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15 December 2013

Letter of Allegation concerning the detention of journalist Mohammed Hassan, photographer Hussain Hubail and cameraman Qassim Zain Aldeen (Bahrain)

Dear Mr La Rue and Mr Méndez

The Media Legal Defence Initiative, Americans for Democracy & Human Rights in Bahrain, Bahrain Center for Human Rights, Bahrain Youth Society for Human Rights, FIDH - International Federation for Human Rights, Gulf Centre for Human Rights and Reporters Without Borders (“the signatory organisations”) respectfully request that you consider investigating the claims set out in this letter of allegation in relation to the arrest, detention and torture of Mr Hassan, Mr Hubail, and Mr Zain Aldeen. The arrest and detention of all three men was also the subject of an urgent appeal made by the Media Legal Defence Initiative, English PEN and Article 19 to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression dated 6 August 2013, which was copied to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

All three men face trial on charges relating to their activities reporting on recent protests against the government of Bahrain and were arrested within a few days of each other. All three have reported that they were subject to torture while detained in the Criminal Investigation Directorate (CID), which has been the subject of numerous other allegations of torture and ill-treatment. Mr Hubail and Mr Zain Aldeen remain in detention. Mr Hassan was released on bail at the beginning of October 2013.

I. Background and Circumstances Surrounding the Arrests and Detention

a. Mr Hassan

Mohammed Hassan is a 28-year old well-known independent blogger who has been writing about human rights and the political situation in Bahrain since 2007. Mr Hassan has also worked as a media fixer for foreign journalists and appeared in Dan Rather's report on Bahrain in March 2012, speaking about the dangers he faces and also about the authorities' use of tear gas to injure protestors.¹

In April 2012, Mr Hassan was arrested while accompanying journalists to a demonstration.² He was reportedly severely beaten prior to being detained and denied access to his lawyer for the duration of his detention.³ He was released only to be arrested again on 22 April, along with Colin Freeman of the London based Sunday Telegraph, on suspicion of attending an illegal demonstration. All those detained were released after several hours.⁴ Mr Hassan was summoned for interrogation in June 2012 on accusations of blogging and writing without a license and attending illegal gatherings.⁵ Mr Hassan stopped blogging and tweeting on 29 April 2013.⁶

Early on the morning of 31 July 2013 masked security agents entered Mr Hassan's home in Sitra and arrested him. No arrest warrant was presented and no reason was given for his arrest, and Mr Hassan's phone and computer were seized.⁷ He was taken to the Criminal Investigation

¹ Bahrain Centre for Human Rights ("BCHR"), 'Update: Bahrain: Enforced Disappearance of a Blogger and an Award Winning Photojournalist' (3 August 2013) available at <http://www.bahrainrights.org/en/node/6271> (last accessed 16 October 2013) ("BCHR, 'Update: Bahrain: Enforced Disappearance of a Blogger and an Award Winning Photojournalist'").

² *Id.*; The Telegraph, 'Bahrain Grand Prix 2012: Channel 4 crew arrested as their driver is 'beaten'' (23 April 2012) available at <http://www.telegraph.co.uk/sport/motorsport/formulaone/9219825/Bahrain-Grand-Prix-2012-Channel-4-crew-arrested-as-their-driver-is-beaten.html> (last accessed 16 October 2013) ("The Telegraph, 'Bahrain Grand Prix 2012'"); World Affairs, 'When a Fixer is Arrested' (21 April 2012) available at <http://www.worldaffairsjournal.org/blog/elizabeth-dickinson/when-fixer-arrested> (last accessed 16 October 2013).

³ *Id.*

⁴ The Telegraph, 'Bahrain Grand Prix 2012'.

⁵ BCHR, 'Update: Bahrain: Enforced Disappearance of a Blogger and an Award Winning Photojournalist'.

⁶ See his blog at <http://safybh.wordpress.com/2013/04/29/farewell/>.

