



OMBUDSMAN OFFICE

مكتب الأمين العام

August 6, 2015

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Dear Ms. Whitson,

Request for Information Bahrain Ombudsman and PDRC

Further to your letter of 7 July 2015 and my early response of 8 July 2015 please find attached our response to your questions

You asked for very extensive and detailed information and we have made every effort to reply as fully as we reasonably can. In line with our commitment to transparency, all of the information provided is in the public domain.

Please note the requested information relating to the names, nationalities and rank of witnesses / persons convicted is not provided. You will appreciate that information about names and ranks should more appropriately be requested from other authorities. I can, however, tell you that those convicted / imprisoned range from police officers right up to Police Major grade. Information about the nationality of those complained about is not routinely monitored or included in Ombudsman management reports.

A full summary of information about the employing agencies / institutions of the complaints that were assessed to be serious enough to require referral for criminal or disciplinary investigation are included on pages 26-30 of the first Annual report and pages 16-19 of the second Annual Report.

In the case of complainants, you should be aware that it is Ombudsman policy that complainant personal details should not be shared without their written consent or, where appropriate, the consent of their family. This policy reflects our desire to build cross community and stakeholder trust in the integrity and helpfulness of our Office.

I hope very much that you find the information provided helpful.

Yours sincerely,



Nawaf M. Al Mouada
Ombudsman

Question One

Visits to places of detention: are representatives of the office of the Ombudsman and/or members of the PDRC empowered to conduct unannounced visits to places of detention, or must they always inform the detaining authorities in advance of their intention to visit?

How many separate places of detention have representatives of the office of the Ombudsman and/or the PDRC visited since July 2013, and how many such visits, in total, have these bodies conducted in this period? How many of these visits were unannounced?

Both the Ombudsman and the PDRC have the right to make announced and unannounced visits.

Decree No (27) of 2012, as amended by Decree No (35) of 2013, gives the Ombudsman the right to carry out announced and unannounced visits to police stations; prisons; detention centres and juvenile care centres.

Article 4 of Decree NO. (61) of 2013 concerning the Formation and Functions of the Commission for the Rights of Prisoners and Detainees gives the PDRC the right to conduct announced and unannounced visits to police stations; prisons; detention centres; juvenile care centres and other places where persons may be detained, such as hospitals and mental health centres.

The Ombudsman carried out an announced inspection of Jau Prison and published an inspection report in September 2013. Since then, the PDRC has taken the lead in carrying out inspections and has carried out unannounced inspections of the following:

- Dry Dock Detention Centre
- Northern Governate Police Directorates
- Capital Governate Police Directorates
- Southern Governate Police Directorates
- The General directorate of Criminal Investigation and Forensic Evidence
- The Juvenile Care Centre
- The Women's Reform and Rehabilitation Centre
- The Women's Detention Centre

The full text of the report is available on the website www.pdrc.bh/reports.

You should be aware also that Ombudsman investigators with responsibility for investigating complaints, serious incidents and deaths in detention, attend places of detention on an almost daily basis in order to gather evidence and carry out interviews. These visits are not pre-notified unless there is a specific administrative need. The Ombudsman also has an office located at Jau Prison, which is used by investigators on a regular basis.

Question Two

Respective responsibilities of the Ombudsman and the PDRC: which body has primary responsibility for conducting inspection visits to places of detention?

Which body has primary responsibility for referring cases of alleged torture or mistreatment of detainees to the relevant authorities, and how quickly are such referrals made?

Before 2011, only two bodies had authority to enter prisons and places of detention in Bahrain; the courts and the Public Prosecution. It is now the case that the Ombudsman, the National Institute for Human Rights (NIHR), the Prisoner and Detainee Rights Commission and NGO's / Civil Society (such as the International Committee of the Red Cross), also have the necessary authority.

All of these bodies are represented on the PDRC which now has the primary responsibility for inspection visits to all places of detention, with the overriding aim of ensuring that detainees are not subjected to any form of torture or inhuman or degrading treatment.

Both bodies have a duty to refer for criminal investigation allegations of torture or mistreatment that they become aware of during the course of their work. It is not, however, the role of the PDRC to consider individual complaints.

The Ombudsman independently investigates any complaint made against a member of the Ministry of the Interior, including complaints about detainee treatment; conditions of detention; individual rights and healthcare services. The Ombudsman also has the authority to initiate an investigation into an alleged serious incident without a complaint.

As explained in the Ombudsman Annual report, significant efforts have been made over the last year to further develop investigative practice in investigating serious incidents and investigators have received further training. Serious incidents include deaths; allegations of torture or physical assault and any other allegation of a serious nature. The Office Serious Incident Investigation Policy has also been further developed and requires the early investigation of every serious allegation brought to the Ombudsman that has not been directly referred to the Special Investigation Unit or the Public Prosecution for criminal investigation. In every case, Ombudsman investigators take a full complainant statement and request potentially relevant evidence from a wide range of sources. As soon as the Ombudsman examines evidence that appears to suggest that a criminal offence may have been committed the case file is, in line with the requirements of the Ombudsman Decree, immediately referred with copies of all of the related case notes and evidence to the appropriate agency for criminal investigation.

