention") art. 1, 13 Jan. 1993, available at <http://www.opcw.org/chemical-weapons-convention/> (Bahrain ratified 28 Apr. 1997).

53. As party to the Chemical Weapons Convention, Bahrain is permitted to employ certain toxic chemicals for, inter alia, purposes of scientific and medical research; protection against chemical weapons; military purposes that do not rely on toxic chemicals as agents of warfare; and law enforcement including domestic riot control purposes. *Id.*, at art. 2.9(a)-(d).

54. "'Riot Control Agent' means: Any chemical not listed in a Schedule, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure." Chemical Weapons Convention, *supra* note 52, at art. 2.7.

55. Matthew Meselson & Julien Perry Robinson, "Law Enforcement" and the CWC, 58 *The CBW Conventions Bulletin* 1, 1-2 (2002) (Discusses the need for clarifications in the CWC), available at <http://www.fas.harvard.edu/~hsp/bulletin/cbwcb58.pdf>. Whether the CWC allows States to develop and use incapacitating chemical agents as well as riot control agents for domestic law enforcement is an ongoing subject of debate. Arms Control Today, *The Chemical Weapons Convention at 10: An Interview with OPCW Director-General Rogelio Pflirter*, Apr. 2007, http://www.armscontrol.org/act/2007_04/Pflirter. Absence of regulation regarding use of chemical agents for domestic law enforcement may have encouraged their misuse. For instance, in the 2002 Moscow hostage crisis, some 160 deaths could be passed off as legal. "Law Enforcement" and the CWC, *supra* note 55, at 1-2.

56. Physicians for Human Rights, *Tear Gas or Lethal Gas? Bahrain's Death Toll Mounts to 34*, Mar. 2012 <http://physiciansforhumanrights.org/blog/tear-gas-or-lethal-gas.html>.

57. See Amnesty International, *Egypt: Systematic failure to rein in security forces*, 22 Feb. 2012, <http://www.amnesty.org/en/news/egypt-systematic-failure-rein-security-forces-2012-02-22>. BBC News, *UN human rights chief Navi Pillay condemns Cairo deaths*, 23 Nov. 2011, <http://www.bbc.co.uk/news/world-africa-15854418>.

58. See Aaron Gray-Block, *Exclusive: Gaddafi pre-planned attacks on civilians: prosecutor*, Reuters, 5 Apr. 2011, <http://www.reuters.com/article/2011/04/05/us-libya-icc-exclusive-idUSTRE73443V20110405>.

59. See Liam Stack and Neil MacFarquhar, *Syrian Protesters Clash with Security Forces*, *NY Times*, 1 Apr. 2011, <http://www.nytimes.com/2011/04/02/world/middleeast/02syria.html>.

60. See Reuters, *Tunisia's Ban on Protests in Capital Is Reversed*, 11 Apr. 2012, http://www.nytimes.com/2012/04/12/world/africa/tunisia-ban-on-habib-bourguiba-avenue-protests-is-reversed.html?_r=1&ref=tunisia; Tunisia: *Police Tear-Gas Demonstrators*, 15 July 2011, <http://www.nytimes.com/2011/07/16/world/africa/16briefs-Tunisia.html>.

61. See Portia Walker, *Police Fire On Demonstrators in Yemen*, 9 Mar. 2011, <http://www.washingtonpost.com/wp-dyn/content/article/2011/03/08/AR2011030805594.html>.

against their civilian populations include Chile,⁶² Honduras,⁶³ Israel,⁶⁴ Panama,⁶⁵ Turkey,⁶⁶ and Uganda.⁶⁷ Such tactics are not a new phenomenon. For decades governments have launched attacks against civilians with toxic chemical agents.⁶⁸ Perhaps most similar to the Bahraini context, authorities in South Korea in 1987 used hundreds of thousands of canisters of toxic chemical agents over the course of two months (June and July) in the streets of Seoul to crush civilian uprisings.⁶⁹ Just as in Bahrain, civilians exposed to high quantities of toxic chemical agents in South Korea suffered acute illnesses and severe health impairments; affected individuals went without medical attention for fear of police and government harassment.⁷⁰

Types of chemical riot-control agents and their effects

***o*-Chlorobenzylidene malononitrile (CS, CS1, CS2).** The chemical CS remains the most commonly used lachrymatory riot control agent today.⁷¹ Symptoms of CS exposure include severe tearing, burning in the nose and throat, eye spasms, chest tightness, coughing, and wheezing among other signs of oral and respiratory distress.⁷² Scientists have also reformulated

62. Police in Chile used toxic chemical lachrymatory agents against more than 30,000 civilians protesting against a hydroelectric dam, and temporarily stopped using the chemical agents over concerns that these lachrymatory agents may lead to miscarriages. Latin America News Dispatch, *Chile Suspends Use of Tear Gas Amid Concerns Over Miscarriages*, 19 May 2011, <http://latindispatch.com/2011/05/19/chile-suspends-use-of-tear-gas-amid-concerns-over-miscarriages/>; Latin America News Dispatch, *Chilean Government Resumes Use of Tear Gas As HidroAysén Protests Continue*, 25 May 2011, <http://latindispatch.com/2011/05/25/chilean-government-resumes-use-of-tear-gas-as-hidroaysen-protests-continue/>.
63. "There were credible reports in March 2011 that members of the national police fired tear gas canisters indiscriminately and beat people with batons during demonstrations by teachers' unions protesting proposed changes in the public education system." Human Rights Watch, *World Report 2012: Honduras 2* (2012, <http://www.hrw.org/world-report-2012/world-report-chapter-honduras>); Amnesty International, *Stock pile of tear gas grenades in Honduras triggers fears of human rights abuses*, 27 Nov. 2009, available at <http://www.unhcr.org/refworld/country,,AMNESTY,COUNTRYNEWS,HND,,4b14e7a6c,0.html>.
64. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has noted Israel's use of toxic chemical lachrymatory agents. *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue*, U.N. Doc. A/HRC/20/17/Add.2, 11 Jun. 2012, <http://unispal.un.org/unispal.nsf/47d4e277b48d9d3685256ddc00612265/68a8430f7c1ae73285257a1c00512d46?OpenDocument>. PHR reported on the use of toxic chemical agents by the IDF in 1988, documenting reports that soldiers threw and shot tear gas into homes, stores and hospitals. Physicians for Human Rights, *The Casualties of Conflict: Medical Care and Human Rights in the West Bank and Gaza Strip* (1988).
65. "Disputes over mining rights in western Panama have led to violent confrontations between indigenous groups and Panamanian security forces... Panamanian Security Services continue to use tear gas and other riot control measures." US Department of State Bureau of Diplomatic Services, *Travel Alert: Panama*, 5 Feb. 2012, <https://www.osac.gov/Pages/ContentReportDetails.aspx?cid=11944>. PHR reported in 1987 that chemical agent canisters being shot into homes, classrooms, and cars "were clearly labeled: 'For outdoor use only-may cause severe injuries-give medical aid to persons seriously affected.'" Physicians for Human Rights, *Panama 1987: Health Consequences of Police and Military Actions: The Report of a Medical Fact-Finding Mission of Physicians for Human Rights* (1987), <http://www.physiciansforhumanrights.org/library/reports/panama-1987-health.html>.
66. See World Without Torture, *Tear gas: Is it a violation of human rights?*, 31 May 2012, <http://worldwithouttorture.org/tag/european-court-of-human-rights/>; Al Jazeera, *Turkish police clash with Kurdish protesters*, 18 Mar. 2012, <http://www.aljazeera.com/news/middleeast/2012/03/2012318173842690891.html>; Frederike Geerdink, *The wrong discussion about tear gas*, [Journalistinturkey.com](http://www.journalistinturkey.com), 13 Apr. 2012, http://www.journalistinturkey.com/blogs/the-wrong-discussion-about-tear-gas_3068/.
67. See Reuters, *Ugandan police fire teargas, disperse opposition vigil*, 17 Aug. 2011, <http://af.reuters.com/article/topNews/idAFJ0E77G0F120110817>; BBC News, *Uganda: Police tear gas 'walk-to-work' protesters*, 14 April 2011, <http://www.bbc.co.uk/news/world-africa-13078400>.
68. *Tear Gas – Harassing Agent or Toxic Chemical Weapon?*, *supra* note 37, at 660.
69. According to media sources, The Republic of Korea used 351,000 toxic chemical agent grenades and canisters in June 1987 alone. Physicians for Human Rights, *The Use of Tear Gas in the Republic of Korea 1* (1987), https://s3.amazonaws.com/PHR_Reports/korea-1987-use-of-tear-gas-in-republic-of-korea.pdf.
70. *Id.*, at 4.
71. *Short-term and long-term physical effects of exposure to CS spray*, *supra* note 39, at 172-174.
72. *Id.*, at 172; B Ballantyne and DW Swanston, *The comparative acute mammalian toxicity of 1-chloroacetophenone (CN) and 2-chlorobenzylidene malononitrile (CS)*, 40 *Arch Toxicol* 75, 76 (1978) <http://www.springerlink.com/content/m17075801362u733/>.

CS into the chemical agents CS1⁷³ and CS2,⁷⁴ which increase both the severity and duration of tearing effects of CS.⁷⁵ CS1 stays active when it settles onto the ground, re-aerosolizing when touched.⁷⁶ CS1 can remain active for 14 days in an enclosed space, and about one week in open air (long after a given protest is over).⁷⁷ CS2, which is water-resistant, is so potent that wetting an exposed part of the body can re-activate the gas and regenerate the toxins.⁷⁸ Chemicals in CS2 remain toxic for about one month after being released, although particles can remain active for two months or more (the chemicals are extremely potent, and water cannot wash them away).⁷⁹ CS, like other toxic chemical agents, may be released through pressurized devices such as spray cans or guns, or explosive cartridges that release the toxic agent through a powder charge.⁸⁰ Grenades may also release CS in aerosol form; aerosol CS has been known to cause blistering at close range.⁸¹

Chloracetophenone (CN). The most toxic chemical lachrymatory agent currently available is chloracetophenone (CN),⁸² which irritates the skin and eyes more than CS.⁸³ As a result, CS gas has generally replaced CN as a riot control agent in many countries, as it is thought to be less toxic⁸⁴—although Handheld Mace still contains a small percentage of CN.⁸⁵ Though acute effects of exposure to CN are similar to effects of exposure to CS,⁸⁶ CN has a greater potential to cause corneal damage, especially when cartridges have expired.⁸⁷ The lachrymatory prop-

73. CS1 is a free-flowing powder, in which CS is combined with silica aerogel, which increases fluidity and water resistance. U.S. Army Field Manual 3-11 - Flame, Riot Control Agents, and Herbicide Operations, 6-1, FM 3-11/MCRP 3-3.7.2 (19 Aug. 1996), available at <http://www.enlisted.info/field-manuals/fm-3-11-flame-riot-control-agents-and-herbicide-operations.shtml>.
74. CS2 is blended with silicone-treated silica aerogel, which enables it to repel water. USAF Institute for National Security Studies, *supra* note 37, at 26.
75. *Id.*, at 26.
76. U.S. Army Field Manual, *supra* note 73, at 6-2.
77. *Id.*
78. *Id.*
79. *Id.*; USAF Institute for National Security Studies, *supra* note 37, at 25.
80. "[S]ome containers discharge a stream of the solution and some discharge a mist or fine particulate cloud... [Another type] contains tear gas dispersed by means of a small powder charge." JR Gaskins, et al., *Lacrimating agents (CS and CN) in rats and rabbits*, 24 Arch Environ Health 449, 449 (1972). See also S. Varma and P.J.A Holt, *Severe cutaneous reaction to CS gas*, 26(3) Clin Exp Dermatol. 248, 249 (May 2001), <http://onlinelibrary.wiley.com.ezproxy.bu.edu/doi/10.1046/j.1365-2230.2001.00806.x/pdf>. The tools of tear gas employment can be dangerous themselves. Heat, flames, and chemical reactions generated by tear gas grenades and launchers can produce burns. The gas pressure and velocity of canisters released at close range create sizable contact wounds, excessive bleeding, and internal damage. When directed at the head or neck, this damage can be fatal. MA Rothschild and K Vendura, *Fatal neck injuries caused by blank cartridges*, 101 Forensic Sci Int. 151, 151-158 (26 Apr 1999); Franck Clarot, et al., *Lethal head injury due to tear-gas cartridge gunshots*, 137 Forensic Sci Int. 45, 48-51 (14 Oct. 2003).
81. *Medical aspects of riot control (harassing) agents*, *supra* note 38, at 421-424; P Holland and RG White, *The cutaneous reactions produced by CS and CN when applied directly to the skin of human subjects*, 86 Br J Dermatol 150, 150-154 (1972) <http://onlinelibrary.wiley.com/doi/10.1111/bjd.1972.86.issue-2/issuetoc>. For a detailed explanation of cutaneous responses to CS, see DA Wiegand, *Cutaneous reactions to the riot control agent CS*, 134 Milit Med 437, 437-440 (1969).
82. Chemical and Biological Warfare, *supra* note 40, at 118. See also U.S. Army Medical Research Institute of Chemical Defense, Handbook of Toxicology of Chemical Warfare Agents (ed. Ramesh C. Gupta) (2009), available at <http://www.dtic.mil/cgi-bin/GetTRDoc?Location=U2&doc=GetTRDoc.pdf&AD=ADA539686>.
83. "w-Chlorocetophenone has been shown to present a far greater cutaneous hazard than o-chlorobenzylidenemalononitrile when applied directly to the skin." *The cutaneous reactions produced by CS and CN when applied directly to the skin of human subjects*, *supra* note 81, at 150. See also *Lacrimating agents (CS and CN) in rats and rabbits*, *supra* note 80, at 452.
84. *Id.* "Fatalities have occurred following intense, prolonged exposure to CN." *Medical aspects of riot control (harassing) agents*, *supra* note 81, at 426. Studies show that CS, when ingested or inhaled, is significantly less likely than CN to cause tissue damage. *The comparative acute mammalian toxicity of 1-chloroacetophenone (CN) and 2-chlorobenzylidene malononitrile (CS)*, *supra* note 72, at 75.
85. Chemical Mace contains 0.9% CN. USAF Institute for National Security Studies, *supra* note 37, at 25.
86. "The acute transient clinical effects of both CN and CS are quite similar..." *Medical aspects of riot control (harassing) agents*, *supra* note 81, at 424.
87. "If the CN cartridges are too old and the agent does not vaporize adequately, small solid particles may strike

erties of CN gas were discovered in Germany in 1869, and Japan may have been first to use CN gas on the battlefield.⁸⁸

Dibenz (b, f)-1, 4-oxazepine (CR). CR⁸⁹ is another toxic chemical agent and is at least five times more potent than CS.⁹⁰ British scientists developed CR gas in 1962.⁹¹ Persons exposed to CR gas experience painful photophobia as well as a burning sensation that intensifies on damp skin. CR remains active in the environment for 60 days, at least as long as CS.⁹² CR gas became known as “fire gas” in 1974 following its use in Northern Ireland, owing to the burning sensation it causes.⁹³

Oleoresin capsicum (OC) and pelargonic acid vanillylamide (PAVA). Law enforcement officers are also increasingly using pepper spray (OC or PAVA)⁹⁴ as a riot control agent (often instead of Chemical Mace),⁹⁵ which causes tearing and burning when sprayed directly into a person’s face as riot control agents.⁹⁶ The principal chemical in pepper spray is oleoresin capsicum (OC), which comes from the capsaicin in chili peppers.⁹⁷ PAVA is a synthesized capsaicin that, when directed at a person’s eyes, can reportedly cause more pain than CS gas.⁹⁸

Medical hazards of exposure to toxic chemical agents

Longitudinal or population-based studies on the long-term effects of toxic lachrymatory agents on repeatedly exposed humans do not exist, because no government is known to have deployed toxic lachrymatory agents against a civilian population for an extended period of time.⁹⁹ Some tests, however, have shown that CS gas can damage chromosomes and change DNA, raising the potential of these agents to cause long-term carcinogenic¹⁰⁰ and deleterious reproductive effects,¹⁰¹ as well as concerns about their long-term harmful effects on the

the cornea and cause damage.” *Medical problems and criteria regarding the use of tear gas by police, supra* note 46, at 320 (1987).