⁷ BCHR, 'Update: Bahrain: Enforced Disappearance of a Blogger and an Award Winning Photojournalist'; Committee to Protect Journalists (CPJ), 'Journalist arrested, another believed to be held in Bahrain' (1 August 2013) <<http://www.cpj.org/2013/08/journalist-arrested-another-believed-to-be-held-in.php>> (last accessed 18 October 2013) ("CPJ, 'Journalist arrested'").

Directorate (CID), where he was interrogated for four days. Following his interrogation at the CID, he was transferred to the Dry Dock Detention Centre on 3 August 2013.⁸

When Mr Hassan's family visited him in the Detention Centre he told them that he had been subject to torture and other ill-treatment while at the CID.⁹ He was beaten with fists and a plastic hose, kicked, threatened with electric shocks, forced to strip naked and had his clothes taken away.¹⁰ Threats were made to rape his sisters. He reported that he was tortured over the four days that he was detained at the CID, particularly in room 99 of the CID, and that officer Mohammed Khalid Al-Saedi tortured him while questioning him. Mr Hassan was not permitted to sit down or to sleep and was not given anything to eat while detained at the CID. He confessed to the accusations put to him while being tortured and signed papers without being able to read their content. No medical examination occurred subsequent to his torture.

On 7 August 2013, Mr Hassan was taken before the Public Prosecutor and allowed to see his lawyer, Abdul Aziz Moussa, for the first time. No private meeting was allowed between Mr Hassan and Mr Moussa.¹¹ Mr Hassan was ordered to be detained for 45 days pending investigation.¹² Mr Moussa was himself detained the following day after tweeting that he had seen signs of torture on Mr Hassan's arms.¹³ Mr Hassan appointed another lawyer who he was only allowed to speak to over the phone. After he had been brought before the Public Prosecutor on 7 August, Mr Hassan's family was allowed to visit him once a week. Mr Hassan was released on bail from detention on the night of 3 October 2013.¹⁴ He is accused of calling for illegal

⁸ BCHR, 'Bahrain: Arrest of Lawyer after Tweeting about Torture of Detained Blogger' (9 August 2013) available at <http://bahrainrights.hopto.org/en/node/6296> (last accessed 17 October 2013).

⁹ BCHR, 'Bahrain: Arrest of Lawyer after Tweeting about Torture of Detained Blogger' (9 August 2013) available at <http://bahrainrights.hopto.org/en/node/6296> (last accessed 17 October 2013); Amnesty International, 'Document - Bahrain: Blogger, Lawyer Released: Trials Underway' (10 October 2013) available at <http://www.amnesty.org/en/library/asset/MDE11/051/2013/en/464af082-6436-4ef1-8b1c-394d995ff4ad/mde110512013en.html> (last accessed 17 October 2013).

¹⁰ Amnesty International, 'Document - Bahrain: Blogger, Lawyer Released: Trials Underway' (10 October 2013) available at <http://www.amnesty.org/en/library/asset/MDE11/051/2013/en/464af082-6436-4ef1-8b1c-394d995ff4ad/mde110512013en.html> (last accessed 17 October 2013).

¹¹ BCHR, 'Bahrain: Arrest of Lawyer after Tweeting about Torture of Detained Blogger' (9 August 2013) available at <http://bahrainrights.hopto.org/en/node/6296> (last accessed 17 October 2013); Front Line Defenders, 'Bahrain: Torture and incommunicado detention of Mr Mohamed Hassan and detention of his lawyer Mr Abdul Aziz Moussa' (9 August 2013) available at <https://www.frontlinedefenders.org/node/23482> (last accessed 17 October 2013).

¹² BCHR, 'Bahrain: Arrest of Lawyer after Tweeting about Torture of Detained Blogger' (9 August 2013) available at <http://bahrainrights.hopto.org/en/node/6296> (last accessed 17 October 2013).

