



Kingdom of Bahrain

Submission to the UN Universal Periodic Review

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Submission by Bahrain Human Rights Observatory (BHRO):

Creation of parties and non-governmental organizations

Freedom of assembly and peaceful demonstration

Excessive suppression of protests

Freedom of opinion and expression

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Background:

This report, addressed to the Universal Periodic Review (UPR) session on Bahrain, covers the period from the end of the UPR in May 2012 up to the writing of this report in April 2016. The report is based on the Bahraini Constitution and the laws acted upon domestically. It is also founded on the United Nation's Charter, the Universal Declaration of Human Rights as well as major conventions and treaties that Bahrain had endorsed in this field. The figures and statistics in this report depend on our observations of the violations committed.

Bahrain's enforcement of the 2012 Human Rights Council's Recommendations:

The United Nation's Human Rights Council issued, in its second cycle in May 2012, 21 recommendations regarding the freedom of opinion, expression, peaceful assembly and association. Albeit Bahrain had roughly agreed upon all the recommendations mentioned, nothing had actually changed except an enhancement in the level of suppression against protesters. The Humans Rights Council had advised to make space for a political opposition. However, the Bahraini authorities did not comply with these recommendations, and more so pressured political associations to dissolve The Islamic Action Society [also known as Amal Party] in 2012 and chased down al-Wefaq National Islamic Society and the National Democratic Action Society (Waad) until al-Wefaq was dissolved in June 2016.

In addition, former Secretary General of Waad Association, Ibrahim Sharif, was arrested in June 2015 before being released, while the Secretary General of al-Wefaq Association Sheikh Ali Salman was sentenced to 9 years in jail after his arrest in December 2014. Also, the Secretary General of al-Wahdawi Society Fadel Abbas was sentenced to 5 years in jail after being arrested in March 2015. Meanwhile, authorities continue to detain human rights and civil activists.

Despite recommendations that encourage procedures ensuring more space for peaceful assembly, the opposition was banned from staging demonstrations from December 2014 right until this report was written in August 2016. Furthermore, [Bahraini authorities] unofficially tightened its grip on protesters in villages, forming security checkpoints on their entrances. They also suppress protesters in case they took part in unlicensed demonstrations.

First: Creation of Associations and non-governmental organizations

A- Law on Civil Organizations and Institutions:

The [Bahraini] authorities tightened its grip on non-governmental organizations and associations, imposing numerous legislative and procedural constraints. The Law on Civil Organizations and Institutions issued by Decree Law No. (21) of the year 1989 is considered to be the most significant constraint dictated on the registration and work of non-governmental organizations. Despite the broad scope of criticism that this law faced, the Ministry of Social Development stood before the Parliament in 2013 to replace it with a new draft law that appeared to be even stricter than the current one.

The restrictions on associations start with the condition of having to register with the authorities, since the Penal Code incriminates the foundation, management or affiliation of any unlicensed organization.

Thereby, registration would be a gate to dominance and control over associations. The law on civil organizations grants the Ministry of Social Development the authority to refuse registration applications of any organization for vague reasons, providing an arbitrary interpretation of the law, or for reasons that directly contradict with the right to association. For example: "The community does not need its services, or there already is an association or associations that cover the community's need in the required domain," or "its foundation does not comply with the state's security or welfare", or for "the inefficiency of the association's headquarters." (article no.11)

Additionally, the Law does not obligate the Ministry to provide reasons for refusal, and considers the passing of 60 days “without notifying the applicant of the refusal as an implicit refusal of the application.” (article no.11)

The extent of restrictions imposed on associations by granting the Ministry of Labour and Social Development the authority to dissolve or suspend associations, assign managers or board directors or merge with other associations, all under ambiguous reasons. An association can be dissolved or suspended “if its failure to achieve the goals it was founded upon was proven” or “if it committed a flagrant violation of the law or if it violated the public order or morals.” (article no.50)

“The competent minister shall assign through a decision (...) a temporary manager or board of directors for the association” for several reasons, including “the association [committing] violations that entails such action where the minister did not see its dissolution fit” (article no.23) and the law did not specify the violations mentioned. Also, “the delegated minister shall decide to merge more than one association that work to achieve similar purposes, unite their administrations or amend their purposes.” (article no.24)

The law assigns the Ministry of Labour and Social Development to monitor and intervene in the business and affairs of associations in an arbitrary manner, whereas associations must notify [the Ministry] “of every meeting of the general assembly”. It also gives it the right to “delegate whom it sees proper to attend the meeting” (article no.33). The Ministry may also “demand to hold a meeting with the board of directors” (article no.45), and the association must send “the decisions of the board of directors’ meetings” (article no. 46). Moreover, “the competent minister shall suspend carrying out any decision issued by the panel designated to the association’s affairs that proves to violate the law or public order or morals” (article no.28). The Law on Civil Organizations and Institutions unquestionably does not respond to the criteria the Universal Declaration of Human Rights imposes in regards to the right of association. It also does not take interest in principles or legal frames that abide by the essence of a right.