88. Chemical and Biological Warfare, *supra* note 40, at 118.

89. CR can be dispersed as a 0.1% CR solution comprised of 80% propylene glycol and 20% water. USAF Institute for National Security Studies, *supra* note 37, at 25.

90. *Id.*

91. *Id.*

92. U.S. Army Field Manual, *supra* note 73, at 6-3.

93. USAF Institute for National Security Studies, *supra* note 37, at 25.

94. Chemical and Biological Warfare, *supra* note 40, at 118.

95. USAF Institute for National Security Studies, *supra* note 37, at 27.

96. OC does not vaporize or emit fumes capable of incapacitating wide-reaching groups of people. U.S. Army Medical Research Institute of Chemical Defense, *supra* note 82, at 157.

97. Chemical and Biological Warfare, *supra* note 40, at 118.

98. U.S. Army Medical Research Institute of Chemical Defense, *supra* note 82, at 158.

99. Lakshaman Karalliedde et al., *Possible immediate and long-term health effects following exposure to chemical warfare agents*, 114 *Public Health* 238, 246 (2000).

100. Scientists determined in the 1970s that CS “suppressed non-specific esterase activity to a similar extent as the potent carcinogen 7, 12-dimethylbenz[a]anthracene.” LF Chasseaud, et al., *Suppression of sebaceous gland non-specific esterase activity by electrophilic alpha beta-unsaturated compounds*, 31 *Experientia* 1196, 1196 (1975) <http://www.springerlink.com/content/r55l818731k09081/>. “CS should be fully investigated for carcinogenic activity.” DH Barry, et al., *The suppression of non-specific esterase activity in mouse skin sebaceous gland by CS gas*, 240 *Nature* 560, 561 (1972) <http://www.nature.com.ezproxy.bu.edu/nature/journal/v240/n5383/abs/240560a0.html>. See also *Tear Gas – Harassing Agent or Toxic Chemical Weapon?*, Hu et al., *supra* note 37, at 660. *But cf.* E Zeiger, et al., *Salmonella mutagenicity tests, III: results from the testing of 225 chemicals*, 9 *Environ Mol Mutagen* 1, 4 (1987), which found that an increase in results could not necessarily be attributed to CS application; some animal studies claim to have disproven the mutagenic and carcinogenic potential of CS gas deployed in appropriate concentrations and in open space. Bernard P McNamara, et al., *CS: A Study of Carcinogenicity*, National Technical Information Service (Nov. 1973); Albert Von Daniken, et al., *Tests for mutagenicity in Salmonella and covalent binding to DNA and protein in the rat of the riot control agent o-chlorobenzylidene malononitrile (CS)*, 49 *Arch Toxicol* 15, 15 (1981); Dieter Wild, et al., *Genotoxicity study of CS (ortho-chlorobenzylidene malononitrile) in Salmonella, Drosophila, and mice*, 54 *Arch Toxicol* 167, 167 (1983).

101. Physicians for Human Rights spoke to physicians in the Gaza Strip in the 1980s, who reported some 40 cases of intra-uterine fetal birth. “All these cases were among women who noticed the absence of fetal movement

pulmonary system following inhalation.¹⁰² In addition, these toxic chemical agents can cause severe burns including (1) chemical burns resulting from direct contact with CS; (2) contact burns from touching the CS canisters; and (3) flame burns, when a grenade explodes too close to an individual.¹⁰³ It has also been suggested that CS inhalation may cause breathing complications, such as laryngospasm that can complicate operative procedures.¹⁰⁴

If a person exposed to toxic chemical agents leaves the saturated area quickly, symptoms of exposure can dissipate within 15 minutes, but can also last for hours.¹⁰⁵ This has led proponents of toxic chemical agent use to argue that when used properly, chemical riot control agents are nonlethal and therefore safe.¹⁰⁶ Toxic chemical agents are often used improperly, however, and scientists and law enforcement agencies alike have found that these agents can lead to fatalities¹⁰⁷ when employed indiscriminately and with disproportionate force.¹⁰⁸ According to one recent study published by the Federation of American Scientists, incapacitating chemical agents authorized for crowd control purposes might prove fatal for 10% of those exposed.¹⁰⁹

- two to three days after exposure to tear gas when soldiers had entered their camps or villages.” Physicians for Human Rights, *The Casualties of Conflict*, *supra* note 64, at 19. *But cf.* PR McElhatton, S Sidhu, and SHL Thomas, *Exposure to CS Gas in Pregnancy*, 24 *Journal of Toxicology: Clinical Toxicology* 547, 547 (Jun. 2004), which collected data on 30 women exposed to toxic chemical agents during pregnancy and concluded that “in the absence of severe maternal toxicity an increased risk of fetal toxicity is unlikely.”
102. Inhalation of excessive amounts of CS gas can cause lung damage leading to asphyxiation or, less frequently, acquired pneumonia. *The comparative acute mammalian toxicity of 1-chloroacetophenone (CN) and 2-chlorobenzylidene malononitrile (CS)*, *supra* note 72, at 93. One study found that “the possible cause of upper airway and bronchial obstruction was respiratory tract injury after CS spray inhalation... We suggest that laryngeal and bronchial obstruction constitutes a life-threatening condition that might result from CS spray inhalation.” E Karaman, et al., *Acute laryngeal and bronchial obstruction after CS (o-chlorobenzylidenemalononitrile) gas inhalation*, 266 *Eur Arch Otorhinolaryngol* 301, 303 (Feb. 2009). *See also* TC Marrs, et al., *A repeated dose study of the toxicity of inhaled 2-chlorobenzylidene malononitrile (CS) aerosol in three species of laboratory animals*, 52 *Arch Toxicol* 183, 192 (1983) <http://www.springerlink.com/content/hr276vv375183053/>; *Tear Gas – Harassing Agent or Toxic Chemical Weapon?*, *supra* note 37, at 660.
103. Yuvraj Agrawal, et al., *CS gas—Completely safe? A burn case report and literature review*, 35(6) *Burns* 895, 896 (Sep. 2009); AM Zekri, et al., *Acute mass burns caused by o-chlorobenzylidene malononitrile (CS) tear gas*, 21 *Burns* 586, 586 (Dec. 1995).
104. “[L]aryngospasm may occur hours after CS spray exposure.... [A]nesthesiologists should be aware that patients exposed to CS spray may be at risk of airway problems hours after exposure.” A Davey & IK Moppett, *Postoperative complications after CS spray exposure*, 59 *Anesthesia* 1219, 1220 (Dec. 2004).
105. A. R. Hill et al., *Medical Hazards of the Tear Gas CS: A Case of Persistent, Multisystem, Hypersensitivity Reaction and Review of the Literature*, 79 *Medicine* 236, 236-40 (2000).
106. Frederick Fraunfelder, *Is CS gas dangerous?* 320 *BMJ* 458, 459 (2000); *Medical problems and criteria regarding the use of tear gas by police*, *supra* note 46, at 320.; P.G. Blain, *Tear gases and irritant incapacitants. 1-chloroacetophenone, 2-chlorobenzylidene malononitrile and dibenz[b, f]-1,4-oxazepine*, 22 *Toxicol Rev* 103, 103-110 (2003).
107. “Death is usually the result of excessive concentrations used, confined spaces, and prolonged exposures.” U.S. Army Medical Research Institute of Chemical Defense, *supra* note 82, at 168. *See also* U.S. Department of Justice, *Review of the Department of Justice’s Use of Less-Lethal Weapons*, May 2009, <http://www.justice.gov/oig/reports/plus/e0903/final.pdf>.
108. Force is “disproportionate” when it is not “in proportion to the seriousness of the offense and legitimate objective to be achieved” U.N. Principles on the Use of Force and Firearms by Law Enforcement Officials, at art. 5(a), U.N. Doc. A/CONF.144/28/Rev.1 (18 Dec. 1990). “Some of the adverse clinical effects from RCA exposure reported in the literature have involved indiscriminate use (excessive concentrations), prolonged exposure, and dissemination of compound in a confined space.” U.S. Army Medical Research Institute of Chemical Defense, *supra* note 82, at 170. In laboratory animals, “[e]xcess mortality was noted in high dose groups of all three species ... harm was related to the high concentration (Ct) of CS...” *A repeated dose study of the toxicity of inhaled 2-chlorobenzylidene malononitrile (CS) aerosol*, *supra* note 102, at 183, 196, <http://www.springerlink.com/content/hr276vv375183053/>. *See also* Parliamentary Forum on Small Arms and Light Weapons, *supra* note 35, at 1.
109. Lynn Klotz et al., *Beware the Siren’s Song: Why “Non-Lethal” Incapacitating Chemical Agents are Lethal*, 7-8 (2003), http://www.fas.org/programs/bio/chemweapons/documents/sirens_song.pdf. *See also* ICRC, *Incapacitating Chemical Agents: Implications for International Law*, 20, 24-26 Mar. 2010, <http://www.icrc.org/eng/assets/files/publications/icrc-002-4051.pdf>.

Toxic chemical agent vapors accumulate in low areas¹¹⁰ and do not disperse easily when can

isters are detonated in confined spaces. As a result, health effects of exposure to these toxic chemical agents in confined spaces may be both prolonged and more severe.¹¹¹ Consistent ex-

Repeated exposure to toxic chemical agents may lead to increased sensitization such that subsequent exposures can result in increased health complications.¹¹⁴ Exposure to toxic chemical agents at close range increases the potential for toxic chemical substances to enter bodily tissues, which can compromise and inflame immune systems and cause chronic symptoms.¹¹⁵ Various factors affect the impact of toxic chemical agents on an individual, including whether the gas is delivered in solution or aerosol form, the length of exposure, temperature of surroundings, humidity (high temperature and humidity increase skin reactions¹¹⁶), age, and whether the exposed person has other diseases.¹¹⁷

In light of the severe detrimental health impacts noted by the Bahrain Independent Commission of Inquiry and this report, it is crucial that Bahraini authorities publicly identify which types of toxic chemical agents they use against civilians to allow further medical research and development of specific usage guidelines.¹¹⁸ Bahraini officials have not responded to PHR's request for a list of toxic chemical agents the government deploys and their concentrations.¹¹⁹

110. D. Hank Ellison, *Handbook of Chemical and Biological Warfare Agents* 405 (CRC Press ed, 2d ed. 2008).

111. "When used at higher levels, in confined spaces and/or for prolonged duration, there is a greater potential for the toxicity to escalate." U.S. Army Medical Research Institute of Chemical Defense, *supra* note 82, at 168.

112. Histologic findings included "pulmonary vascular congestion, accompanied in severe cases by focal hemorrhages and edema." *Medical Hazards of the Tear Gas CS*, *supra* note 105, at 237.

113. "In enclosed places, prolonged exposure to the resulting high dosages of RCAs can kill or disable personnel and can cause serious physiological reactions." U.S. Army Field Manual, *supra* note 73, at 6-1. See CW Chung & AL Giles Jr., *Sensitization of guinea pigs to alpha-chloroacetophenone (CN) and ortho-chlorobenzylidene malono-nitrile (CS), tear gas chemical*, 109 J Immunol 284, 284 (1972) <http://www.jimmunol.org.ezproxy.bu.edu/content/109/2/284.long>; *Tear Gas—Harassing Agent or Toxic Chemical Weapon?*, *supra* note 37, at 661. But cf. *Medical problems and criteria regarding the use of tear gas by police*, *supra* note 46, at 320, which found that CS has a safety factor of 2,600, meaning that "2,600 times as much as is required to affect humans would be required to be fatal."

114. "Persons sensitized by a previous contact with CN or other tear gas ingredient may develop serious complications on a second encounter..." *Sensitization of guinea pigs to alpha-chloroacetophenone (CN) and ortho-chlorobenzylidene malono-nitrile (CS)*, *supra* note 113, at 291. Sensitization may be more readily produced and more severe with repeated exposure to CN. *Lacrimating agents (CS and CN) in rats and rabbits*, *supra* note 80, at 452.

115. "Tear gas chemicals, especially CN may enter into the tissues of eyes or noses of human victims who are fired upon at close ranges and may generate severe immunologic responses if the chemical is released continuously. Some of the chronic clinical symptoms of such victims might have been due to immunologic inflammatory reactions." *Sensitization of guinea pigs to alpha-chloroacetophenone (CN) and ortho-chlorobenzylidene malono-nitrile (CS)*, *supra* note 113, at 291.

116. Even when used appropriately tear gas can induce severe contact dermatitis, especially if the victim develops an allergic reaction. NS Penneys, RM Israel, and SM Indgin, *Contact dermatitis due to 1-chloroacetophenone and chemical mace*, 281 N Engl J Med 413, 413-415 (1969). Symptoms are also exacerbated in hot or humid weather. *Tear Gas—Harassing Agent or Toxic Chemical Weapon?*, *supra* note 37, at 661.

117. Symptoms of RCA exposure depend on both dose and duration of exposure. Pre-existing asthma and underlying cardiac disease has been shown to exacerbate toxicity. When released as an aerosol, particles can accumulate and cause corneal abrasions when they penetrate the eye. U.S. Army Medical Research Institute of Chemical Defense, *supra* note 82, at 155, 163-165. The very young and very old may face a greater risk of negative health effects due to toxic chemical agent exposure. Elspeth Worthington & Patrick A Nee, *CS exposure-clinical effects and management*, 16 Accid Emerg Med 168, 168-170 (1999) <http://emj.bmj.com/content/16/3/168.full.pdf+html>. See also CL Punte, et al., *Exposures to orthochlorobenzylidene malononitrile*, 6 Arch Environ Health 366, 366-74 (1964). One study determined that a 4-month year old died from pneumonia developed after exposure to CS gas. Sungmin Park & Samuel T. Giammona, *Toxic Effects of Tear Gas on an Infant Following Prolonged Exposure*, 123 Arch Pediatr Adolesc Med. 245, 245-246 (1972).

118. Interview with key informant no. 11, in Bahrain (8 Apr. 2012).

119. PHR requested this information when investigators met with Bahraini Ministry of the Interior officials on 11 April 2012.

Bahraini government violates UN principles on the use of force during protests

Analysis from PHR's April 2012 investigation in Bahrain reveals that Bahraini law enforcement officials routinely deployed excessive force while using riot-control agents against civilian protesters.¹²⁰ Specifically, PHR concludes that Bahraini police (1) failed to exercise restraint¹²¹ before resorting to force; (2) used disproportionate force¹²² when responding to protesters; and (3) failed to minimize damage and injury to demonstrators.¹²³ Based on this analysis, Physicians for Human Rights concludes that such unrestrained use of toxic chemical agents against a civilian population has caused gratuitous—and sometimes life-threatening—harm to men, women, and children in Bahrain.

