

Status of Human Rights in Bahrain for the 41st Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Kingdom of Bahrain (Bahrain) for the 41st Session of the Universal Periodic Review (UPR).

Background

2. Bahrain is a country located in the Persian Gulf off the coast of Saudi Arabia with an estimated population of 1.5 million people¹. Bahrain is predominately Muslim, with 73.7% of the population identifying as Muslim, 9.3% as Christian, 16.9% as other, and 0.1% as Jewish².

3. Bahrain's last review was held on 1 May 2017³. As a result of the review, Bahrain received 175 recommendations, 139 of which it supported⁴. One recommendation in particular, which was supported by Bahrain, was that the government, "[a]dopt effective measures in law and practice to eradicate all forms of discrimination, in particular on the basis of religion or belief"⁵. It was also recommended, and supported by Bahrain, that the government "[t]ake additional measures to combat intolerance, negative stereotyping and stigmatization, as well as discrimination, incitement to violence and violence against persons based on religion or belief, in line with Human Rights Council resolution 16/21"⁶.

Legal Framework

4. Under Article 2 of the Constitution of Bahrain, "[t]he religion of the State is Islam. The Islamic Shari'a is a principal source for legislation. The official language is Arabic"⁷.

5. Article 18 of the Constitution prohibits discrimination based on, among others things, religion:

Article 18

People are equal in human dignity, and citizens are equal before the law in public rights and duties. There shall be no discrimination among them on the basis of sex, origin, language, religion or creed⁸.

6. Under Article 22, the Constitution enshrines protections for freedom of conscience:

Article 22

Freedom of conscience is absolute. The State guarantees the inviolability of worship, and the freedom to perform religious rites and hold religious parades and meetings in accordance with the customs observed in the country⁹.

7. However, Article 309 of the Penal Code of Bahrain establishes the crime of blasphemy:

Article 309

A punishment for a period not exceeding one year or a fine not exceeding BD100 shall be inflicted upon any person who commits an offence by any methods of expression against one of the recognized religious sects or ridicules the rituals thereof¹⁰.

8. Furthermore under Article 310 of the Penal Code:

Article 310

The punishment provided for in the preceding Article shall be inflicted:

1. Upon any person who prints or publishes a holy book for members of a recognized religious sect should he deliberately alters the text thereof in a manner aiming at changing the meanings thereof or ridiculing its teachings and principles.

2. Upon any person commits in public an insult against a symbol or a person being glorified or considered sacred to members of a particular sect.

3. Upon any person who imitates in public a religious ritual or ceremony with the intention of ridiculing it¹¹.

9. Bahrain is a party to the International Covenant on Civil and Political Rights (ICCPR) and is responsible for upholding the principles enshrined within, particularly in Articles 18 and 27:

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice¹².

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language¹³.

Infringements on Religious Freedom

Sharia Law

10. As previously stated, the Constitution of Bahrain expressly states that “Shari’a is a principal source for legislation”¹⁴. In Bahrain, the judicial system is divided into separate courts: Civil, Criminal, Sharia, and Special¹⁵. The Sharia Court has “jurisdiction over all issues related to the personal status of Muslims, both Bahraini and non-Bahraini, including matters relating to inheritance and wills”¹⁶.

11. However, the use of Sharia law is extremely problematic and is inherently discriminatory against non-Muslims especially in family matters. For example, under Sharia law, custody of a child during a divorce is granted to the mother until the child reaches the age of seven, unless there is the fear that the child could “become familiar with the beliefs and habits of non-Muslims”¹⁷. No mother should have to choose between giving up her religious beliefs or custody of her own child.

12. Sharia law also is discriminatory towards women in the case of marriages. Under Sharia law Muslim men are freely permitted to marry non-Muslim women, so long as the women belong to a monotheist religion¹⁸. However, Muslim women are expressly prohibited from marrying non-Muslim men. This infringes on the right of women to freely choose their spouse and enter into marriage.

Blasphemy Laws

13. Bahrain has also codified blasphemy laws which can be used to target individuals because of their religious beliefs. These blasphemy laws are very common in Muslim majority countries and have been used to disastrous effects. Critiquing Islam or offering up ideas that another religion may be true could be seen as blaspheming. For Christians, professing that that belief in Jesus Christ is the only way to achieve salvation could be charged under this law because it is an “expression against one of the recognized religious sects”¹⁹.

14. For example, in Bahrain, the monarch and much of the political elite are Sunni while much of the population are Shia²⁰. While Christians are currently generally permitted to practice their religion without government interference, governments around the world frequently use blasphemy laws to punish and suppress opposing viewpoints, most notably those of Christians. In July of 2019 a Shia cleric was arrested and charged with “contempt of sect” for remarks he made during a sermon²¹. If the government is willing to prosecute fellow Muslims for blasphemy, we are concerned that these laws can also be used to target Christians and any other religious group.

Promoting Religious Freedom

15. Since its previous UPR cycle, Bahrain has made efforts to promote religious diversity and inclusiveness. On 3 July 2017, King Hamad bin Isa Al Khalifa signed the “Kingdom of Bahrain Declaration”²². As stated in the Declaration:

WE ACKNOWLEDGE that God expects more of those in positions of spiritual and temporal authority. People of all faiths should be accorded the right to congregate to worship, educate, celebrate, and practice the requirements of their respective faiths.