¹³ BCHR, 'Bahrain: Arrest of Lawyer after Tweeting about Torture of Detained Blogger' (9 August 2013) available at <http://bahrainrights.hopto.org/en/node/6296> (last accessed 17 October 2013); Front Line Defenders, 'Bahrain: Torture and incommunicado detention of Mr Mohamed Hassan and detention of his lawyer Mr Abdul Aziz Moussa' (9 August 2013) available at <https://www.frontlinedefenders.org/node/23482> (last accessed 17 October 2013).

¹⁴ Amnesty International, 'Document - Bahrain: Blogger, Lawyer Released: Trials Underway' (10 October 2013) available at <http://www.amnesty.org/en/library/asset/MDE11/051/2013/en/464af082-6436-4ef1-8b1c-394d995ff4ad/mde110512013en.html> (last accessed 17 October 2013).

gatherings, inciting hatred against the regime, inciting people to ignore the law and misuse of social media.¹⁵ It is not known when his trial will begin.

b. Mr Hubail

Hussain Hubail is a freelance photographer. His work includes photographs of opposition protests in Bahrain and has been published by Agence France-Presse, Voice of America¹⁶ and various other news outlets. In May 2013, independent newspaper *Al-Wasat* awarded him a prize for his photograph of protestors running through a cloud of tear gas.¹⁷ Mr Hubail turned 22 at the end of October 2013.

Mr Hubail was arrested on 31 July 2013 at Bahrain International Airport where he was due to board a flight to Dubai.¹⁸ He was taken to the CID for interrogation, however, the authorities told his family that he was not in their custody when they went to the CID looking for him.¹⁹ On 3 August 2013, he was transferred to the Dry Dock Detention Centre. His family visited him for the first time on 7 August 2013 and he told them that while he was at the CID he had been beaten, including with plastic hosing, kicked, had been brought to hear Mr Hassan being tortured and was threatened by officer Bassam Mohammed Al-Muraaaj that he could do anything and everything to him.²⁰ He also reported being tortured in room 99 of the CID over the course of his four day detention there, being prevented from sitting down or sleeping, and not receiving food. He confessed to the accusations made against him and signed papers which he was not able to read after being tortured and threatened.

Mr Hubail was questioned by the Public Prosecutor on 7 August 2013 and reported to the Prosecutor that he had been tortured. He saw his lawyer for the first time on this day but was

¹⁵ *Id.*

¹⁶ Voice of America, 'Day in Photos: April 30, 2012' available at <http://blogs.voanews.com/photos/2012/04/> (last accessed 17 October 2013).

¹⁷ BCHR, 'Update: Bahrain: Enforced Disappearance of a Blogger and an Award Winning Photojournalist'. See <http://www.alwasatnews.com/3894/news/read/769972/1.html> (in Arabic).

¹⁸ BCHR, 'Update: Bahrain: Enforced Disappearance of a Blogger and an Award Winning Photojournalist'; Committee to Protect Journalists (CPJ), 'Journalist arrested, another believed to be held in Bahrain' (1 August 2013) <<http://www.cpj.org/2013/08/journalist-arrested-another-believed-to-be-held-in.php>> (last accessed 18 October 2013) ("CPJ, 'Journalist arrested'").

¹⁹ BCHR, 'Update: Bahrain: Enforced Disappearance of a Blogger and an Award Winning Photojournalist'; Committee to Protect Journalists (CPJ).