Bahraini law enforcement officials use preemptive and excessive force

All 32 eyewitnesses exposed to toxic chemical agents whom PHR interviewed reported that law enforcement officials failed to employ gradations of force when confronting peaceful demonstrators.¹²⁴ Police reportedly used force preemptively¹²⁵ to disperse peaceful gatherings. This preemptive action contravenes UN guidelines, which mandate that law enforcement officials begin with nonviolent means before using force or firearms.¹²⁶ For example, riot police routinely accost peaceful protesters and immediately use force to disperse participants before engaging in dialogue or other nonviolent tactics.¹²⁷

One eyewitness reported that while participating in a small demonstration alongside approximately 50 other people in his Shi'a village in February 2012, scores of police wearing dark blue uniforms arrived at the scene, split into three groups, and suddenly, without warning, began to attack the

120. United Nations best practices on the use of force state the importance of employing non-violent means before resorting to use of force; exercising restraint and proportionality; minimizing damage and injury; ensuring that the injured receive assistance and medical aid; ensuring that relatives of the injured are notified; and promptly reporting deaths to officials, among other measures. U.N. Basic Principles on the Use of Force, *supra* note 108, art. 5(a)-(d), 6. PHR's findings are corroborated by findings of the Bahrain Independent Commission of Inquiry, which found that "The usual practice of PSF units was to use excessive amounts of tear gas to disperse protesters." BICI Report, *supra* note 20, at ¶ 1091.
121. "Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall...exercise restraint in such use" U.N. Principles on the Use of Force, *supra* note 108, at art. 5(a). UN best practice also requires law enforcement agencies to restrain the application of means causing death or injury to persons. *Id.*, at art. 2.
122. "Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall... act in proportion to the seriousness of the offense and legitimate objective to be achieved" *Id.*, at art. 5(a).
123. "Law enforcement officials shall...minimize damage and injury, and respect and preserve human life" *Id.*, at art. 5(b).
124. "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result." *Id.*, at art. 4. See also U.N. Code of Conduct for Law Enforcement Officials, *supra* note 1, at art. 3.
125. By deploying toxic chemical agents preemptively, Bahraini police escalated violence that led to increased injuries. Such cases also show how less-lethal weapons can actually increase police violence, by lowering thresholds for deployment of force and starting a chain of escalating violence. As a result, training and oversight of police officials may be more significant overall in reducing injuries to police and civilians than use of less-lethal weapons. See Parliamentary Forum on Small Arms and Light Weapons, *Policy Statement on Less Lethal Weapons*, 20 Feb. 2011, http://parliamentaryforum.org/sites/default/files/parforum_policy_statement_on_less_lethal_weapons_final.pdf. Amnesty International, *Excessive and lethal force? Amnesty International's concerns about deaths and ill-treatment involving police use of tasers* (2004), <http://educate-yourself.org/pnt/amnestyintnl2004TASERfullreport.shtml>.
126. Before law enforcement officials resort to force, they must attempt to use non-violent means, such as physical presence, dialogue, communication of information, and de-escalation of conflict when dealing with peaceful assemblies. Policy on Formed Police Units in United Nations Peacekeeping Operations, 9, DPKO Ref. 2009.32 (effective 1 Mar. 2010).
127. These eyewitness accounts are corroborated by documentation by local human rights organizations. See Bahrain Center for Human Rights, *February 14th: The Bahraini Authorities Brutally Suppress the Protests*, 14 Feb. 2012, <http://www.bahrainrights.org/en/node/5056>.

crowd with tear gas canisters, bird shot, and sound bombs. According to this eyewitness, the police

This and 15 other eyewitness testimonies PHR received indicate that law enforcement officials routinely fail to warn civilians of their intent to use force,¹²⁹ which contravenes UN guidelines.¹³⁰

Bahraini law enforcement officials use excessive and disproportionate force

Bahraini riot police not only fail to exercise restraint when confronting demonstrators, they also overwhelm peaceful protesters with disproportionate force exceeding the “minimum extent necessary” to disperse unlawful assemblies.¹³¹ All 16 demonstrators whom PHR investigators interviewed reported that law enforcement officials routinely fire inestimable numbers of grenades containing toxic chemical agents at civilians who demonstrate peacefully.

A young man from Saar named Ali reported that immediately after a large number of riot police arrived at a nonviolent demonstration in his village on 28 January 2012, they shot volley after volley of tear gas canisters directly at the group of some 50 protesters. He heard the explosions come from behind. White low-hanging clouds of toxic smoke then appeared and were so thick he couldn't see. Ali suddenly collapsed, blood streaming from his head where he had been hit by a canister. ¹³²

The King of Bahrain’s own Commission of Inquiry found that “in the events of February/March 2011 and subsequent events in many situations,”¹³³ “[p]olice] units resorted to the disproportionate use of tear gas for the dispersion of protesters. On many occasions, the number of tear gas canisters fired at protesters was disproportionate to the size of the demonstration and the number of participants.”¹³⁴

In using excessive amounts of toxic chemical agents against demonstrators, Bahraini law enforcement officials violate best practices, which dictate that any chemicals deployed should only contain the minimum that fulfills the purpose—“namely to minimize a person’s capacity for resistance without unnecessarily prolonging their discomfort.”¹³⁵ Those survivors of chemical agent attacks whom PHR interviewed reported debilitating short-term symptomatology and long-term sequelae from exposure to toxic chemical agents.

PHR met with former Miami (Florida, US) Chief of Police John Timoney,¹³⁶ whom the Bahraini Ministry of Interior hired in December 2011 to advise law enforcement officials on crowd-control tactics.¹³⁷ Timoney has publicly defended the government’s use of toxic chemical

128. Interview with key informant no. 73, in Bahrain (8 Apr. 2012).

129. Interview with key informant no. 18, in Bahrain (9 Apr. 2012). A local rights group reported that at one demonstration, Bahraini officials announced their intent to use force, but then attacked with toxic chemical agents only seconds later. See Josh Shahryar, *Bahrain Interview: Nabeel Rajab-How Police Attacked the Manama March and Beat Me*, EA World View, 8 Jan. 2011, <http://www.enduringamerica.com/home/2012/1/8/bahrain-interview-nabeel-rajab-how-police-attacked-the-manam.html>.

130. “[L]aw enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed” U.N. Principles on the Use of Force, *supra* note 108, at art. 10. See also U.N. Policy on Formed Police Units, *supra* note 126, at 9.

131. “In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.” U.N. Principles on the Use of Force, *supra* note 108, at art. 13. The BICI also concluded that “PSF units used amounts of tear gas that were disproportionate to the objective of dispersing protesters.” BICI Report, *supra* note 20, at ¶ 1095.

132. Interview with key informant no. 08, in Bahrain (8 Apr. 2012).

133. BICI Report, *supra* note 20, at ¶ 1112 (2011).

134. *Id.*, at ¶ 1117 (2011).

135. Association of Chief Police Officers of England, Wales, and Northern Ireland, *Guidance on the Use of Incapacitant Spray*, art. 2.3.2, May 2009, <http://www.acpo.police.uk/documents/uniformed/2009/200905UNGIS01.pdf>.

136. Interview with key informant no. 95, in Bahrain (11 Apr. 2012).

137. As a former Chief of Police in the United States, Timoney was known for using aggressive tactics to control crowds. Officers under Timoney in Miami used tasers, pepper spray, and batons against non-violent

agents “to create distance between gangs of rioters that have been ... assaulting police officers with Molotov cocktails and also with bricks, nails, and other things.”¹³⁸ This advisor stated that police are authorized to respond with force to defend themselves against imminent threat of death or serious injury,¹³⁹ but Timoney did not acknowledge that such force must be tempered and directed proportionally¹⁴⁰ at those who pose a grave threat.¹⁴¹ The International Committee of the Red Cross (ICRC) warns that when law enforcement officials resort to practices that extend beyond the powers and authorities granted to them by the law, the distinction between them and criminal offenders can no longer be made.¹⁴²

One non-peaceful demonstrator whom PHR interviewed reported that riot police had first attacked a group of peaceful demonstrators of which he was a part, before he attacked the riot police. Another eyewitness reported to PHR that he had burned the first and second digits of his right hand while attempting to throw back an exploded canister containing a toxic chemical agent that law enforcement officers had fired at him.¹⁴³ The BICI did document times in which protesters have endangered law enforcement officials’ lives by throwing Molotov cocktails,¹⁴⁴ and no demonstrator has the right to attack law enforcement officials with incendiary devices. However, as previously noted, law enforcement officials must in response only deploy the minimal amount of force necessary to subdue or apprehend a violent protester. Such disproportionate use of force excessively harms individuals and violates UN guidelines.¹⁴⁵

Bahraini law enforcement officials fail to minimize harm

Failure to minimize damage and injury to demonstrators constitutes a third means by which Bahraini law enforcement officials deploy excessive force.¹⁴⁶ Analysis of PHR findings shows that law enforcement officials who fired toxic chemical agents at assemblies without adhering to principles of proportionality and restraint caused unnecessary injury to civilians—demonstrators and bystanders alike.

PHR investigators interviewed 16 survivors who reported that Bahraini riot police fired canisters containing toxic chemical agents directly at civilians, often aiming hand-held launchers at their targets’ upper bodies and heads.¹⁴⁷

protesters at the 2003 Free Trade Area of the Americas summit, resulting in 150 complaints of police abuse filed with the ACLU. Ryan Devereaux, *John Timoney: the notorious police chief sent to reform forces in Bahrain*, *The Guardian*, 16 Feb. 2012, <http://www.guardian.co.uk/world/2012/feb/16/john-timoney-police-chief-bahrain-protests>.

138. Voice of America, *Bahrainis Complain of Government Tear Gas on Neighborhoods*, 16 Feb. 2012, <http://www.voanews.com/content/bahrainis-complain-of-government-teargas-attacks-on-neighborhoods-139525848/152204.html>.

139. <http://www.voanews.com/content/bahrainis-complain-of-government-teargas-attacks-on-neighborhoods-139525848/152204.html>.

140. “Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.” U.N. Principles on the Use of Force, *supra* note 108, at art. 9.

141. “Proportional” refers to the seriousness of the offense and the legitimate objective to be achieved. *Id.*, at art. 5(a).

142. Objectives must be “legitimate” and the use of force must be “proportionate to the seriousness of the offense.” *Id.*

143. ICRC, *To Serve and To Protect: Human Rights and Humanitarian Law for Police and Security Forces* 156 (1998), available at <http://reliefweb.int/sites/reliefweb.int/files/resources/D308231847B7B08BC1256DBF00409023-ICRC-toserveandtoprotect-feb98.pdf>.

144. Interview with key informant no. 18, in Bahrain (9 Apr. 2012).

145. The Bahrain Independent Commission of Inquiry documented instances in which protesters threw rocks and Molotov cocktails at police. BICI Report, *supra* note 20, at ¶ 234, 258, 531.

146. Recourse to potentially lethal force “may only be made when strictly unavoidable in order to protect life.” U.N. Principles on the Use of Force, *supra* note 108, at art. 9.

147. “Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall ... [m]inimize damage and injury, and respect and preserve human life”. *Id.*, at art. 5(b).

148. A U.N. human rights expert recently noted that “tear gas canisters should never be fired directly at demonstrators.” Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, *Statement by the UN Special Rapporteur on the promotion and protection of the right to freedom of*

One 20-year-old demonstrator told PHR that while he was attending a nonviolent rally, a policeman fired a tear gas canister at his head. He was immediately blinded and fell to the ground.¹⁴⁸ PHR conducted a physical examination and reviewed this respondent's medical records, which noted skull fractures and brain hemorrhaging.¹⁴⁹

Another 15-year-old protester admitted that he had thrown small stones at a phalanx of riot police, saying he was "revenging all the people they have hurt." In response, one official reportedly shot a canister containing a toxic chemical agent directly at this boy's torso, severing a nerve in his upper right arm. Results from a physical examination PHR conducted revealed wounds highly consistent with the boy's account, and review of his medical records corroborated his testimony.¹⁵⁰

PHR further determined that Bahraini law enforcement officials failed to render aid and assistance to wounded protesters—as international guidelines require¹⁵¹—thus exacerbating injuries. Among 14 wounded demonstrators whom PHR investigators interviewed, none reported that law enforcement officials had come to their aid to render assistance, even when they were in need of emergency medical care. In fact, some demonstrators reported that Bahraini police fired on them and then proceeded to beat them after they had already been incapacitated.

PHR interviewed a young teenage boy who reported that he had been knocked unconscious after police fired a tear gas canister at his head. The boy's family reported that police then surrounded him and kicked him while he lay unconscious and bleeding from an open head wound.¹⁵²

During a demonstration of 20-30 people who were protesting police use of force at a funeral for a wounded demonstrator earlier that morning, some 20 riot police stormed them and aimed their tear gas launchers¹⁵³ at the demonstrators, according to a teenage boy who had attended. He reported that one policeman fired a canister directly at his head, severely injuring his left eye. The boy collapsed on the ground and said that several police then ran over and began to kick him and beat him with batons while he lay bloodied on the street.¹⁵⁴

Another means by which Bahraini law enforcement officials fail to minimize harm is by not allowing or providing clear and obvious corridors of escape when using toxic chemical agents for crowd dispersal.¹⁵⁵ The Bahrain Independent Commission of Inquiry (BICI) documented this pattern by which police routinely blocked entrances to villages where protests took place, in order to prevent demonstrators from escaping once they began firing toxic chemical agents

opinion and expression at the conclusion of his visit to Israel and the occupied Palestinian territory (18 Dec. 2011), available at <http://unispal.un.org/UNISPAL.NSF/0/67C53F54894114298525796C0056DED2>.

148. Interview with key informant no. 73, in Bahrain (8 Apr. 2012).

149. The medical record noted "depressed fracture of left frontal bone and cerebral hemorrhagic contusion underneath with edema." PHR's physical exam revealed a 2.75-cm sutured laceration just inside the hairline in the left temporal region, ending in a circular, depressed region.

150. Interview with key informant no. 64, in Bahrain (7 Apr. 2012).

151. "Law enforcement officials must ... ensure assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment" U.N. Principles on the Use of Force, *supra* note 108, at art. 5(c).

152. Interview with key informant no. 63, in Bahrain (7 Apr. 2012).

153. Toxic chemical agent launchers, sometimes referred to as gas guns or riot guns, are weapons designed to fire canisters or other projectiles containing toxic chemical agents as munitions. Some launchers can shoot toxic chemical agent munitions a distance of about 65-90 meters. USAF Institute for National Security Studies, *Nonlethal Weapons: Terms and References*, INSS Occasional Paper 15, 27 (1996), <http://www.usafa.edu/df/inss/OCP/ocp15.pdf>; U.S Department of Justice, Technology Assessment Program: Barrier-Penetrating Tear Gas Munitions 3.10 (1985), available at <https://www.ncjrs.gov/pdffiles1/nij/099857.pdf>.