Question Three

Composition of the PDRC: what are the names and professional credentials of the 11 members of the PDRC? How many PDRC members currently hold or previously held positions within the Ministry of Interior or other government ministries or agencies? How many members of the PDRC are women?

To what extent does the composition of the PDRC reflect the requirement, set out in article 2 of Decree No. 61 of 2013, that “the representation of all sects and doctrines in the Kingdom should be observed when forming the Commission?”

The PDRC is comprised of 13 Commissioners. Particular efforts were made to ensure that all sects and doctrines were represented and that the composition is representative of Bahrain’s diverse community

The Commissioners are:

	Name	Specialization
1	Dr Jawher Al Mudhki	Education
2	Osama Al Asfoor	Legal
3	Marya Khorl	NIHR
4	Dr, Waleed Almanae	Medical
5	Dr Abdulla Aldurazi	NIHR
6	Saad Al shamian	NGO
7	Ahmed Al malki	NGO
8	Atya Roohani	NGO
9	Mohammed Amman	Judge
10	Mai Matar	Judge
11	Wael BuAlai	Public Prosecution
12	Ali Alshuaikh	Public Prosecution

Three of the Commissioners are women: Dr, Jawher Al Mudhki, Marya Khorl and Mai Matar

Question Four

Referring to the Ombudsman first Annual Report complaint statistics:

- a) *What are the “Security Courts” to which the report refers?*
- b) *What were the precise charges in each of the two cases that resulted in convictions? What was the name, nationality, rank and employing agency of each of those convicted?*
- c) *What was the basis for the dismissal of the four cases in this reporting period and in each case what was the nature of the complaint and the name, nationality, rank and employing agency of the individual/s against whom the complaint was made?*
- d) *What is the current status of the three cases that were pending in court and of the 35 cases under investigation at the time of the report’s publication? How many of these have resulted now (a) been dismissed, (b) resulted in charges in cases that remain pending before the court, (c) have resulted in trials and convictions, and on what charges and with what penalties imposed, and (d) have resulted in trials that resulted in acquittals, and on what charges?*

Referring to the Ombudsman second Annual Report:

- e) *What precisely does the report mean by the “Security Prosecution?”*
- f) *What were the precise charges that resulted in convictions in seven cases and what sanctions did the courts impose on offenders? In each case, what was the name, nationality, rank and employing agency of those convicted?*
- g) *What was the basis for the dismissal of the 14 cases mentioned above and by what authorities were they dismissed, and in each case what was the name, nationality, rank and employing agency of the individuals concerned?*
- h) *What is the current status of the 10 cases that were pending in court and the 71 cases under investigation at the time of the report’s publication? How many of these have resulted in convictions since publication of the report and on what charge/s? In each case, what was the name, nationality, rank and employing agency of those convicted? How many have resulted in dismissals or acquittals since the publication of the report and on what basis?*

- a. The Security Courts / prosecution have the authority to prosecute members of the Public Security Forces (PSF) for alleged crimes committed in the course of their duties. (Crimes involving allegations of torture or inhumane or degrading treatment would always be referred to the Special Investigation Unit (SIU))
- b. The first charge related to the use of abusive language towards a Bahraini citizen by a member of the PSF. The second incident concerned a car accident where the charges related to speeding, negligence and manslaughter.
- c. The four cases were dismissed by the Security Courts. The original complaints concerned i) Inappropriate use of position as a police officer to interfere in a domestic child custody matter ii) Unwarranted damage to a car iii) Insulting and fighting with a member of the public at a checkpoint iv) Complaint about misconduct (made by a fellow officer)

The reason for dismissal was one of the following:

- Lack of evidence
- Non-infringement
- No crime committed
- Wrong information submitted

- d. Outcomes for the three cases pending were as follows:

Case (1): The Military Court ruled that the two accused must be deprived of consideration for promotion for 2 years.

Case (2): The Court ruled on the innocence of the accused

Case (3): The Court sentenced the accused to one month in prison

The Ombudsman first Annual Report states (Page 10) that 39 complaints were still under investigation at the end of the reporting period. The outcomes of these investigations are included in the outcome figures reported in the 2014 / 2015 Annual Report. Many of the cases concerned did not involve serious allegations and fall within the complaint not upheld or resolved category. You will note that the second Annual Report records that 87 complaints were still being investigated at the end of April 2015 and the outcomes of these cases will, likewise, feed into the 2015 / 2016 Annual Report.