²⁰ Amnesty International, 'Document - Bahrain: Blogger, Lawyer Released: Trials Underway' (10 October 2013) available at <http://www.amnesty.org/en/library/asset/MDE11/051/2013/en/464af082-6436-4ef1-8b1c-394d995ff4ad/mde110512013en.html> (last accessed 17 October 2013).

not allowed to meet with him in private and has not been permitted to meet with him since. Mr Hussain suffers from a heart condition which has become worse since his detention. He requested that prison authorities send him to hospital as he was experiencing a rapid heartbeat and shortness of breath. This request was not complied with for over two weeks. The hospital asked that he be returned for follow up but this has not happened. The prison clinic provides Mr Hubail with medication but he reports that he does not know what medication he is being given and that it is being given to him on a random basis.²¹

On 28 November 2013, Mr Hubail appeared in court for the first time to face the same charges as Mr Hassan: calling for illegal gatherings, inciting hatred against the regime, inciting people to ignore the law and misuse of social media.²² At the hearing, he told the judge that he had been tortured and denied medical treatment. The judge ordered that he be provided with proper health care. Mr Hubail's case was postponed until 22 December 2013. He remains detained in an over crowded cell at the Dry Dock Detention Centre and is only permitted weekly visits from his family.

c. Mr Zain Aldeen

Qassim Zain Aldeen is a 25 year old freelance cameraman whose work covers opposition protests in Bahrain. On the morning of 2 August 2013, Mr Zain Aldeen was arrested from his home in Duraz and his phone and computer were confiscated.²³ He was taken to the CID where he was tortured for two days including being beaten, insulted while blindfolded and handcuffed, and forced to remain standing. He was kept in a cold room without food or water. Mr Zain Aldeen signed papers while blindfolded.

On 16 August 2013, police raided the cell where Mr Zain Aldeen was detained and severely beat several detainees including Mr Zain Aldeen, who spent three days in hospital recovering from his injuries. He was then taken before the Public Prosecutor and detained for an additional 45 days. On 26 November 2013, he appeared in court for the first time, charged with participating

²¹ Amnesty International, 'Document – Bahrain: Further Information: Health of Detained Photographer Worsening: Hussain Hubail' (5 November 2013) available at <http://amnesty.org/en/library/asset/MDE11/054/2013/en/c5e19eb8-bb36-4700-a527-bd304963fc28/mde110542013en.html> (last accessed 19 November 2013).

²² Amnesty International, 'Document - Bahrain: Blogger, Lawyer Released: Trials Underway' (10 October 2013) available at <http://www.amnesty.org/en/library/asset/MDE11/051/2013/en/464af082-6436-4ef1-8b1c-394d995ff4ad/mde110512013en.html> (last accessed 17 October 2013).

²³ BCHR, 'Update: Bahrain: Enforced Disappearance of a Blogger and an Award Winning Photojournalist'.

in an illegal gathering and vandalism in prison. His case was postponed until 20 January 2014 to hear from police witnesses. Mr Zain Aldeen has not been permitted to meet with his lawyer and continues to be detained at Dry Dock Detention Centre. In protest of family visits at the Centre occurring behind a glass barrier, Mr Zain Aldeen is refusing family visits. As a consequence, he has only seen his family once since he was detained.

II. Violations of the Right to Freedom of Opinion and Expression

Bahrain is a party to the International Covenant on Civil and Political Rights (“ICCPR”)²⁴ and the Arab Charter on Human Rights (“ACHR”).²⁵ Article 19 of the ICCPR and Article 32 of the ACHR protect the right to freedom of opinion and expression. Article 19 provides that everyone has the “...freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”²⁶ Similarly, Article 32 of the ACHR provides that everyone has “ ...the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium... ”.²⁷

The United Nations Human Rights Committee (“Human Rights Committee”) has recognised the important role of the media in a democratic society, noting that a “free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression ... [i]t constitutes one of the cornerstones of a democratic society.”²⁸ The right to freedom of expression encompasses a free press that is able “... to comment on public issues without censorship or restraint and to inform public opinion.”²⁹ Mr Hassan, Mr Hubail and Mr Zain Aldeen were all reporting on pro-democracy protests or commenting on the political situation in Bahrain. Their reporting and commentary is protected by Article 19 of the ICCPR and Article 32 of the ACHR and their arrest and detention violates their right to freedom of expression.