154. Interview with key informant no. 87, in Bahrain (10 Apr. 2012).

155. "Where it is necessary to disperse a crowd, always leave a clear and obvious corridor of escape." U.N. Office of the High Commissioner for Human Rights, Human Rights and Law Enforcement: A Trainer's Guide on Human Rights for the Police, Professional Training Series No. 5/Add.2, 114 (2002), <http://www.ohchr.org/Documents/Publications/training5Add2en.pdf>.

to disperse them.¹⁵⁶ At no point should law enforcement officials corner crowds to create a perception of no escape, because this can escalate violence and maximize harm.¹⁵⁷

Toxic chemical agent attacks endanger the health of bystanders and protesters

PHR examined civilians who reported being injured by Bahraini law enforcement officials while exercising their right to freedom of assembly. Injured protesters whom PHR investigators examined suffered from (1) blunt force trauma and lacerations to the head, torso, and limbs due to the impact of metal toxic chemical agent canisters being fired at them; and (2) toxic reaction to exposure to chemical agents such as burning of the eyes, nose, and throat, chest tightness, shortness of breath, vomiting, and skin burns. In addition, a number of people have reportedly died from toxic chemical agent exposure in Bahrain, according to the United Nations.¹⁵⁸

Blunt force trauma and lacerations. Law enforcement officials cause severe blunt force trauma to civilians when they fire toxic chemical agent canisters directly at individuals at close range.¹⁵⁹ Police hit one 27-year-old bystander in the head with a canister while he was walking near the site of a protest in Karanah, causing a fractured skull and intracranial hemorrhaging.¹⁶⁰

“You’re lucky to have survived,” the doctor who performed this CT scan told this victim, “Others from the same injury have died.... PHR investigators examined the CT scan, which corroborated this victim’s testimony.

PHR spoke with another bystander, a 13-year-old named Hadi, whom riot police struck in the head with a toxic chemical agent canister as he waited in line at a bakery near the site of an ongoing protest.

Hadi reported that he turned to look over his shoulder after hearing a commotion behind him, and saw a group of 20 people run past him trailed by about 50 policemen dressed in blue uniforms and carrying black “safety” equipment.¹⁶² Just moments later, an officer standing approximately 15 meters away shot a tear gas canister at Hadi’s head, knocking him unconscious. PHR examined Hadi and documented a seven-centimeter healed laceration at the hairline of his right forehead as well as a circular depression in his skull roughly five centimeters in diameter, where an arterial pulse was clearly visible and the underlying soft tissue easily palpated. His wound was highly consistent with being struck by a cylinder-shaped object.

Peaceful demonstrators also received facial wounds when police launched toxic chemical agent canisters at heads.

When police reportedly shot a tear gas canister at Ali’s head,¹⁶³ they hit him in the left eye, fracturing the bones around his eye and rupturing his eyeball. Doctors at Salmaniya Hospital performed two operations, one to stitch his open wounds and one to repair the broken bones around his eye socket.

156. BICI Report, *supra* note 20, at ¶ 1091.

157. U.S. Army, Civil Disturbance Operations, 2-90 (2005), <http://www.fas.org/irp/doddir/army/fm3-19-15.pdf>.

158. U.N. News Centre, *Bahrain: UN calls for probe into alleged excessive use of force against protesters*, 20 Mar. 2012, <http://www.un.org/apps/news/story.asp?NewsID=41586&Cr=Bahrain&Cr1>.

159. “Ballistic studies have shown that the gas jet alone generated by a commercial available blank or tear-gas cartridge possess the characteristics of a missile when fired at close range...” *Lethal head injury due to tear-gas cartridge gunshots*, *supra* note 80, at 45-51. Recently, Bahraini law enforcement officials injured prominent human rights activist Zainab al-Khawaja by shooting her in the leg with a toxic chemical agent canister “at close range.” Reem Khalifa, *Bahrain witnesses: Activist hurt by gas canister*, 28 Jun. 2012, AP, available at <http://www.guardian.co.uk/world/feedarticle/10311414>.

160. Interview with key informant no. 25, in Bahrain (10 Apr. 2012).

161. *Id.*

162. Interview with key informant no. 63, in Bahrain (7 Apr. 2012).

163. Interview with key informant no. 87, in Bahrain (10 Apr. 2012).

*Ali reported that he has permanently lost use of his left eye. PHR examined Ali's medical records, which corroborate his testimony.*¹⁶⁴

Symptomatology of exposure to toxic chemical agents. In addition to wounds due to the impact of toxic chemical agent canisters, PHR investigators also documented severe tearing, burning eyes, throat irritation, chest tightness, shortness of breath, and vomiting in individuals exposed to toxic chemical agents.¹⁶⁵ Because chemicals in toxic lachrymatory agents can destroy membranes of the throat, esophagus, and mouth, such vomiting can become dangerous.¹⁶⁶ Even if an exposed person quickly leaves the chemical-saturated area, symptoms of exposure can last hours.¹⁶⁷ It has been shown that hyperventilation, often induced by running, intensifies the effects of toxic chemical agents on the throat and lungs and slows recovery.¹⁶⁸ Sustained exposure to toxic chemical agents can also burn skin and the cornea of the eye.¹⁶⁹

*A physiotherapist reported that she developed shortness of breath, wheezing and severe coughing, turned red, and felt hot after being exposed to tear gas that was yellow in color. A doctor at private hospital treated her with Atrovent¹⁷⁰ and Symbicort¹⁷¹, but she reported having continued difficulty breathing at night and difficulty speaking for approximately two weeks.*¹⁷²

PHR investigators received eyewitness reports that Bahraini police used toxic chemical agents of different colors, ranging from white and yellowish-beige to various shades of dark yellow and orange as well as blue. Local physicians and wounded demonstrators told PHR that symptoms varied based on the color of the gas, with some the lighter-colored gases provoking more tearing and skin irritation, while the dark yellow gas reportedly provoked little tearing but more severe symptoms, including chest tightness and coughing, nausea and vomiting, and loss of consciousness.¹⁷³

The cases in the above sections illustrate gradations of harm that result from Bahraini law enforcement officials' excessive use of force. Failing to exercise restraint before resorting to violence, responding to demonstrators with disproportionate force, and failing to minimize harm have led to grave injuries among men, women, and children in Bahrain. These actions contravene established UN principles and international norms that the Bahraini government must uphold.

164. Ali's medical records revealed the "upper and lower lids were shattered with full thickness multiple wounds. The left eye ball was ruptured. The globe was soft and exposed." A CT scan revealed a fracture of the zygomatic arch with minimal displacement, fracture of all the walls of the maxillary sinus with haemosinus, and a 5 mm subdural hematoma in the left upper parietal region.

165. These symptoms are all recognized effects of toxic lachrymatory agent exposure. See Handbook of Chemical and Biological Warfare Agents, *supra* note 110, at 409. Dr. Holly Atkinson, author of this report suffered acute respiratory distress—including profound shortness of breath as well as severe coughing, which persisted intermittently for approximately four weeks—after 15 minutes' exposure to toxic chemical agents during a protest in Bahrain in April 2012.

166. CAMEO Chemicals, Office of Response and Restoration, National Oceanic and Atmospheric Administration, *Chemical Datasheet: O-Chlorobenzylidene Malononitrile*, <http://cameochemicals.noaa.gov/chemical/19984>.

167. *Medical Hazards of the Tear Gas CS*, *supra* note 105, at 236.

168. *Exposures to orthochlorobenzylidene malononitrile*, *supra* note 117, at 366-74.

169. *Medical Hazards of the Tear Gas CS*, *supra* note 105, at 234-40.

170. Atrovent, also known as Ipratropium, is a drug that helps to preventing wheezing and decrease chest tightness. US National Library of Medicine, *Ipratropium Oral Inhalation*, PubMed Health, 1 Sep. 2010, <http://www.ncbi.nlm.nih.gov/pubmedhealth/PMH0000965/>.

171. Symbicort is a drug used to decrease inflation of the lungs, and is primarily used to control asthma. Food and Drug Administration. *Medication Guide Symbicort*, <http://www.fda.gov/downloads/Drugs/DrugSafety/ucm089139.pdf> (last visited 29 Jun. 2012).

172. Interview with key informant no. 74, in Bahrain (9 Apr. 2012).

173. Interviews with key informants no. 66, 67, 68, 74, 87 in Bahrain (7-10 Apr. 2012).

Legal obligations under UN guidelines on police use of force

Both national¹⁷⁴ and international¹⁷⁵ law ensure the right to peaceful assembly, and government authorities may only restrict this fundamental right in the interest of national security or public order.¹⁷⁶ Although governments may limit this derogable right in accordance with national law and international obligations, they must adhere to rules and standards when dispersing crowds.¹⁷⁷ The United Nations has established principles for such use of force,¹⁷⁸ which must always be based on legality,¹⁷⁹ necessity,¹⁸⁰ proportionality,¹⁸¹ minimizing harm,¹⁸² and nondiscrimination.¹⁸³ Moreover, law enforcement officials who violate these principles must be held accountable.¹⁸⁴

Legality. Law enforcement officials are obliged to fulfill their duties to uphold the law and protect citizens.¹⁸⁵ Bahrain's Constitution permits civilians to hold peaceful meetings, gatherings, and processions, which law enforcement officials are obliged to permit and protect.¹⁸⁶ According to Bahrain's penal code, when groups of five or more persons assemble—specifically with the intent to cause a riot—law enforcement officials may disperse them.¹⁸⁷

174. "Public meetings, parades, and assemblies are permitted under the rules and conditions laid down by law, but the purposes and the purposes and the means of the meeting must be peaceful" Constitution of the Kingdom of Bahrain, *supra* note 13, at art. 28(b).
175. "The right of peaceful assembly shall be recognized." International Covenant on Civil and Political Rights art. 21, 16 December 1966, 999 U.N.T.S. 171 (acceded 20 Sep. 2006) [hereinafter ICCPR].
176. "No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order ... protection of public health or morals or the protection of the rights and freedoms of others." *Id.*, at art. 21.
177. "Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials." U.N. Principles on the Use of Force, *supra* note 108, at art. 1. *See also* U.N. Code of Conduct for Law Enforcement Officials, *supra* note 1, at art. 1.
178. PHR adopts its definition of "use of force" from the International Association of Chiefs of Police and U.S. Department of Justice, as the "amount of effort required by law enforcement to compel compliance by an unwilling subject." US Department of Justice, Review of the Department of Justice's Use of Less-Lethal Weapons i (2009), <http://www.justice.gov/oig/reports/plus/e0903/final.pdf>.
179. "Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons ... consistent with the high degree of responsibility required by their profession." U.N. Code of Conduct for Law Enforcement Officials, *supra* note 1, at art. 1.
180. "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result." U.N. Principles on the Use of Force, *supra* note 108, at art. 4. *See also* U.N. Code of Conduct for Law Enforcement Officials, *supra* note 1, at art. 3, which states, "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty."
181. "Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) Exercise restraint in such use and act in proportion to the seriousness of the offense and legitimate objective to be achieved". U.N. Principles on the Use of Force, *supra* note 108, at art. 5(a). *See also* U.N. Code of Conduct for Law Enforcement Officials, *supra* note 1, at art. 3.
182. "[L]aw enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons." U.N. Principles on the Use of Force, *supra* note 108, at art. 3. *See also* U.N. Code of Conduct for Law Enforcement Officials, *supra* note 1, at art. 2.
183. "In time of public emergency ... the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve *discrimination solely on the ground of race, colour, sex, language, religion or social origin.*" [emphasis added] ICCPR *supra* note 175, at art. 4(1).
184. "Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law." U.N. Principles on the Use of Force, *supra* note 108, at art. 7.
185. "Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession." U.N. Code of Conduct for Law Enforcement Officials, *supra* note 1, at art. 1.
186. "Public meetings, parades and assemblies are permitted under the rules and conditions laid down by law, but the purposes and means of the meeting must be peaceful and must not be prejudicial to public decency." Constitution of the Kingdom of Bahrain, *supra* note 13, at art. 28(b).
187. "If one of the public authority officers finds that 5 persons or more have demonstrated with the intent of

Necessity. Before using force, law enforcement officials must exercise restraint and always begin with nonviolent means when confronting assemblies.¹⁸⁸ Dialogue and mediation must first be employed.¹⁸⁹ Police should also respond to protesters nonviolently by wearing defensive vests and helmets and by using shields and nonlethal instruments, thus decreasing the need to use weapons of any kind.¹⁹⁰ Law enforcement officials should plan in advance for the progressive use of force and avoid unnecessary escalation of violence.¹⁹¹ Before employing force, police must warn civilians of their intent to use force, and then make every effort to determine that demonstrators have heard and understood these warnings.¹⁹²

Proportionality. Law enforcement officials are obligated to use the minimum level of force necessary to disperse a crowd.¹⁹³ When law enforcement officials are faced with serious threats, they may employ less-lethal weaponry.¹⁹⁴ Police may only use such weapons, however, if the use of force is preceded by (a) nonviolent tactics, (b) clear warnings that officials intend to use force, and (c) efforts to determine that demonstrators have heard and understood these warnings.¹⁹⁵ Only when a situation has escalated to present an imminent deadly threat should law enforcement officials apply proportional and reasonable use of lethal force.¹⁹⁶

causing a riot, he may in such capacity order them to disperse. Thereafter, he shall be empowered to take the necessary measures for dispersing those who have not complied with the order by arresting them and may use force within reasonable limits against any person resisting the said order. He may not use firearms except in extreme necessity or when someone's life is threatened." Bahrain Penal Code, art. 180, 1976, available at United Nations Office on Drugs and Crime, <https://www.unodc.org/ltdb/showDocument.do?documentUid=6361>.

188. "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms." U.N. Principles on the Use of Force, *supra* note 108, at art. 4.
189. Governments must also provide law enforcement officials training, while giving "special attention to issues of police ethics and human rights, ...to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behavior, and the methods of persuasion, negotiation and mediation ... with a view to limiting the use of force and firearms." *Id.*, at art. 20. See also U.N. Policy on Formed Police Units, *supra* note 126, at 9.
190. "Governments and law enforcement agencies should ... be equipped with self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind." U.N. Principles on the Use of Force, *supra* note 108, at art. 2. See also U.N. Trainer's Guide on Human Rights for the Police, *supra* note 155, at 96, 114.
191. "Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons." U.N. Principles on the Use of Force, *supra* note 108, at art. 2. See also U.N. Trainer's Guide on Human Rights for the Police, *supra* note 155, at 96, 114.
192. "[L]aw enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident." U.N. Principles on the Use of Force, *supra* note 108, at art. 10. See also U.N. Policy on Formed Police Units, *supra* note 126, at 9.
193. "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result." U.N. Principles on the Use of Force, *supra* note 108, at art. 4.
194. "The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled." *Id.*, at art. 3. See also the U.N. Formed Police Units approach to addressing escalating threat levels, which states that at a "Serious" threat level law enforcement may use a "[s]how of force and, where all other means of peaceful de-escalation have failed, use of force in a reasonable and proportional manner, using only less-lethal means and weapons". U.N. Policy on Formed Police Units, *supra* note 126, at 9.
195. "Law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed". U.N. Principles on the Use of Force, *supra* note 108, at art. 10. See also Policy on Formed Police Units in United Nations Peacekeeping Operations, 9, DPKO Ref. 2009.32 (effective 1 Mar. 2010); U.N. Principles on the Use of Force, *supra* note 108, at art. 10.
196. "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury" U.N. Principles on the Use of Force, *supra* note 108, at art. 9. See also U.N. Policy on Formed Police Units, *supra* note 126, at 9.