- e. The Security Courts / prosecution have the authority to prosecute members of the Public Security Forces (PSF) for alleged crimes committed in the course of their duties. (Crimes involving allegations of torture or inhumane or degrading treatment would always be referred to the Special Investigation Unit (SIU)) agreed

f. The charges that resulted in seven convictions were as follows:

Case	Charges that Resulted in Conviction	Sanctions
1	<ul style="list-style-type: none"> I. Assault II. Violation of the Public Security Forces Act by acting in a manner incompatible with the dignity of military duty 	<p>Minor military court ruled on the innocence of the accused on 20/05/2015</p> <p>Appeal pending</p>
2	<ul style="list-style-type: none"> I. Failure to carry out legitimate orders connected with the publication of a video clip of the victim. II. Acting in a manner incompatible with the dignity of military duty by photographing a victim on mobile phone. 	<p>Military Court sentenced to one month in prison and promotion postponed for a year</p>
3	<ul style="list-style-type: none"> I. Theft of mobile phone. II. Acting in a manner incompatible with the dignity of military duty. 	<p>Military Court sentenced to three years and expelled from service</p> <p>Appeal pending</p>
4	<ul style="list-style-type: none"> I. Failure to carry out legitimate orders. II. Acting in a manner incompatible with the dignity of military duty. 	<p>Military Court expelled from service</p>
5	<ul style="list-style-type: none"> I. Assault II. Fraud 	<p>The Military Court ruled on the innocence of the accused in connection with the Fraud charges and awarded a disciplinary penalty to postpone promotion for three years.</p> <p>The Criminal Court sentenced the accused to five years in prison.</p>

6	<p>Three accused all charged with:</p> <p>I Inflicting intentional suffering and severe pain for the purpose of extracting a confession</p> <p>II Use of insulting language</p>	The Court ruled on the innocence of the accused
7	I. Attack on an anonymous victim by firing shotgun during public unrest	The Court sentenced the accused to three months in prison

g. As detailed in the Ombudsman second Annual Report Page 20, all 14 cases were dismissed by the Security Prosecution. All fourteen cases were dismissed for one of the following reason

- Lack of evidence
- Non- infringement
- Lack of crime
- Death of the defendant
- Wrong information submitted

As explained in the second Annual Report, the Ombudsman monitors the progress of all referred cases and keeps the complainant informed. Each case is also reviewed by the Ombudsman following conclusion of the criminal or disciplinary investigation process to determine whether there are any outstanding administrative, policy or practice issues where the Ombudsman could usefully make recommendations. In the case of complaints referred for criminal investigation, the Ombudsman also considers whether further disciplinary investigation is required. This process of review is also very helpful in informing future ombudsman investigative, evidence gathering and case preparation policy and practice.

The outcomes of the 14 cases referred to above are in the process of being reviewed.

h. Nine of the 10 reported are still pending in court. A verdict was issued in one case as follows:

Charges	Sanctions
<p data-bbox="228 342 500 373"><u>Accused 1, 2 and 3:</u></p> <ul style="list-style-type: none"><li data-bbox="207 422 776 527">I. Inflicting intentional suffering and severe pain for the purpose of extracting a confession<li data-bbox="207 575 581 606">II Using insulting language <p data-bbox="188 648 443 680"><u>Accused 4, 5 and 6</u></p> <ul style="list-style-type: none"><li data-bbox="207 686 760 791">I Agreeing and accepting acts of torture by permitting ii Accused 1, 2 and 3 to enter a prison.<li data-bbox="207 840 768 913">II Agreeing to retain a person without the permission of the expert authority	<p data-bbox="805 342 1369 415">Criminal Court, 31 May 2015 Sentenced as follows:</p> <ul style="list-style-type: none"><li data-bbox="824 464 1252 537">- Accused 1, 2 and 3 accused sentenced to five years<li data-bbox="824 575 1344 606">- Accused 4 sentenced to three years<li data-bbox="824 648 1328 722">- Accused 5 and 6 sentenced to one year <p data-bbox="805 758 1382 863">The SIU has appealed the sentence and the Appeal hearing before the Supreme Court is set for 9 October 2015.</p>

The “71 cases under investigation”

The Ombudsman second Annual Report records, in fact, that there were 87 ongoing investigations at the end of April 2015. Many more complaints and requests have been received in the last three months. Whilst the status of the 71 cases is not monitored separately from the Ombudsman total current case load, management information reports on performance statistics, including outcomes and referrals, are monitored constantly. A full report will be included in the 2015 / 2016 Annual report.

Question Five

Jaw Prison unrest: the Ombudsman's second annual report says that 196 of a total of 589 "requests for assistance that the Ombudsman Office received during the designated reporting period related to the Jaw prison unrest of March 2015. The report states that "requests for assistance ... usually involve a person seeking information about, for example, such matters as: how to arrange a prison visit or phone call; prison or detention center medical service or how to access education". In the same period, the Ombudsman Office received 319 complaints, but the report does not make it clear whether any of these also related to the Jaw Prison unrest of March 2015. Consequently, we request to be informed:

• How many complaints did the Ombudsman receive in relation to the unrest and what is the current status of those complaints?

Further to the requests for assistance reported above, the Ombudsman met 156 inmates in connection with the Jaw prison unrest. 15 of those interviewed made a formal complaint. Because of the serious nature of the allegations included in the complaints, all 15 were referred to the SIU for criminal investigation. The Ombudsman is monitoring the progress of referred cases and case conference reviews will be carried out at the conclusion of the criminal investigation process.