²⁴ UN General Assembly, *International Covenant on Civil and Political Rights*, dated 16 December 1966, Art. 19. Bahrain acceded to the ICCPR on 20 September 2006; United Nations Treaty Collection, ‘Chapter IV: Human Rights’ available at http://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-4&chapter=4&lang=en (last accessed 6 December 2013).

²⁵ League of Arab States, *Arab Charter on Human Rights*, dated 22 May 2004, Art. 32. Bahrain ratified the Arab Charter in 2006; ICNL, ‘NGO Law Monitor: League of Arab States’ available at <http://www.icnl.org/research/monitor/las.html> (last accessed 6 December 2013).

²⁶ ICCPR, Article 19.

²⁷ ACHR, Article 32.

²⁸ UN Human Rights Committee, ‘General Comment 34: Article 19: Freedoms of opinion and expression’ (12 September 2011) CCPR/C/GC/34, par. 13.

²⁹ *Id.*

The right to freedom of expression can only be restricted when the restriction pursues a legitimate aim, is provided for by law, and is necessary.³⁰ The Human Rights Committee has noted that restrictions which aim to protect national security or public order must meet these strict requirements, stating that “[e]xtreme care must be taken by States parties to ensure that treason laws and similar provisions relating to national security...are crafted and applied in a manner that conforms to the strict requirements of paragraph 3.”³¹ In addition,

“[w]hen a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.”³²

The restrictions on the men’s freedom of expression through arrest, detention, and torture and other ill-treatment do not pursue a legitimate aim and are not necessary. All of the men were exercising their right to freedom of expression in a peaceful and legitimate matter. None were calling for violence and there is no evidence that any of their reports or photos created any threat to national security or public order.

Bahrain guarantees freedom of expression through its own Constitution.³³ Article 23 provides that “...[e]veryone has the right to express his opinion and publish it by word of mouth, in writing or otherwise under the rules and conditions laid down by law, provided that the fundamental beliefs of Islamic doctrine are not infringed, the unity of the people is not prejudiced, and discord or sectarianism is not aroused.”³⁴ Article 24 then goes on to state that “[w]ith due regard for the provisions of the preceding Article, the freedom of the press, printing and publishing is guaranteed under the rules and conditions laid down by law.”³⁵ As noted above, restrictions on reporting and political commentary that do not cause violence are a violation of the right to freedom of expression.

The arrest and detention of Mr Hassan, Mr Hubail and Mr Zain Aldeen is part of a broader campaign of repression of journalists, bloggers and human rights defenders carried out by the

³⁰ UN Human Rights Committee, ‘General Comment 34: Article 19: Freedoms of opinion and expression’ (12 September 2011) CCPR/C/GC/34, par. 22; ICCPR art. 19(3).

³¹ UN Human Rights Committee, ‘General Comment 34: Article 19: Freedoms of opinion and expression’ (12 September 2011) CCPR/C/GC/34, par. 30.

³² UN Human Rights Committee, ‘General Comment 34: Article 19: Freedoms of opinion and expression’ (12 September 2011) CCPR/C/GC/34, par. 35.

³³ *Constitution of the Kingdom of Bahrain*, dated 14 February 2002, Arts. 23-24.

³⁴ *Constitution of the Kingdom of Bahrain*, dated 14 Feb. 2002, Art. 23.