Minimizing harm. When police do resort to the use of force to disperse demonstrators, UN guidelines require that they minimize damage and injury, respect and preserve human life, ensure that assistance and medical aid reach affected persons at the earliest possible moment, and make sure that friends and relatives of the injured are notified.¹⁹⁷

Nondiscrimination. The principle of nondiscrimination is fundamental to all human rights. When a government declares a state of emergency (as did Bahrain from 15 March to 1 June 2011), it may limit citizens' right of assembly. In doing so, however, the government may not discriminate on the ground of race, color, sex, language, religion, or social origin.¹⁹⁸

Accountability. The Government of Bahrain must hold law enforcement officials accountable under its penal code, which codifies these international principles.¹⁹⁹ Bahrain's penal code mandates jail time for any law enforcement official who infringes on a person's freedom by using force or threat, or causes severe bodily harm.²⁰⁰ UN principles also indicate that the arbitrary or abusive use of force should be punished as a criminal offense.²⁰¹ According to UN guidelines, law enforcement officials are obliged to report any civilian injuries or deaths promptly to their superiors.²⁰² Superior officers are then obliged to report these incidents to the proper administrative and judicial authorities.²⁰³ These authorities must hold commanding officers responsible when they fail to suppress unlawful use of force among police they supervise,²⁰⁴ and any civilian affected by unlawful use of police force must have access to independent, judicial review.²⁰⁵ Finally, under the UN guidelines, no law enforcement official should be disciplined for refusing an order to use excessive force.²⁰⁶ The guidelines state that the Bahraini government should not invoke exceptional circumstances, including political instability or public emergency, to justify any departure from these principles.²⁰⁷

197. "Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall ... ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment." U.N. Principles on the Use of Force, *supra* note 108, at art. 5(d).

198. ICCPR *supra* note 175, at art. 4(1).

199. "Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law." U.N. Principles on the Use of Force, *supra* note 108, at art. 7.

200. "A prison sentence shall be the penalty for any person who ... deprives [another] in any illegal manner of his freedom ... [i]f the act is accompanied by ... bodily harm or acts of physical or mental torture." Bahrain Penal Code, *supra* note 187, at art. 357.

201. "U.N. Principles on the Use of Force, *supra* note 108, at art. 7.

202. "Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors" U.N. Principles on the Use of Force, *supra* note 108, at art. 6.

203. "In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control." *Id.*, at art. 22.

204. "Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use." *Id.*, at art. 24.

205. "Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process." *Id.*, at art. 23.

206. "Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials." *Id.*, at art. 25; "Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders." *Id.*, at art. 26.

207. "Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles." *Id.*, at art. 8.

Bahraini government violates human rights law by weaponizing toxic chemical agents

Analysis from PHR's April 2012 investigation in Bahrain reveals that Bahraini law enforcement officials routinely attack civilians inside their homes with toxic gas. The frequency of the routine attacks on civilians as well as the lack of accountability for officials who commit such attacks implies intent on the part of law enforcement to use toxic chemical agents as a weapon against peaceful civilians. Such unprovoked and flagrant attacks against families—who pose no threat to the safety of others—flout international human rights law. Specifically, Bahraini law enforcement officials

- (1) subject men, women, and children, including vulnerable disabled and elderly persons, to torture or cruel, inhuman, or degrading treatment;
- (2) unlawfully enter families' homes and destroy property;
- (3) intentionally committed acts that impair people's health; and
- (4) discriminate against one religious sect by targeting Shi'a neighborhoods.

Based on in-country research, PHR warns that the ongoing 18-month siege and targeted use of toxic gas against a civilian population have caused inestimable physical harm and will continue to inflict as yet unknown negative health effects among this population.

Bahraini law enforcement officials attack civilians inside their homes and destroy property

Based on key informant interviews and firsthand observations, Physicians for Human Rights determined that Bahraini law enforcement officials continue to launch unprovoked toxic chemical agent attacks against nonviolent Shi'a men, women, and children, including the elderly and disabled in their homes and cars.



*A Bahraini woman shouts at riot police firing tear gas Saturday, April 7, 2012, in the market area of downtown Manama
Photo: AP Photo/Hasan Jamali*

Two sisters from Shela told PHR investigators that police shot tear gas canisters directly into their home on five separate occasions.²⁰⁹ On the second occasion, they reported police ripped protective covers off of the family's air conditioners and pulled sealant away from the windows from the outside, before throwing tear gas canisters through a window and yelling, "If you want freedom, come out to us."²¹⁰ They reported that in the third incident, police broke through the front door and threw a tear gas canister into their home. They do not know why they were targeted.

PHR investigators also interviewed several members of a large family—ages 3 to 65—who were forced from their home after police stormed their home, attempted to abduct a 15-year-old boy, and fired canisters containing toxic chemical agents into the house causing a 14-year-old girl to fall unconscious. Law enforcement officials then reportedly surrounded the exits, inhibiting escape.

Family members reported that friends and extended family had gathered in their home on 5 April 2012 around 10:00 p.m.²¹⁰ The grandfather stepped outside to investigate a commotion, as a demonstration was taking place in their village that evening, and the family had taken in some peaceful demonstrators who had fled. The elderly man noticed that a man outside wearing civilian clothes put on a mask to cover his face. He reported that the masked man turned suddenly and ran toward him, barging past him through the front door into the foyer of his home, where a boy aged 15 was standing. The masked man reportedly started to drag the teenager out of the house, when several older men in the living room jumped up to come to the teenager's rescue. They pulled the boy back into the house and slammed the front door. The masked man began banging and kicking the door, and then reportedly shot a tear gas canister through the kitchen window just to the left of the door. As one woman of the house related, "We heard the shatter of the glass in the kitchen, but didn't realize there was a tear gas bomb in the house."

Family members reported to PHR that when the first floor of the house became engulfed in a cloud of toxic gas, a second tear gas canister exploded in the living room. Family members scrambled to a "safe room" in the house, which they had constructed due to ongoing toxic chemical agent attacks in their village, but mounting tear gas levels prevented them from staying inside. Family members testified that they then realized police had encircled the house, shooting tear gas canisters through windows into the kitchen, living room, a back storage room, and the "safe room" while blocking doors and escape routes. "The entire house was

overwhelmed with clouds of tear gas," one family member told PHR. One young boy jumped from



This image by twitter user @ElaineMasons shows tear gas smoke coming from a canister shot on the top of a house in Buri village, Bahrain,

209. *Id.*

210. Interviews with key informants no. 70, 71, 72 in Bahrain (8 Apr. 2012).

a staircase landing window above the front door, while other family members carried outside a 14-year-old girl who had fallen unconscious. Eventually, everyone in the house managed to escape and sought refuge nearby. A neighbor reportedly told the family later that the police forces shooting tear gas canisters were overheard saying, "Just shoot them with a shotgun."

The PHR team inspected this house—still vacated at the time—four days after the incident occurred. PHR investigators found toxic chemical agent canisters on the roof and inside the home on the first floor.

Windows were broken throughout the house. Despite the open windows, toxic fumes from the chemical agents remained inside the

208. Interviews with key informants no. 68, 69, in Bahrain (8 Apr. 2012).

home. Upon entering the home, both PHR investigators developed burning of the face and eyes, tearing, coughing, and headaches within about two minutes of exposure.

Highlighting the frequency with which many Bahraini families are exposed to harassing agents in residential areas, PHR investigators visited one home in which residents provided “guest gas masks” to visitors exposed to toxic chemical agents in and around the home.

“We’ve been exposed to tear gases almost every day,” said one resident of a Shi’a neighborhood. “We’ve had canisters shot in the house, on the doorstep, and on the roof. We’ve had so many attacks, I can’t count the number of times. You don’t need to go outside to smell the ‘tear gas.’”

PHR documented the presence of hundreds of toxic chemical agent canisters in Shi’a villages and in people’s homes. Bahraini law enforcement officials are also frequently seen on video²¹¹ firing chemical agents into homes.

Bahraini law enforcement officials launch toxic chemical agents at civilian vehicles

In addition to targeting civilians in their homes, law enforcement officials also launch toxic chemical agent canisters as weapons at civilians in their vehicles. PHR interviewed civilians who posed no imminent threat to police or public safety while in their cars, but who were nonetheless targeted by police.

PHR spoke with Mohammad, a 32-year-old man whom police reportedly attacked with tear gas while in his car. Mohammad reported that while he was driving near the site of a protest, police shot a tear gas canister straight through his car window, which hit Mohammad in the head. Two more tear gas canisters were then fired into the back of his car. Mohammad reported that tear gas filled his vehicle and within 30 seconds, he had blurred vision and began vomiting. Mohammad kept driving while sticking his head out the window until a group of local residents pulled Mohammad out of the car. They took him immediately to a private hospital where a doctor stitched Mohammad’s wounds.

*PHR examined Mohammad and confirmed the presence of a healed laceration approximately two centimeters long at the hairline above the left temple, corroborating his testimony.*²¹²

Another interviewee reported that police officers had fired toxic chemical agent canisters at his car as he fled a peaceful protest that he had helped organize.

*Abdullah reported that between 3:00 and 5:00 p.m. on 13 February 2012, he was alone in his vehicle when police fired tear gas at his car from a bridge over Budaiya Highway. Abdullah saw white smoke enter the car through the vents. He immediately had difficulty breathing, and his eyes and nose began to burn. With the windows rolled down, Abdullah managed to stay in his car for approximately two minutes while driving to safety, before he escaped from the car.*²¹³

The blatant misuse of toxic chemical agents, the frequency with which weaponized toxic chemical agent attacks occur, the targeted nature of the attacks, and the lack of solid accountability mechanisms for perpetrators of these attacks imply intentionality on the part of Bahraini law enforcement. The intentional infliction of such targeted violence on Shi’a individuals and families results in adverse health effects. Because toxic chemical agents become

211. For clear examples of an apparent police officer firing chemical agents into a home unprovoked on a peaceful street, see France 24, *Bahraini police caught on camera spraying tear gas into homes*, 5 Jun. 2012, <http://observers.france24.com/content/20120605-bahraini-police-caught-camera-spraying-tear-gas-homes-protest-deaths-video> and YouTube, *How the Bahraini citizen suffocated from tear gas in his house*, 15 Jul. 2011, <http://www.youtube.com/watch?v=ygp6id7xvk8>. For an example of an apparent police officer firing chemical agents into a car seemingly unprovoked, forcing a mother to pull her child hurriedly from the contaminated back seat, see YouTube, *The Bahraini anti-riot police throw tear gas on a child*, 7 Aug. 2011, <http://www.youtube.com/watch?v=zBEcmA5nI7Y>.

212. Interview with key informant no. 78, in Bahrain (9 Apr. 2012).

213. Interview with key informant no. 20, in Bahrain (9 Apr. 2012).

even more dangerous weapons when used in confined spaces ,²¹⁴ the Bahraini government has threatened individuals' safety and even their lives with their misuse of toxic chemical agents.

Bahrain's misuse of toxic chemical agents causes severe and long-term pain and suffering

Bahraini law enforcement officials' persistent targeting civilians in enclosed spaces may lead to serious long-term health consequences including (1) miscarriages (clinical spontaneous abortions), (2) severe respiratory distress resulting in premature death, and (3) a projected rise in asthma among the population.²¹⁵ In confined or enclosed spaces, high concentrations of chemical agents are hazardous and can be lethal.²¹⁶ Scientific literature also suggests that some toxic lachrymatory agents may be responsible for genetic mutations and possibly deformities.²¹⁷

Miscarriage. PHR investigators interviewed seven women—from villages that have been repeatedly exposed to toxic chemical agents—who reported having had miscarriages, six of them during their first trimester. All seven women reported they had miscarried just weeks after heavy exposure to toxic chemical agents in and around their homes. PHR investigators were able to examine five of the seven women's sonograms and medical records, which corroborated their testimonies. Two of the women were not able to procure their medical records.

Local medical professionals also reported to PHR that they had begun to associate miscarriage with women's exposure to toxic chemical agents.²¹⁸ One obstetrician/gynecologist said that she had seen an increase in miscarriages—especially in the first trimester—in her practice at a private hospital in a predominately Shi'a community exposed to toxic chemical agents.²¹⁹ Two other female physicians, who live in neighborhoods regularly saturated with toxic chemical agents, also reported an increase in miscarriages among their patients; one physician exposed to toxic chemical agents reported she herself had recently developed abnormal menstrual periods and suspected a miscarriage.²²⁰

*A nurse who works at Salmaniya Hospital told PHR investigators, "There are many, many miscarriages. We believe the miscarriage rate has increased, although there is no quantitative evidence. What I want to know is: What is this gas...and what will be the future complications?"*²²¹

214. Scientists can project concentrations of chemical lachrymatory agents that would be deadly for 50% of healthy adults, and have determined that the center of gas cloud after a single grenade explosion is approximately one fifth of that number. When toxic chemical agents are detonated in an enclosed space or in a cluster of several canisters, the concentration of toxins would be much higher. *Chemical Warfare Agents: Chemistry, Pharmacology, Toxicology, and Therapeutics*, supra note 47, at 361. *Tear Gas – Harassing Agent or Toxic Chemical Weapon?*, supra note 37, at 661.

215. "The possibility of long-term health consequences such as tumor formation, reproductive effects, and pulmonary disease is especially disturbing in view of the multiple exposures sustained by demonstrators and non-demonstrators alike in some areas of civilian unrest." *Tear Gas – Harassing Agent or Toxic Chemical Weapon?*, supra note 37, at 662. Hu et al. also reported that in situations of high levels of CS exposure, heart failure, liver damage and death have occurred in adults. In animal studies, lung injury is the primary cause of death in subjects exposed to prolonged inhalation of CS. Histologic findings included "pulmonary vascular congestion, accompanied in severe cases by focal hemorrhages and edema." *Id.*

216. *Handbook of Chemical and Biological Warfare Agents*, supra note 110, at 403.

217. "[CS gas] is potentially genotoxic... Some researchers have shown CS to be mutagenic... Little is known regarding its potential for chronic pulmonary or genotoxic effects or for potential effects on reproduction." *Tear Gas – Harassing Agent or Toxic Chemical Weapon?*, supra note 37, at 662.

218. For additional information indicating that exposure to toxic chemical agents may correlate with increased rates of stillbirth and miscarriage, see Physicians for Human Rights, *The Casualties of Conflict*, supra note 64, at 19.

219. Interview with key informant no. 84, in Bahrain (9 Apr. 2012).

220. Interview with key informant no. 83, in Bahrain (9 Apr. 2012).

221. Interview with key informant no. 67, in Bahrain (8 Apr. 2012).

Three of the seven women who had miscarriages told PHR that their doctors had asked them in which villages they lived immediately after informing them that their fetuses were not viable. All of the doctors communicated to these women that they had recently seen more miscarriages among women living in areas heavily exposed to tear gas compared with women living in neighborhoods not repeatedly exposed to the toxic chemical agent. One woman from Sitra²²² who miscarried during her 11th week of pregnancy²²³ reported that the first question her doctor had asked her, after finding that her baby had no heartbeat, was whether there were problems related to “political unrest” in her village. Presumably, this doctor knew that political unrest in a village implied that toxic chemical agents would be omnipresent.

One woman questioned whether her exposure to tear gas was responsible for deformities of her fetus when she miscarried. The young woman from Sitra, who miscarried during her 12th week of pregnancy, told PHR that her fetus had deformities of the head and neck. She reported having no history of previous miscarriages, difficulties becoming pregnant, or history of familial genetic disorders...

*Another woman told PHR that when she first discovered she was pregnant, she tried to use a gas mask while at home as she was concerned about the health of her unborn child. She said that using a gas mask proved impossible to do, however, given the need to communicate with her three young children. She miscarried in her seventh week of pregnancy.*²²⁵

*A young woman interviewed by PHR reported that “many Bahraini women are suffering from the psychological effects of losing a baby and extreme fear. They are not able to speak out and they lack their medical records. The hospitals are not giving us the medical records to document the miscarriages and the birth defects that are happening, so I must speak out.”*²²⁶

Respiratory failure and death. PHR spoke with two families who had family members who allegedly died from complications related to toxic chemical agent exposure. In both cases, deceased individuals were only exposed to toxic chemical agents in the privacy of their homes, and died despite treatment in the hospital.