It is the responsibility of governments to respect and protect equally, both religious minorities and majorities. Neither should be subjected to threats, shame or incitement nor should they be discriminated against as a result of their faith. Those in positions of authority must ensure that individuals who leave their homes for their houses of worship can do so without fear of intimidation, violence, or worse.

Equally, all people of faith and their communities have a special responsibility to demonstrate to their neighbours that extremism is not holier than moderation.

*We, therefore, declare that each of us has an active role to play in creating a fully inclusive environment that fosters mutual respect and cooperation*²³.

16. In 2018, King Hamad bin Isa Al Khalifa created the King Hamad World Centre for Peaceful Co-Existence which has held conferences promoting interfaith dialogue²⁴. That same year, Bahrain also announced that they would create an ambassador at-large for the purpose of promoting religious freedom and peaceful coexistence²⁵. At the U.S. State Department Ministerial to Advance Religious Freedom Worldwide, a delegate from Bahrain stated that “We envision this role as not only helping us tell our own story but also learn from others and advocate for religious harmony and coexistence across the Middle East”²⁶.

Conclusion:

17. We are encouraged by the steps Bahrain has taken to foster religious harmony. To further these efforts Bahrain must remove the reliance on Sharia law from its Constitution and shift its legal system so that it can administer impartial judgment on all of its citizens. Reliance on Sharia law grants preferential treatment to Muslims while treating non-Muslims as second-class citizens. Furthermore, in order to provide for greater religious freedom, all blasphemy laws must be repealed. This is a critical step to ensure that everyone can freely practice the tenets of their faith without fear of being arrested and harassed by the government.

¹ Bahrain, THE WORLD FACTBOOK (29 Jun. 2021), available at <https://www.cia.gov/the-world-factbook/countries/bahrain/>.

² *Id.*

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- ³ Universal Periodic Review – Bahrain, UNHRC, *available at* <https://www.ohchr.org/EN/HRBodies/UPR/Pages/BHIndex.aspx>.
- ⁴ UPR of Bahrain – Thematic List of Recommendations, UNHRC, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session27/BH/MatriceRecommendationsBahrain.docx>.
- ⁵ *Id.* at A/HRC/36/3/Add.1 – Para. 28.
- ⁶ *Id.*
- ⁷ Constitution of Bahrain art. 2, https://www.constituteproject.org/constitution/Bahrain_2017.pdf?lang=en
- ⁸ *Id.* at art. 18.
- ⁹ *Id.* at art. 22.
- ¹⁰ Penal Code of Bahrain art. 309, https://sherloc.unodc.org/cld/uploads/res/document/bhr/1976/penal-code_html/Bahrain_Penal_Code_Decree_No_15_of_1976_EN_translation_-_non_official.pdf.
- ¹¹ *Id.* at art. 310.
- ¹² International Covenant on Civil and Political Rights, Dec. 16, 1966 S. Treaty Doc. 95-20, I.L.M. 368 (1976), 999 U.N.T.S. 171, art. 18.
- ¹³ *Id.* at art. 27.
- ¹⁴ Constitution of Bahrain art. 2.
- ¹⁵ *Bahrain*, CARNEGIE MIDDLE EAST CENTER (3 Dec. 2010), <https://carnegie-mec.org/2010/12/03/bahrain-pub-42072#judiciary>.
- ¹⁶ *Id.*
- ¹⁷ *Custody of a Muslim Child by a Non-Muslim Woman*, THE CENTRE OF RESEARCH EXCELLENCE IN CONTEMPORARY FIQH ISSUES, <https://islamicfiqh.net/en/articles/custody-of-a-muslim-child-by-a-non-muslim-woman-334>.
- ¹⁸ *Interfaith Marriages Still a Rarity in the Muslim World*, DW (9 Nov. 2019), <https://www.dw.com/en/interfaith-marriages-still-a-rarity-in-the-muslim-world/a-50391076>.
- ¹⁹ Penal Code of Bahrain art. 309.
- ²⁰ David Pollock, *Sunnis and Shia in Bahrain: New Survey Shows Both Conflict and Consensus*, THE WASHINGTON INSTITUTE (20 Nov. 2017), https://www.vertic.org/media/National%20Legislation/Bahrain/BH_Criminal_Code.pdf.
- ²¹ *Bahrain: Shiite Cleric Tried on Religious Freedom Charges*, BAHRAIN INTERFAITH (20 Sep. 2019), <https://bahraininterfaith.org/?p=1399>.
- ²² The Kingdom of Bahrain Declaration, http://bahrainsociety.uk/wp-content/uploads/2018/05/BAHRAIN_DECLARATION.pdf.
- ²³ *Id.*
- ²⁴ Samuel Smith, *This Country Was Removed from Christian Persecution List; Now It's a "Model" for Religious Tolerance*, THE CHRISTIAN POST (17 Jan. 2019), <https://www.christianpost.com/news/this-country-was-removed-from-christian-persecution-list-now-its-a-model-for-religious-tolerance.html>.
- ²⁵ *Id.*
- ²⁶ Samuel Smith, *10 Highlights from First-Ever State Dept. Ministerial to Advance Religious Freedom Worldwide*, CHRISTIAN POST (28 Jul. 2018), <https://www.christianpost.com/news/10-highlights-first-ever-state-department-ministerial-advance-religious-freedom-worldwide.html?page=9>.