³⁵ *Constitution of the Kingdom of Bahrain*, dated 14 Feb. 2002, Art. 24.

authorities in Bahrain. Arrest, torture and ill-treatment of journalists and media workers has been ongoing since the 2011 pro-democracy protests,³⁶ when several journalists reported that they were arrested for reporting on protests and two journalists died in the custody of Bahraini authorities.³⁷ The European Parliament recently called on Bahrain to unconditionally release detained journalists.³⁸

III. Violations of the Prohibition on Torture and other Ill-Treatment

Torture and cruel, inhuman and degrading treatment and punishment is prohibited by numerous international and regional treaties, including Article 7 of the ICCPR, Article 8 of the ACHR and Article 2 of the Convention Against Torture (“CAT”),³⁹ which Bahrain acceded to in 1998.⁴⁰ International law does not allow any exception to this prohibition under any circumstances.⁴¹ The Human Rights Committee has stated that “... no justification or extenuating circumstances may be invoked to excuse a violation of Article 7 [ICCPR] for any reasons ...”.⁴²

All of the men report being subjected to torture by State officials while detained at the CID. Torture and other ill-treatment encompasses both physical and mental suffering.⁴³ As stated above, all of the men were beaten and had threats made against them or their family. In addition, they were deprived of food and forced to remain standing. In each case, confessions were made during or following torture. Their mistreatment also violates Articles 19(d) and 20(d) of the Bahraini Constitution. Article 19(d) states that “[n]o person shall be subjected to physical

³⁶ See, e.g. Al-Jazeera, ‘Bahrain clamps down on citizen media’ (15 August 2013) available at <http://m.aljazeera.com/story/201381512518789977> (last accessed 17 October 2013); Amnesty International, ‘Bahrain: End crackdown on peaceful demonstrations’ (13 August 2013) available at <http://www.amnesty.org/en/news/bahrain-end-crackdown-peaceful-demonstrations-2013-08-13> (last accessed 17 October 2013).

³⁷ Bahrain Independent Commission of Inquiry, ‘Report of the Bahrain Independent Commission of Inquiry’ dated 23 November 2011 (rev’d 10 Dec. 2011), page 1262; Amnesty International, ‘Flawed Reforms: Bahrain Fails to Achieve Justice for Protesters’ (April 2012) page 8.

³⁸ European Parliament resolution of 12 September 2013 on the human rights situation in Bahrain (2013/2830(RSP)).

³⁹ UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, dated 10 December 1984, Art. 2.

⁴⁰ United Nations Treaty Collection, ‘Chapter IV: Human Rights’ available at http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-9&chapter=4&lang=en (last accessed 6 December 2013).

⁴¹ ICCPR, Article 4(2); ACHR, Article 4(2); CAT Article 2(2), (3); Committee against Torture, ‘General Comment 2: Implementation of Article 2 by States parties’ (24 January 2008) CAT/C/GC/2, par. 3.

⁴² Human Rights Committee, ‘General Comment 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment)’ (10 March 1992) HRI/GEN/1/Rev.9 (Vol. I), par. 3.

⁴³ *Id.*, par. 2; CAT, Article 1(1); ACHR, Article 8(1).

or mental torture, or inducement, or undignified treatment...”⁴⁴ Likewise, Article 20(d) states that it “is forbidden to harm an accused person physically or mentally.”⁴⁵

The treatment of these men is illustrative of the ongoing use of torture and ill-treatment by Bahraini authorities. There are numerous reports of torture and other ill-treatment of those detained at the CID.⁴⁶ The Dry Dock Detention Centre has also been the subject of numerous reports of ill-treatment and torture including to the point of death.⁴⁷

International human rights law requires that acts of torture and ill-treatment should be investigated and the perpetrators brought to justice.⁴⁸ Article 2(3) of the ICCPR requires Bahrain to ensure that any person whose human rights are violated including under Article 7 has an effective remedy.⁴⁹ Regardless of whether an allegation of torture has been made, Article 12 of the CAT also requires authorities to conduct a prompt and impartial investigation when there is reasonable ground to believe that an act of torture has occurred. Moreover, Article 13 of the CAT requires authorities to promptly and impartially examine any allegation by an individual that he or she has been subjected to torture. The Committee against Torture has stated that a delay of around three weeks before commencing investigating allegations of torture is a violation of Article 12.⁵⁰ Further, no formal complaint need be made before an examination must occur under Article 13.⁵¹ The ACHR, CAT and Article 208 of Part II of the Bahraini Criminal Code all require torture to be punished as a crime by law.⁵² All three men have

⁴⁴ *Constitution of the Kingdom of Bahrain*, dated 14 February 2002, Art. 19(d).