Two sisters from Shela, for example, told PHR investigators how their father had died at age 55 following nearly daily exposure to tear gas in his home. The sisters explained that each time their father—who had a heart condition—was exposed to “tear gas,” he developed shortness of breath, turned reddish-purple, became dizzy, and at times became confused and disoriented. With each passing episode he became worse, they reported. On one occasion, police reportedly “bombarded” their house with tear gas canisters, shooting them into the house, onto the roof, and in the streets outside. After their father developed severe symptoms and said, “I feel like I’m going to die,” they carried him across the road and took him to Salmaniya Hospital. Their father died the following day. While the doctor reportedly told the sisters that their father had died from “breathing gas,” the death certificate attributes death to “septic shock and severe right-sided pneumonia.”

Bahraini law²²⁸ requires medical workers to report wounded protesters to the very law

222. Sitra is a predominantly Shi’a neighborhood that is routinely saturated with toxic chemical agents.

223. Interview with key informant no. 75, in Bahrain (9 Apr. 2012).

224. Interview with key informant no. 76, in Bahrain (9 Apr. 2012).

225. Interview with key informant no. 77, in Bahrain (9 Apr. 2012).

226. Interview with key informant no. 79, in Bahrain (9 Apr. 2012).

227. This individual was reportedly known to have had a heart condition and had previously had a “small stroke,” according to his daughters.

228. Bahrain’s Ministry of Health issued a “circular” to all private hospitals and clinics, according to a focus group of eight physicians PHR surveyed. This 31 January 2012 Government circular stated that private hospitals and clinics were now obligated to report to Government security authorities all incoming patients “with injuries due to suspected criminal activities and/or accidents irrespective [of] their causes.... Violation of these requirements shall constitute collaboration with such activities and is criminalized by law.” See Physicians for Human Rights, *Under the Gun: Ongoing Assaults on Bahrain’s Health System 4* (2012), <http://physiciansforhumanrights.org/library/reports/under-the-gun-ongoing-assaults-on-bahrains-health-system.html>

enforcement officials who have harmed them, thereby creating a conflict of dual loyalty wherein health professionals have competing obligations to their patients and the government. As the above case illustrates, medical personnel are extremely reluctant to document their patients' reported exposure to tear gas.²²⁹ As one doctor told PHR, he purposely omits writing in the medical record the patient's history, cause of injury, or any other information related to excessive use of force by Bahraini law enforcement officials, to protect these patients and their families.²³⁰

PHR also met with relatives of Muhammad, a young asthmatic man from a Shi'a village, who died of acute respiratory failure following 25 days of hospitalization after exposure to toxic chemical agents.

Muhammad's family reported that he was routinely exposed to tear gas and sought medical care in private hospitals, but never told doctors about his severe adverse reactions to the gas for fear of being reported to authorities and sent to prison. Family members reported that police had fired tear gas canisters into their village, and particularly around their home, on an almost daily basis. On the day of his death, Muhammad left the hospital (where he had been treated for respiratory problems due to tear gas exposure) to visit his family, when he was exposed to yet another tear gas explosion in his village. That evening, he reportedly developed severe shortness of breath and returned to the hospital where he went into respiratory failure. Medics administered CPR, but failed to resuscitate him. Muhammad's doctor reported to PHR investigators that his death certificate stated he died of cardiac arrest, secondary to severe pulmonary hypertension caused by "mediastinal mass. The doctor then told investigators, "There was no indication in his chart that he had a mass, nor were there any studies to substantiate it. He was cyanosed and died of an acute respiratory failure."

Asthma. Demonstrators as well as civilians who never participated in protests reported to PHR that they suffered from new symptoms, including persistent coughing, shortness of breath, chest tightness, and wheezing,²³⁴ all of which may indicate onset of asthma.²³⁵ Respondents told PHR investigators that they believed their ongoing respiratory distress was due to chronic contact with tear gas that they could not escape;²³⁶ others reported that symptoms continued long after exposure.²³⁷

A specialist physician working with Bahrain's Ministry of Health reported to PHR that the most common medical complications he currently treats relate to inhalation problems. He reported to PHR that he had recently seen a dramatic rise in asthma-like symptoms affecting people of all ages in Bahrain. Patients exhibiting respiratory distress, he reported, have not necessarily been involved in protests. For certain individuals, he noted that breathing in allergy-causing materials or "triggers" can lead to onset of asthma.

The injuries and attendant negative health effects that PHR documented are most probably

229. Interview with key informant no. 11, in Bahrain (8 Apr. 2012).

230. *Id.*

231. Interview with key informant no. 85, in Bahrain (9 Apr. 2012).

232. Muhammad's doctor reported that he was cyanotic and gasping and ultimately suffered a cardiac arrest. Interview with key informant no. 84, in Bahrain (9 Apr. 2012).

233. *Id.*

234. *Id.*

235. Asthma is a disorder in which airways in the lungs become inflamed. PubMed Health, *Asthma*, 1 May 2011, <http://www.ncbi.nlm.nih.gov/pubmedhealth/PMH0001196/>. Scientists do not know precisely what causes asthma, but sustained exposure to certain materials may trigger asthma symptoms in adults. Asthma and Allergy Foundation of America, *Adult Onset of Asthma*, <http://www.aafa.org/display.cfm?id=8&sub=17&cont=157> (last visited 30 Jun. 2012).

236. Interview with key informant no. 20, in Bahrain (9 Apr. 2012).

237. Interview with key informant no. 26, in Bahrain (9 Apr. 2012).

238. Interview with key informant no. 11, in Bahrain (8 Apr. 2012).

239. *Id.*

not the result of exposure to toxic gas from having participated in protests or from having been a bystander to those assemblies where toxic chemical agents were used. Rather, these cases illustrate the serious long-term harm that results from Bahraini law enforcement officials' persistent targeting of civilians with toxic chemical agents in enclosed spaces. Miscarriages, severe respiratory distress resulting in premature death, an apparent rise in asthma rates, and genetic mutations causing deformities represent some of the possible health consequences that PHR predicts will become more prevalent in Bahrain as a direct result of police violence. These actions contravene international human rights law, which the Kingdom of Bahrain must uphold.

Legal analysis of Bahrain's human rights violations

Based on extensive interviews and medical evaluations of wounded civilians and review of their medical records, Physicians for Human Rights finds that Bahraini law enforcement officials failed to respect and protect human dignity and maintain and uphold the human rights of all citizens.²⁴⁰ Specifically, Bahraini law enforcement officials (1) subjected men, women, and children, including vulnerable disabled and elderly persons, to torture or cruel, inhuman, or degrading treatment; (2) unlawfully entered families' homes and destroyed property; (3) intentionally committed acts that impair people's health; and (4) discriminated against one religious sect by targeting Shi'a homes and neighborhoods.

Torture or cruel, inhuman, or degrading treatment. The Bahraini government's willful and unrelenting attacks against Shi'a neighborhoods and homes with toxic chemical agents constitute torture or cruel, inhuman, or degrading treatment as defined in international law. The Convention Against Torture, to which Bahrain is a party, defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for... any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official".²⁴¹ The weaponized toxic chemical agent attacks against Bahraini civilians cause severe pain and suffering among affected populations, including severe respiratory distress resulting in premature death as well as possible connections to miscarriages or genetic mutations. The attacks are intentional—and may be official policy—because of the frequency of the attacks by officials throughout the police force and the lack of accountability for those who perpetrate the attacks. Based on interviews with those subjected to toxic chemical agent attacks, the attacks are meant to intimidate the victims and are based on ethnic discrimination against the Shi'a community. Lastly, the attacks documented were indeed perpetrated by law enforcement officials and not independent civilians. The attacks violate Bahrain's obligations under the Convention Against Torture as well as the Bahraini Constitution, which outlaws physical or mental torture.²⁴²

The weaponized toxic chemical agent attacks may also constitute cruel, inhuman, or degrading treatment (CIDT). While definitions of CIDT are debated by international legal experts, one accepted definition of CIDT is an act that entails severe physical or mental pain or suffering.²⁴³

240. "In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons." U.N. Code of Conduct for Law Enforcement Officials, *supra* note 1, at art. 2.

241. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1, 10 Dec. 1984, 1465. U.N.T.S. 85 (acceded 6 Mar. 1998) (hereinafter CAT). *See also* the International Covenant on Civil and Political Rights which states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." ICCPR *supra* note 175, at art. 7.

242. "No person shall be subjected to physical or mental torture, enticement or degrading treatment, and the law shall provide the penalty for these acts. Any statement or confession shall be null and void if it is proved to have been made under duress or enticement or degrading treatment or threat thereof." Constitution of the Kingdom of Bahrain, *supra* note 13, at art. 19(d).

243. Elements of Crimes for the ICC, Definition of torture as a war crime (ICC Statute, Article 8(2)(a)(ii) and (c)(i)).

Manfred Nowak, former UN Special Rapporteur on Torture, explains that the application of CIDT is a relative concept and that outside a situation of detention, the prohibition of CIDT is subject to the proportionality principle.²⁴⁴ Excessive use of police force, for example, would constitute CIDT. The conduct and the powerlessness of the victim is part of Nowak's examination of proportionality. The Bahraini law enforcement officials' toxic chemical agent attacks on civilians in their homes violate the principle of proportionality; the harm of the attack is grossly imbalanced given the lack of security threat posed by many of the victims.

Case law supports the argument that weaponized misuse of toxic chemical agents may be cruel, inhuman, or degrading treatment. The European Court of Human Rights found that unwarranted spraying of pepper spray in an individual's face subjected the victim to intense physical and mental suffering, given the health effects of the toxic chemical agent. The court concluded that the spraying amounted to inhuman and degrading treatment.²⁴⁵

Unlawful interference with privacy, family, home. Every person has the right to be protected against arbitrary or unlawful interference with one's privacy, home, or family, according to the International Covenant on Civil and Political Rights, to which Bahrain is a party.²⁴⁶ Bahrain's Constitution also ensures the inviolability of one's residence, which cannot be entered or searched without permission of the occupant.²⁴⁷ Bahrain's penal code similarly prohibits anyone from unlawfully entering another person's home,²⁴⁸ damaging someone's property,²⁴⁹ or endangering another's property by attempting to use explosives.²⁵⁰ Therefore, when Bahraini law enforcement officials intentionally target and shell homes with canisters containing toxic chemical agents, break into people's residences, and destroy their property, as PHR documents in this report, the Government of Bahrain is in flagrant violation of its national and international obligations.

Impairing health. State obligations regarding the promotion of and respect for people's right to health are minimal under international law, as states only pledge to progressively realize this right. When a government deliberately and knowingly impairs the health and well-being of its population by weaponizing toxic chemical agents and attacking their homes, however, it immediately erodes this fundamental right and inflicts long-term damage on people's health. Bahraini law enforcement officials who brazenly fire toxic chemical agent shells into civilian homes

The definition relates to the International Criminal Court, but other courts have referred to this language when analyzing incidents of CIDT.

244. Manfred Nowak & Elizabeth McArthur, *The Distinction Between Torture and Cruel, Inhuman or Degrading Treatment*, 16 *Torture* 147, 149 (2006).

245. Ali Günes v. Turkey (dec.), no. 9829/07, ECHR, (2012) <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-110262>.

246. "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence... Everyone has the right to the protection of the law against such interference or attacks." ICCPR *supra* note 175, at art. 17.

247. "Places of residence shall be inviolable. They may not be entered or searched without the permission of their occupants except in the circumstances and manner specified by the law." Constitution of the Kingdom of Bahrain, *supra* note 13, at art. 25.

248. "A prison sentence for a period of no more than six months or a fine of no more than BD 50 shall be the penalty for any person who enters an inhabited place, [or] a place intended for dwelling... The penalty shall be imprisonment for no more than two years if the crime is committed at night or with the use of violence against persons or property or with the use of a weapon..." Bahrain Penal Code, *supra* note 187, at art. 361.

249. "A punishment of imprisonment or a fine, or either penalty, shall be inflicted upon every civil servant or officer entrusted with public service who has, as a result of his own failure, caused serious damage to some properties for which he is responsible for safekeeping as part of the duties of his office." *Id.*, at art. 200.

250. "A punishment of imprisonment for a period of not exceeding ten years shall be inflicted upon any person who willfully uses or attempts to use explosives in a manner that is likely to expose others' property to danger." *Id.*, at art. 281.

flout the Bahraini Constitution, which grants the right to health to Bahraini citizens,²⁵¹ and the In addition, Bahrain’s penal code metes out severe punishment to anyone who endangers public health:

“Life or term imprisonment shall be the penalty for any person who exposes human lives or safety of the public to danger by placing materials, germs or other things in a water well or tank or anything that is intended for public use, that may cause death or serious damages [sic] to public health. ...”

Discrimination. A government discriminates against a group of people when it singles out the group because of the race, religion, origin, language, or other status of the group’s members, and based on that status denies them any of the rights and freedoms to which they are entitled.²⁵⁴ Based on analysis of the patterns and frequency of toxic chemical agent attacks against homes and neighborhoods in Bahrain, Physicians for Human Rights concludes that the Government of Bahrain intentionally targets the Shi’a Muslim community,²⁵⁵ contravening the Bahraini Constitution²⁵⁶ and Bahrain’s international legal obligations.²⁵⁷ Preliminary analysis of data suggests that among approximately 65 Shi’a residential areas—roughly 80% of all neighborhoods in Bahrain—the majority of Shi’a neighborhoods have been exposed to toxic chemical agent attacks at least once per week since February 2011. Sunni-dominated neighborhoods have largely remained free from toxic chemical agent attacks.

251. “Every citizen shall have the right to health welfare. The State shall care for public health and ensure means of prevention and treatment...” Constitution of the Kingdom of Bahrain, *supra* note 13, at art. 8.

252. “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” International Covenant on Economic, Social and Cultural Rights, art. 12(1), 16 Dec. 1966, 993 U.N.T.S. 3 (acceded 27 Sep. 2001) (hereinafter ICESCR).

253. Bahrain Penal Code, *supra* note 187, at art. 283.

254. “[T]he Committee believes that the term “discrimination” ... should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground ... and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.” UN Human Rights Committee (HRC), *CCPR General Comment No. 18: Non-discrimination*, ¶ 7, 10 Nov. 1989, available at <http://www.unhcr.org/refworld/docid/453883fa8.html>.

255. Protests in Bahrain occur exclusively in Shi’a or mixed neighborhoods.

256. “People are equal in human dignity, and citizens shall be equal in public rights and duties before the law, without discrimination as to race, origin, language, religion or belief.” Constitution of the Kingdom of Bahrain, *supra* note 13, at art. 18.

257. “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” ICCPR, *supra* note 175, at art. 2(1).

Policy Recommendations

To the Government of Bahrain:

End all attacks on civilians, including tear gas attacks on civilians and homes.

Given the harmful effects of tear gas misuse in the country, suspend all use of tear gas until such time as the Government of Bahrain conducts a full and impartial investigation of the events detailed in this report, retrains the national security forces in the proper use of tear gas, and holds the perpetrators of excessive or improper use of force accountable. After such initial benchmarks are met, adhere to United Nations guidelines on the use of force and to the Bahraini penal code in order to stem future misuse of tear gas.

Establish an independent body consisting of individuals familiar with human rights and legal norms regarding the use of force to investigate the deliberate misuse of toxic chemical agents in Bahrain.

Disclose information about the varieties of toxic chemical agents used by law enforcement officials in Bahrain, given the disturbing evidence of the harmful effects of toxic chemical agents from PHR's investigation as well as the BICI report. This information will be important to the current treatment of exposed Bahraini citizens, and to drive future scientific research on the effects of all toxic chemical agents.