⁴⁵ *Constitution of the Kingdom of Bahrain*, dated 14 February 2002, Art. 20(d).

⁴⁶ *See, for example*, Human Rights Watch, ‘Torture Redux: The Revival of Physical Coercion During Interrogations in Bahrain’ (February 2010); Bahrain Independent Commission of Inquiry (“BICI”) ‘Report of the Bahrain Independent Commission of Inquiry’ (Final Revision of 10 December 2011). *See generally* UN Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Bahrain’ (6 July 2012) A/HRC/21/6; UN Human Rights Council, ‘Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez – Addendum: Observations on communications transmitted to Governments and replies received’ (29 February 2012) A/HRC/19/61/Add.4, par. 14 – 23.

⁴⁷ *See, for example*, Human Rights Watch, ‘Torture Redux: The Revival of Physical Coercion During Interrogations in Bahrain’ (February 2010); Bahrain Independent Commission of Inquiry (“BICI”) ‘Report of the Bahrain Independent Commission of Inquiry’ (Final Revision of 10 December 2011). *See generally* UN Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Bahrain’ (6 July 2012) A/HRC/21/6; UN Human Rights Council, ‘Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez – Addendum: Observations on communications transmitted to Governments and replies received’ (29 February 2012) A/HRC/19/61/Add.4, par. 14 – 23.

⁴⁸ UN Human Rights Committee, ‘General Comment 34: Article 19: Freedoms of opinion and expression’ (12 September 2011) CCPR/C/GC/34, par. 23.

⁴⁹ UN Human Rights Committee, ‘General Comment 20: Article 7: Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment’ (10 March 1992) HRI/GEN/1/Rev.9 (Vol. I), par. 14.

⁵⁰ Committee Against Torture, *Blanco Abad v Spain*, Comm. No. 59/1996 (1998), par. 8.3 – 8.5.

⁵¹ *Ibid*, par. 8.6.

⁵² *Bahrain Penal Code*, dated 20 March 1976, Art. 208; ACHR, art. 8(2); CAT, art. 4.

reported their treatment to either the Public Prosecutor or a judge, yet no apparent investigation has been undertaken.

Mr Hubail and Mr Hassan identified the perpetrators of their torture as persons against whom previous allegations of torture have been made. These previous allegations have not been investigated.⁵³ The failure to investigate these allegations highlights the repeated failure of the Bahraini government to conduct prompt and impartial investigations into allegations of torture and ill-treatment. In 2011, the Bahrain Independent Commission of Inquiry concluded “...that the lack of accountability of officials within the security system has led to a culture of impunity...”⁵⁴ More recently, forty seven States issued a joint statement at the 24th session of the Human Rights Council noting their concerns about the failure of Bahrain to hold accountable those responsible for human rights violations.⁵⁵

IV. Invocation of the Mandate of the Special Rapporteurs

The treatment of all three journalists falls within the mandate of both Special Rapporteurs. The Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression is mandated:

- (a) To gather all relevant information, wherever it may occur, relating to violations of the right to freedom of opinion and expression, discrimination against, threats or use of violence, harassment, persecution or intimidation directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, including, as a matter of high priority, against journalists or other professionals in the field of information;

⁵³ Bahrain Centre for Human Rights, ‘End Impunity In #Bahrain’ (November 2013).

⁵⁴ Bahrain Independent Commission of Inquiry, ‘Report of the Bahrain Independent Commission of Inquiry’ dated 23 November 2011 (rev’d 10 Dec. 2011), par. 1240.

⁵⁵ ‘Joint Statement on the OHCHR and the human rights situation in Bahrain’ (Geneva, 9 September 2013), available at <https://www.gov.uk/government/world-location-news/joint-statement-on-the-ohchr-and-the-human-rights-situation-in-bahrain> (last accessed 3 December 2013). See also *United Nations Committee Against Torture, Conclusions and Recommendations of the Committee against Torture: Bahrain*, United Nations Committee Against Torture, dated 21 June 2005; Amnesty International, “Bahrain: Reform Shelved, Repression Unleashed,” dated November 2012, at 9; Amnesty International, ‘World Report 2013’, 32-33.

(b) To seek, receive and respond to credible and reliable information from Governments, non-governmental organizations and any other parties who have knowledge of these cases⁵⁶

The mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment includes:

(a) To seek, receive, examine and act on information from Governments, intergovernmental and civil society organizations, individuals and groups of individuals regarding issues and alleged cases concerning torture or other cruel, inhuman or degrading treatment or punishment...⁵⁷

Both of the mandates allow their respective Special Rapporteurs to transmit letters of allegation to the government concerned.⁵⁸

As set out above, Mr Hassan, Mr Hubail and Mr Zain Aldeen were arrested and detained for their commentary and reporting on political matters which reflect unfavourably on the government of Bahrain. This is in violation of their right to freedom of expression. In addition, they report that they have been subjected to torture and other ill-treatment and that no investigation has occurred into their treatment despite all three informing either the Public Prosecutor, a judge or both.

In light of the above, we request that the Special Rapporteurs:

a) call upon the government of Bahrain to release Mr Hubail and Mr Zain Aldeen and insist that they are not subjected to further torture or ill-treatment;

⁵⁶ *Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, Resolution 7/36, Human Rights Council, dated 28 March 2008. This mandate was extended for three additional years through Resolution 16/4, dated 8 April 2011.

⁵⁷ Commission on Human Rights, 'Res 1985/33: Torture and other cruel, inhuman or degrading treatment or punishment' (13 March 1985); Human Rights Council, 'Res 8/8: Torture and other cruel, inhuman or degrading treatment or punishment' (18 June 2008), page 3; Human Rights Council, 'Res 16/23: Torture and other cruel, inhuman or degrading treatment or punishment: mandate of the Special Rapporteur' (12 April 2011) A/HRC/RES/16/23, page 2.

⁵⁸ *Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, Resolution 7/36, Human Rights Council, dated 28 March 2008. This mandate was extended for three additional years through Resolution 16/4, dated 8 April 2011; Commission on Human Rights, 'Res 2001/62: Torture and other cruel, inhuman or degrading treatment or punishment' (25 April 2001), Annex: Methods of Work of the Special Rapporteur on Torture, pars. 7 and 8.

- b) raise with the government of Bahrain the mistreatment of Mr Hassan, Mr Hubail and Mr Zain Aldeen and request the government of Bahrain to conduct a complete and impartial investigation of their allegations of torture and ill-treatment; and
- c) declare that the charges against all three men are in violation of their right to freedom of expression.

We would welcome the opportunity to provide you with further information in relation to this matter.

Yours sincerely,

Nani Jansen
Senior Legal Counsel

Media Legal Defence Initiative

Americans for Democracy & Human Rights in Bahrain

Arabic Network for Human Rights Information

Bahrain Center for Human Rights

Bahrain Youth Society for Human Rights

FIDH - International Federation for Human Rights.

Gulf Centre for Human Rights

Lawyer's Rights Watch Canada

PEN International

Reporters Without Borders

Information on the Authors of This Letter of Allegation

This letter of allegation has been prepared on behalf of the signatory organisations by the Media Legal Defence Initiative (“MLDI”). MLDI is a non-governmental organisation based in London that helps journalists and independent media outlets around the world defend their rights. MLDI provides direct legal assistance to journalists and works with national organisations that provide legal aid to journalists, so as to ensure that journalists have access to affordable and high quality legal representation in the countries where they work.