Allow scientists, health professionals, and epidemiologists to conduct critical toxicological and survey research on the use and effects of tear gas in Bahrain.

To the international community:

Suspend global exports of tear gas and its relevant precursor chemical agents to Bahrain until such time as the Government of Bahrain conducts a full and impartial investigation of the events detailed in this report, retrains the national security forces in the proper use of tear gas, and holds the perpetrators of excessive or improper use of force accountable.

Convene an interdisciplinary group of health professionals, lawyers, law enforcement officials, and public health experts to draft guiding principles on the proper use of all toxic chemical agents, especially those classified as lachrymatory agents, and to determine whether the application and toxicity of certain lachrymatory agents necessitate re-classification under the Chemical Weapons Convention.

Support scientific research into the health effects of tear gas, including research on the possible connection to miscarriage and/or genetic disorders as well as long-term respiratory sequelae of excessive exposure.

Review international, regional, national, and local guidelines on tear gas use and ensure that they follow the parameters of the UN Guidelines on the Use of Force, including mechanisms for accountability for misuse.

To the United States:

Continue to deny export licenses for tear gas to Bahrain until the Government of Bahrain adheres to UN Guidelines on the Use of Force regarding its tear gas use, investigates the weaponization of tear gas, and establishes accountability for law enforcement officials who use excessive force or otherwise violate the UN Guidelines.

Revoke tear gas licenses for other countries that show warning signs of improper use of tear gas or other riot control items against peaceful civilians.

As a matter of policy, ensure that all tear gas and related materials are listed on the State Department's US Munitions List, given the fatal consequences of the improper use of tear gas.

Provide stricter end-use monitoring of tear gas and related materials through the Department of Defense.

Ensure that any military assistance to Bahrain comports with the Leahy Law and section 502(b) of the Foreign Assistance Act of 1961.

Fully support international efforts to draft guiding principles on the proper use of all toxic chemical agents, and lead the international community in supporting scientific research on the health effects of these agents.



A Bahraini woman displays an exploded canister of CS gas that was shot into her home. Photo: Richard Sollom, PHR

Select list of countries that have recently deployed toxic chemical agents against civilians

CHILE

Police routinely resorted to toxic chemical agents to disperse student protests across Chile from May to August 2011, as thousands of civilians assembled to demand educational and social reforms.²⁵⁸ Collectively, these protests became known as the “Chilean Winter,” named after the “Arab Spring.”²⁵⁹ Observers expressed concerns over excessive use of toxic chemical agents and police force in Chile,²⁶⁰ as violent clashes left hundreds of people injured and thousands of demonstrators arrested.²⁶¹ The use of toxic chemical agents against youth in Chile is not unprecedented, but is reminiscent of crackdowns on student protests in 2006²⁶² and 2008.²⁶³

EGYPT

Egypt’s use of toxic chemical agents during the unfolding 2011 Egyptian Revolution drew international attention, as media reported that government law enforcement officials used British-made²⁶⁴ and US-made²⁶⁵ toxic chemical agents to suppress pro-democracy demonstrations. Nationwide, occasionally violent protests leading up to the resignation of Hosni Mubarak as president in February resulted in hundreds of deaths as riot police met civilians with toxic chemical agents and excessive force.²⁶⁶ Riot police continued to generate criticism for repeatedly using toxic chemical agents against demonstrators,²⁶⁷ most notably during protests in June 2011²⁶⁸ and renewed clashes in Tahrir Square in November 2011.²⁶⁹ Some physicians also argued that Egyptian law enforcement officials used a more powerful variation of toxic chemical lachrymatory agents that led to seizures and convulsions for those exposed.²⁷⁰

258. Gideon Long, *Chile student protests point to deep discontent*, BBC, 11 Aug. 2011, <http://www.bbc.co.uk/news/worldlatin-america-14487555>.

259. Alexei Barrionuevo, *With Kiss-Ins and Dances, Young Chileans Push for Reform*, New York Times, 4 Aug. 2011, <http://www.nytimes.com/2011/08/05/world/americas/05chile.html>.

260. Amnesty International cited by Gideon Long, *Chile’s Patagonia region sees mounting unrest*, BBC, 6 Mar. 2012, <http://www.bbc.co.uk/news/world-latin-america-17256697>; Human Rights Watch, *World Report 2012: Chile 1* (2012), http://www.hrw.org/sites/default/files/related_material/chile_2012.pdf.

261. *The fraught politics of the classroom*, Economist, 29 Oct. 2011, <http://www.economist.com/node/21534785>.

262. Human Rights Watch, *Chile: Dismissal of Riot Police Chief Welcomed*, 2 Jun. 2006, <http://www.hrw.org/news/2006/06/01/chile-dismissal-riot-police-chief-welcomed>; Jonathan Franklin, *Protests paralyse Chile’s education system: Student-led strike is largest in country’s history: First major test for Bachelet’s government*, Guardian, 7 Jun. 2006, at International Pages 14.

263. Rodrigo Martinez, *Rocks and tear gas in Chile’s annual youth protests*, Reuters, 29 Mar. 2008, <http://www.reuters.com/article/2008/03/29/us-chile-protest-idUSN2843349620080329>; *Movilización de estudiantes suma más de 300 detenidos* [Student mobilization numbers more than 300 detainees], Radio Cooperativa, 28 May 2008, http://www.cooperativa.cl/movilizacion-estudiantil-suma-mas-de-300-detenidos/prontus_notas/2008-05-28/104948.html.

264. Sarah Morrison and Bel Trew, *British-made tear gas was used on Egypt’s protesters*, The Independent, 4 Dec. 2011, <http://www.independent.co.uk/news/uk/home-news/britishmade-tear-gas-was-used-on-egypts-protesters6272117.html>.

265. Jack Shenker and Luke Harding, *US firm’s teargas used against Tahrir Square protesters*, The Guardian, 21 Nov. 2011, <http://www.guardian.co.uk/world/2011/nov/21/tahrir-square-us-teargas-used-egypt>.

266. Human Rights Watch, *World Report 2012: Egypt 3* (2012), http://www.hrw.org/sites/default/files/related_material/egypt_2012.pdf.

267. Amnesty International, *Egypt’s military rulers must protect protesters as they promised and end military trials of civilians*, Jan. 2012, <http://www.amnesty.org/zh-hant/node/28299>.

268. Patrick Werr and Yasmine Saleh, *Egypt police clash with youths; over 1,000 hurt*, Reuters, 29 Jun. 2011, <http://www.reuters.com/article/2011/06/29/us-egypt-protest-idUSTRE75R7ZM20110629>.

269. David Kirkpatrick, *Egypt’s Cabinet Offers to Resign as Protests Rage*, New York Times, 21 Nov. 2011, <http://www.nytimes.com/2011/11/22/world/middleeast/facing-calls-to-give-up-power-egypts-military-battles-crowds.html>.

270. Peter Beaumont and John Domokos, *Egyptian military using ‘more dangerous’ teargas on Tahrir Square protesters*,

GREECE

Police officials' use of toxic chemical agents to disperse demonstrations sparked by the Greek debt crisis received national and international criticism.²⁷¹ Government crackdown on protests peaked in the summer of 2011, when several months of rallies drew tens of thousands of civilians who were unhappy about austerity cuts.²⁷² In February 2012, police used toxic chemical agents against thousands of protesters,²⁷³ despite an ongoing investigation by the Athens prosecutor into excessive use of police force.²⁷⁴ In 2008, Greek law enforcement officials used at least 4,600 tear gas capsules to quell demonstrations and riots in Athens.²⁷⁵

HONDURAS

In February 2012, a devastating prison fire that killed at least 350 prisoners drew crowds of inmates' relatives eager to enter the complex and reach their family members or access their remains.²⁷⁶ Police dispersed these relatives with toxic chemical agents,²⁷⁷ renewing concerns that national police in Honduras have a history of firing toxic chemical agents against civilians indiscriminately.²⁷⁸ Several cases of police abuse of toxic chemical agents were reported in 2010,²⁷⁹ as well as during the demonstrations and constitutional crisis that followed the coup d'état of June 2009.²⁸⁰

ISRAEL

International observers have expressed concerns over recent abuse of toxic chemical agents against demonstrators²⁸¹ amid tension over Israeli settlements in the West Bank. In June

- The Guardian, 23 Nov. 2011, <http://www.guardian.co.uk/world/2011/nov/23/egyptian-military-teargas-tahrir-square>.
271. Avotl e o aox65 Too At6?,oo oTrl Boo?,r el atTia5 Twv e7retooSiwv [He initiated the discussion in the House because of the incidents], Skai, 30 Jun. 2011, <http://www.skai.gr/news/politics/article/173639/anoixe-o-askos-tou-aiolou-sti-vouli-exaitias-ton-epeisodion>; Amnesty International, *Amnesty International Urges Greece Not to Use Excessive Force During Protests*, 16 Jun. 2011, <http://www.amnestyusa.org/news/press-releases/amnesty-international-urges-greece-not-to-use-excessive-force-during-protests>; Eva Cosse, *Greek Protests Test Government's Commitment to Rights*, Human Rights Watch, 14 Jul. 2011, <http://www.hrw.org/news/2011/07/14/greek-protests-test-government-s-commitment-rights-0>.
272. Niki Kitsantonis and Suzanne Daley, *Greeks Stage Protests Against Spending Cuts and Tax Increases*, New York Times, 12 May 2011, at A4; Kerin Hope, *Rift widens over Greek reform plan*, Financial Times, 7 Jun. 2011, at World News 3.
273. *Greek crisis: thousands join protests as MPs debate bailout deal*, Reuters, 12 Feb. 2012, <http://www.guardian.co.uk/world/2012/feb/12/greek-mps-bailout-deal>; *Amid clashes, Greek Parliament approves austerity measures*, CNN, 13 Feb. 2012, <http://edition.cnn.com/2012/02/12/world/europe/greece-debt-crisis/index.html>.
274. Human Rights Watch, *World Report 2012: European Union 6* (2012), http://www.hrw.org/sites/default/files/related_material/eu_2012.pdf; Helena Smith, *Greek police face investigation after protest violence*, Guardian, 1 Jul. 2011, <http://www.guardian.co.uk/world/2011/jul/01/greek-police-investigation-protest-violence>.
275. Nick Squires, *Greece 'runs out of tear gas' during violent protests*, The Telegraph, 12 Dec. 2008, <http://www.telegraph.co.uk/news/worldnews/europe/greece/3725047/Greece-runs-out-of-tear-gas-during-violent-protests.html>.
276. *Morgue raided after Honduras prison fire*, Al Jazeera, 21 Feb. 2012, <http://www.aljazeera.com/news/americas/2012/02/2012221173212428539.html>.
277. *Honduras prison fire kills hundreds*, BBC, 15 Feb. 2012, <http://www.bbc.co.uk/news/world-latin-america-17038259>.
278. Human Rights Watch, *World Report 2012: Honduras 2* (2012) http://www.hrw.org/sites/default/files/related_material/honduras_2012.pdf. See also Amnesty International, *Honduras: human rights crisis threatens as repression increases 7* (2009), <http://www.amnesty.org/en/library/asset/AMR37/004/2009/en/0bef3d1b-ed50-46bc-8bb3-3f8ca416016c/amr370042009eng.pdf>.
279. Inter-American Commission on Human Rights (IACHR), *Annual Report of the Inter-American Commission on Human Rights 2010 479* (2010), <http://www.cidh.org/annualrep/2010eng/TOC.htm>.
280. *Police and military used toxic chemical agents routinely and excessively in 2009, resulting in several deaths and hundreds of injuries*. Inter-American Commission on Human Rights (IACHR), *Honduras: Human Rights and the Coup D'État 22* (2009), <http://cidh.org/pdf%20files/HONDURAS2009ENG.pdf>.
281. Human Rights Watch, *Israel: Investigate Killings During Border Protests*, 20 May 2011, <http://www.hrw.org/news/2011/05/20/israel-investigate-killings-during-border-protests>. Bil Van Esveld, *Israel's Misguided Crackdown Strategy*, Human Rights Watch, 23 Sep. 2011, <http://www.hrw.org/news/2011/09/23/israels-misguided-crackdown-strategy>. See also Physicians for Human Rights, *The Casualties of Conflict*, *supra* note 64; Amnesty International,

2012, a UN Special Rapporteur called attention to the Israeli Defense Forces' use of toxic chemical agent canisters as projectiles that cause severe injury and death.²⁸²

LIBYA

In mid-February 2011, before Libyan unrest escalated into a full-fledged civil war, law enforcement officials killed and injured civilian protesters in Benghazi and elsewhere in the country using toxic chemical agents, batons, and live ammunition.²⁸³ International Criminal Court evidence suggested that authorities had planned to use toxic chemical agents and excessive force against civilians as soon as unrest began in neighboring Tunisia and Egypt in January 2011.²⁸⁴

MALAYSIA

The Malaysian government received international criticism for its use of toxic chemical agents in crackdowns on pro-democracy protests in April 2012.²⁸⁵ Tens of thousands of civilians assembled peacefully on 28 April to call for election reform,²⁸⁶ in a demonstration organized by opposition leaders as a follow-up to the 2007²⁸⁷ and 2011²⁸⁸ Bersih rallies (similarly broken up by police). An interim report by the Malaysian Bar Council established that the use of toxic chemical agents was indiscriminate and excessive,²⁸⁹ while media accounts documented dozens of injuries and hundreds of arrests.²⁹⁰

SOUTH KOREA

Authorities in South Korea in 1987 used hundreds of thousands of canisters containing toxic chemical agents over the course of two months (June and July) in the streets of Seoul to crush civilian uprisings.²⁹¹ Civilians exposed to high quantities of toxic chemical agents suffered acute illnesses and severe health impairments; affected individuals went without medical

The Misuse of Tear Gas by Israeli Army Personnel in the Israeli Occupied Territories June (2008), <http://adalahny.org/sites/default/files/legacy/images/image/June11988MisuseofteargasbyIDFpersonnelMDE15-26-88.pdf>.

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290. Lisa Ariffin, *388 arrested at Bersih rally*, Malaysian Insider, 28 Apr. 2012, <http://www.themalaysianinsider.com/malaysia/article/at-least-100-arrested-at-bersih-rally>.
291. According to media sources, The Republic of Korea used 351,000 tear gas grenades and canisters in June 1987 alone. Use of Tear Gas in the Republic of Korea, *supra* note 69, at 1.

attention for fear of police and government harassment.²⁹² Physicians for Human Rights re

ported following a July 1987 investigation that South Korea's use of toxic chemical agents was

TUNISIA

Tunisian law enforcement officials used toxic chemical agents against civilians throughout the 2010-2011 protests that inspired the Arab Spring, killing hundreds and injuring thousands.²⁹⁴ Protests continued despite the January 2011 resignations of President Ben Ali and Prime Minister Mohammed Gannouchi,²⁹⁵ during which time reports of improper use of toxic chemical agents increased.²⁹⁶ Law enforcement officials dropped a canister containing toxic chemical agents in a mosque in January 2011,²⁹⁷ and killed one foreign photographer after hitting him in the head with a toxic chemical agent canister at point blank range.²⁹⁸

TURKEY

Turkish authorities have primarily targeted Kurdish minorities in the southeastern region of the country with toxic chemical agents in recent years because of ongoing protests against political restrictions.²⁹⁹ In March 2012, police used toxic chemical agents to violently disperse traditional Navroz celebrations that drew thousands of demonstrators.³⁰⁰ Several large Kurdish protests also took place throughout 2011,³⁰¹ over the course of which police employed toxic chemical agents and arrested thousands.³⁰² The Turkish Parliament met in April 2011 to discuss police use of the riot control agent, but supported use of toxic chemical agents³⁰³ despite ongoing criticism.³⁰⁴

292. *Id.*

293. *Id.*, at 4.

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299. See Ivan Watson and Yesim Comert, *Residents choke on tear gas as tensions rise in Turkey*, CNN, 13 Dec. 2009, http://articles.cnn.com/2009-12-13/world/turkey.kurds_1_kurdish-kurdistan-workers-party-turkish-parliament?_s=PM:WORLD. Minorities At Risk Project, *Assessment for Kurds in Turkey*, University of Maryland Center for International Development and Conflict Management, <http://www.cidcm.umd.edu/mar/assessment.asp?groupId=64005> (last visited 21 Jun. 2012).

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304. Human Rights Watch, *Letter to Turkish Prime Minister, Mr Erdogan, Regarding Human Rights Priorities for the New*

UGANDA

Doubts about the fairness of the reelection process for President Museveni,³⁰⁵ now in his 26th year in office, inspired protests which escalated after the violent arrest of Uganda's opposition leader in April 2011.³⁰⁶ For weeks, peaceful demonstrations in Kampala were met with excessive police force including indiscriminate use of toxic chemical agents in houses and against non-protesters.³⁰⁷ The incidents resulted in hundreds of injuries and arrests, as well as reported deaths.³⁰⁸ Despite apologies from Uganda's Inspector General of Police, human rights organizations and donor nations condemned the crackdowns and called for further investigations.³⁰⁹

YEMEN

Inspired by the Arab Spring, the Yemeni Uprising in 2011 drew tens of thousands of protesters to the capital in antigovernmental demonstrations.³¹⁰ Protests grew in size when major tribes joined the movement in February 2011,³¹¹ but were met on several occasions with excessive force by the police,³¹² resulting in hundreds of injuries and some deaths attributed to toxic chemical agents.³¹³ Evidence suggested that the toxic chemical agents used by security officers not only had expired, but also contained chemicals much more powerful than those usually used for crowd control.³¹⁴

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Timeline of relevant events in Bahrain (2011-2012)

- 14 February 2011 Bahraini protesters call for a “day of rage,” demanding political and economic reform. Law enforcement officials kill one person and injure dozens.
- 17 February 2011 Hundreds of riot police attack protesters camped in Pearl Square with toxic chemical agents and rubber bullets. Law enforcement officials take over the square, killing five and injuring hundreds.
- 14 March 2011 The King of Bahrain calls on Arab Gulf states to send military support. Fifteen-hundred troops from Sunni Gulf states, two-thirds from Saudi Arabia, are deployed in Bahrain.
- 15 March 2011 The King declares a three-month state of emergency, giving the commander in chief of Bahrain’s military authority to disperse protests.
- 16 March 2011 Bahraini law enforcement officials attack protesters at Pearl Square and occupy Salmaniya public hospital, preventing injured demonstrators from receiving medical treatment and arresting doctors and wounded protesters.
- 9 April 2011 Bahraini law enforcement officials arrest Abdulhadi al-Khawaja, a prominent human rights activist, along with his two sons-in-law.
- 22 April 2011 PHR releases its report *Do No Harm: A Call for Bahrain to End Systematic Attacks on Doctors and Patients*, detailing violations of medical neutrality in Bahrain.
- 1 June 2011 Government of Bahrain lifts its state of emergency.
- 13 June 2011 Government of Bahrain puts 24 physicians and 24 nurses and paramedics on trial, accusing them of working with the opposition at Salmaniya hospital and hiding arms.
- 22 June 2011 A hybrid military court sentences eight opposition activists, including Abdulhadi al-Khawaja, to life in prison for plotting to overthrow the Government. Thirteen additional activists each receive a sentence ranging from two to 15 years in jail.
- 29 June 2011 King Hamad al-Khalifa establishes the Royal Independent Investigation Commission (later known as the Bahraini Independent Commission of Inquiry, or BICI) to investigate the events of February and March 2011.
- 8 July 2011 Political party Al-Wefaq pulls out of the parliament to protest the allotment of only 35 out of 300 seats to the Shi’a majority.
- 31 August 2011 Fourteen-year-old Ali Jawad Ahmad dies from the impact of a toxic chemical agent canister fired at his head by law enforcement officials in Sitra. Tens of thousands protest.

- 29 September 2011 A hybrid military court convicts 20 health professionals for allegedly using the Salmaniya Medical Complex for opposition activity; they
- 5 October 2011 Bahrain's attorney general orders a retrial of those medical professionals sentenced on 29 September.
- 23 November 2011 BICI releases its report, which confirms the Bahraini government's use of torture on detainees and the excessive use of force against civilians.
- 31 December 2011 New Year's Eve protests in Sitra result in the death of 15-year-old Sayed Hashim Saeed, whom law enforcement officials struck with two canisters of toxic chemical agents.
- 8 January 2012 PHR's Richard Sollom is denied entry to Bahrain to observe the trial of the 20 medical professionals, despite possessing a valid five-year visa.
- 5 March 2012 Forty-five-day-old infant Yahya Yousif Ahmed dies reportedly due to complications from tear gas exposure, after law enforcement officials launch toxic chemical agents into her mother's home eight times over the course of the pregnancy.
- 20 March 2012 United Nations expresses concern over Bahrain's misuse of toxic chemical agents and the death of civilians, after receiving reports of over 30 possible toxic chemical agent-related deaths.
- 22 April 2012 Formula 1 Grand Prix takes place in Manama, despite intense protests against the event. Police reportedly shoot and kill one protester.
- 30 April 2012 Bahrain's Appeals Court orders a retrial in civilian court for 21 opposition activists convicted by military court, including hunger striker Abdulhadi al-Khawaja.
- 21 May 2012 UN Human Rights Council holds its second Universal Period Review for Bahrain. The Bahraini delegation denies allegations of many well-documented human rights abuses. PHR releases its report *Under the Gun: Ongoing Assaults on Bahrain's Health System* detailing impacts of Bahrain's militarization and politicization of healthcare on the public health system.
- 14 June 2012 High Court of Appeals convicts 11 of the 20 medical professionals on trial for charges of illegal protesting and trying to overthrow the monarchy. The court acquits nine of the defendants.

UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

Whereas the work of law enforcement officials* is a social service of great importance and there is, therefore, a need to maintain and, whenever necessary, to improve the working conditions and status of these officials,

Whereas a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole,

Whereas law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Civil and Political Rights,

Whereas the Standard Minimum Rules for the Treatment of Prisoners provide for the circumstances in which prison officials may use force in the course of their duties,

Whereas article 3 of the Code of Conduct for Law Enforcement Officials provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty,

Whereas the preparatory meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Varenna, Italy, agreed on elements to be considered in the course of further work on restraints on the use of force and firearms by law enforcement officials,

Whereas the Seventh Congress, in its resolution 14, inter alia, emphasizes that the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights,

Whereas the Economic and Social Council, in its resolution 1986/10, section IX, of 21 May 1986, invited Member States to pay particular attention in the implementation of the Code to the use of force and firearms by law enforcement officials, and the General Assembly, in its resolution 41/149 of 4 December 1986, inter alia, welcomed this recommendation made by the Council,

Whereas it is appropriate that, with due regard to their personal safety, consideration be given to the role of law enforcement officials in relation to the administration of justice, to the protection of the right to life, liberty and security of the person, to their responsibility to maintain public safety and social peace and to the importance of their qualifications, training and conduct,

The basic principles set forth below, which have been formulated to assist Member States in their task of ensuring and promoting the proper role of law enforcement officials, should be taken into account and respected by Governments within the framework of their national legislation and practice, and be brought to the attention of law enforcement officials as well as other persons, such as judges, prosecutors, lawyers, members of the executive branch and the legislature, and the public.

General provisions

- (1) Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.
- (2) Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.
- (3) The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.
- (4) Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.
- (5) Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:
 - (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
 - (b) Minimize damage and injury, and respect and preserve human life;
 - (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
 - (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.
- (6) Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.
- (7) Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.
- (8) Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

Special provisions

- (9) Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

- (10) In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.
- (11) Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:
- (a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;
 - (b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;
 - (c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;
 - (d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;
 - (e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;
 - (f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

Policing unlawful assemblies

- (12) As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.
- (13) In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.
- (14) In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

Policing persons in custody or detention

- (15) Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.
- (16) Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.
- (17) The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly rules 33, 34 and 54.

Qualifications, training and counselling

- (18) Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.
- (19) Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.
- (20) In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.
- (21) Governments and law enforcement agencies shall make stress counselling available to law enforcement officials who are involved in situations where force and firearms are used.

Reporting and review procedures

- (22) Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in principles 6 and 11 (f). For incidents reported pursuant to these principles, Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.
- (23) Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependents accordingly.
- (24) Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.
- (25) Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.
- (26) Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.

* In accordance with the commentary to article 1 of the Code of Conduct for Law Enforcement Officials, the term “law enforcement officials” includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

Appendix D

UN Code of Conduct for Law Enforcement Officials

Adopted by General Assembly resolution 34/169 of 17 December 1979

Article 1

Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Commentary:

- (a) The term “law enforcement officials” includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.
- (b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.
- (c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid.
- (d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary:

- (a) The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.

- (b) National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights.

Article 3

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Commentary:

- (a) This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.
- (b) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.
- (c) The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

Article 4

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

Commentary:

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Commentary:

- (a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, according to which:

“[Such an act is] an offence to human dignity and shall be condemned as a denial of the

purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights [and other international human rights instruments].”

- (b) The Declaration defines torture as follows:
“... torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.”
- (c) The term “cruel, inhuman, or degrading treatment or punishment” has not been defined by the General Assembly but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.

Article 6

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Commentary:

- (a) “Medical attention”, which refers to services rendered by any medical personnel, including certified medical practitioners and paramedics, shall be secured when needed or requested.
- (b) While the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgment of such personnel when they recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.
- (c) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of law.

Article 7

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

Commentary:

- (a) Any act of corruption, in the same way as any other abuse of authority, is incompatible with the profession of law enforcement officials. The law must be enforced fully with respect to any law enforcement official who commits an act of corruption, as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and within their agencies.
- (b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of or in connection with one’s duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.
- (c) The expression “act of corruption” referred to above should be understood to encompass attempted corruption.

Article 8

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.

Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

Commentary:

- (a) This Code shall be observed whenever it has been incorporated into national legislation or practice. If legislation or practice contains stricter provisions than those of the present Code, those stricter provisions shall be observed.
- (b) The article seeks to preserve the balance between the need for internal discipline of the agency on which public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other. Law enforcement officials shall report violations within the chain of command and take other lawful action outside the chain of command only when no other remedies are available or effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur.
- (c) The term "appropriate authorities or organs vested with reviewing or remedial power" refers to any authority or organ existing under national law, whether internal to the law enforcement agency or independent thereof, with statutory, customary or other power to review grievances and complaints arising out of violations within the purview of this Code.
- (d) In some countries, the mass media may be regarded as performing complaint review functions similar to those described in subparagraph (c) above. Law enforcement officials may, therefore, be justified if, as a last resort and in accordance with the laws and customs of their own countries and with the provisions of article 4 of the present Code, they bring violations to the attention of public opinion through the mass media.
- (e) Law enforcement officials who comply with the provisions of this Code deserve the respect, the full support and the co-operation of the community and of the law enforcement agency in which they serve, as well as the law enforcement profession.

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Appendix F

Glossary

- Biological weapon* "(1) Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; (2) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict." 330
- Chemical riot control agent* "Any chemical... which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure." 331
- Chemical warfare agent* "Chemical substances, whether gaseous, liquid or solid, which might be employed because of their direct toxic effects on man, animals and plants." 332
- Chemical weapon* "(a) Toxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes;
(b) Munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (a), which would be released as a result of the employment of such munitions and devices;
(c) Any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (b)." 333
- Chemical Weapons Convention* International treaty aimed to prevent the stockpiling, retention and production of weapons of mass destruction. 334
- Disproportionate* "Not acting in proportion to the seriousness of the offence and the legitimate objective to be achieved." 335
- Lachrymator* "Any substance which causes irritation and copious watering of the eyes when it comes into contact with them (in the form of a gas, spray, dust, or the like)." 336
- Law enforcement officials* "[A]ll officers of the law whether appointed or elected, who exercise police powers, especially the powers of arrest or detention." 337
- Molotov cocktail* "A makeshift incendiary device for throwing by hand, consisting of a bottle or other breakable container filled with flammable liquid and with a piece of cloth, etc., as a fuse." 338

330. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, ("Biological Weapons Convention") art. 1, 26 Mar. 1975, available at <http://www.opbw.org/convention/documents/btwctext1.pdf>.

331. Chemical Weapons Convention, *supra* note 52, at art 2.7.

332. Steven L. Hoeng, Handbook of Chemical Warfare and Terrorism, 24 (2002).

333. Chemical Weapons Convention, *supra* note 52, at art. 2.1.

334. *Id.*, at art. 1.

335. U.N. Principles on the Use of Force, *supra* note 108, at art. 5(a).

336. Lachrymator, in Oxford English Dictionary, *supra* note 44.

337. U.N. Code of Conduct for Law Enforcement Officials, *supra* note 1, at art. 1(a).

338. Molotov, in Oxford English Dictionary (3rd ed. 2002, online version 2012).

<i>Torture</i>	“[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” ³³⁹
<i>Toxic chemical</i>	“Any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals.” ³⁴⁰
<i>Use of force</i>	“Amount of effort required by law enforcement to compel compliance by an unwilling subject.” ³⁴¹

339. Convention against Torture *supra* note 241, at art 1.1.

340. Maciej J. Bogusz, *Forensic Science*, Volume 6, 406 (2002).

341. US Department of Justice, *Review of the Department of Justice’s Use of Less-Lethal Weapons*, *supra* note 107, at i.

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD



**Tom Lantos Human Rights Commission (TLHRC)
Hearing**

Implementation of the Bahrain Independent Commission of Inquiry Report

**Wednesday, August 1, 2012
1:00 p.m. – 3:00 p.m.
Rayburn House Office Building Room 2237**

In November 2011, the Bahrain Independent Commission of Inquiry (BICI), established by the King of Bahrain and headed by Cherif Bassiouni, reported that Bahraini security forces systematically used excessive force, torture and forced confessions during a crackdown on demonstrations last year. The BICI also recommended an array of reforms designed to improve human rights protections, which the Bahraini government pledged to implement. This hearing will examine the extent to which the Bahraini government has implemented the BICI proposals.

The following witnesses will testify:

Panel I:

- The Honorable Ron Wyden, U.S. Senator

Panel II:

- The Honorable Michael H. Posner, Assistant Secretary of State for Democracy, Human Rights, and Labor

Panel III:

- The Honorable Matar Ebrahim Matar, former Member of Bahrain's Parliament
- Mr. Leslie Campbell, Senior Associate and Regional Director, Middle East and North Africa Programs, National Democratic Institute
- Mr. Tom Malinowski, Washington Director, Human Rights Watch
- Mr. Richard Sollom, Deputy Director, Physicians for Human Rights

If you have any questions, please contact the Tom Lantos Human Rights Commission at 202-225-3599 or tlhrc@mail.house.gov.

Sincerely,

James P. McGovern
Member of Congress
Co-Chair, TLHRC

Frank R. Wolf
Member of Congress
Co-Chair, TLHRC