Furthermore, it seems that the Bahraini authority has failed to commit to the bare minimum of what the Universal Declaration of Human Rights imposes regarding the freedom of association. It has also failed in coming close to the “best practices”, where it depended on the Law on Civil Organizations and Institutions to punish the organizations it criticizes or sees as opposing. An example of this failure is the series of arbitrary procedures that the authorities have imposed on rights organizations since 2001, a year that witnessed limited political reforms. In 2004, the authorities dissolved the Bahrain Center for Human Rights, and in 2005 and 2009, it refused to license the Bahrain Youth Society for Human Rights and Bahrain Integrity for Monitoring Elections [Nazaha]. In addition, the authorities dissolved the board of directors of the Bahrain Human Rights Society in 2010, and in 2011 it cancelled the election results of the Lawyers’ Association board of directors’ vote then reassigned it. In 2014, the authorities denied the presence of a registration application of the Association for Fighting Discrimination (Insaf), and even prosecuted its founding members on charges of practicing in an association without a license. Moreover, the authorities had refused a license for Afaq Association for Human Rights in 2015, and founders are still pursuing the case in order to obtain a license to practice the association’s work.

The Ministry of Justice had dissolved the Islamic Awareness Association on June 14 2016, considered to be the largest association for Shiite citizens in Bahrain that deals with teaching Islamic principles.

These arbitrary procedures led to the absence of registered human rights organizations in Bahrain that show their criticism towards the Bahraini authorities, except for the Bahrain Association for Human Rights. On the other hand, most human rights organizations resort to registering outside Bahrain or working without a license, which is considered to be working “illegally” from the Civil Organization Law’s point of view.

B- Political Associations Law:

Similarly, the Law on Political Associations imposes arbitrary constraints on the actions and management of political parties that the Bahraini authorities preferred to name as political associations, which highlights its rigidity even in the naming. In addition to article no.163 of the Penal Code that incriminates the foundation or management of any unlicensed organization or its affiliation, the law gives the Ministry of Justice - which deals with registering and supervising political associations - the power to refuse registration applications without being obliged to declare the reasons of refusal, and no response at all is “equivalent to an objection to this establishment” (Article no.9). The law also allows the Ministry of Justice to file lawsuits to dissolve or suspend political associations for ambiguous reasons. For example: “Flagrant violation of the Kingdom’s constitution, as well as this law or any other law [of the Kingdom]”, without specifying the content of such flagrant violations (Article no.23).

The extent of unjustified intervention reaches banning “the use of state and public institutions, places of worship and educational institutions to practice the activities of political associations” (Article no.6). It also prohibits the political association from “accepting any donation, privilege or utility from a foreigner, a foreign party, an international organization or an anonymous person.” The law additionally stipulates that the political associations, by contacting any foreign political organization, must “bring a representative of the Foreign Ministry (...) and the political association that wishes such contact must notify the Ministry of Justice” (Article no.1 of the law on political associations’ contact with foreign political organizations or parties.) As for associations’ practices, the Bahraini authority had tightened its grip on the opposing political associations and intervened in their affairs in an arbitrary way. This tight hold had become even more tighter with the beginning of the opposing political movement of 2011.

In April 2011, after declaring a state of emergency, the military commander in chief of the Bahrain Defence Forces issued a decree to suspend and shutdown the Society headquarters (before it recommenced its activity later on) following a statement made by the Association that criticized the Army. In the same month, the Ministry of Justice declared it would file a lawsuit for the dissolution of the Islamic Action Society (Amal) and the National Islamic Society or al-Wefaq, for “committing flagrant violations to the Constitution’s rules and performing activities that damaged civil peace.”

In July 2012, Bahraini courts ruled to dissolve the Islamic Action Society (Amal) for committing violations regarding the “invalidity of its general conference since it was being held in a place of worship, and the submissiveness of the Society’s decisions to a religious cleric who explicitly calls for violence and instigates hate, as well as violations related to its financial situation.”

In July 2014, the Ministry of Justice filed a lawsuit to suspend the National Islamic Society’s activity for three months due to the “invalidity of four general conferences for not achieving the quorum and not committing to the publicness and transparency of its meeting.” Up until September 2014, the Supreme Administrative Court had ruled to suspend al-Wefaq’s activities for three months and obliged it to remove the source of violations, and the Court of Appeals had supported the rule on al-Wefaq up until September 2015.

Following the same path that al-Wefaq went through, the Ministry of Justice filed a lawsuit in July 2014 to suspend the activity of the National Democratic Action Society (Waad), due to the reelection of its Secretary General Ibrahim Sharif, who was indicted back then of “conspiring to overthrow the regime.” The Ministry then withdrew the lawsuit after the election of Mr. Rida al-Moussawi as the Society’s Secretary General. Moreover, the Ministry filed an urgent lawsuit against the National Islamic Society, and ruled after three hours of the lawsuit to shut down the Society’s headquarters, reserve its assets and suspend its activity until the actual judgement. Indeed, all its offices were shut down the same day. On July 17, 2016, the court ruled to completely dissolve al-Wefaq Society. The defence committee withdrew its defence in the case because the court did not respond to its demands. It also could not attain the documents required for its defence, which were available at the Society’s headquarters, because the Ministry of Justice had taken control of it by mean of a legal guard.

Recommendations related to the creation of non-governmental associations and organizations:

Revoking article no.163 of the Penal Code that incriminates the foundation or management of any unlicensed organization or joining it.

Amending the Law on Civil Organizations to grant the right to exercise work in organizations after having the founders notify the authoritative power responsible.

Amending the Political Associations' Law to allow organizations to use non-military state and public institutions.

Revoking of article no.13 of the Law on Political Associations regarding banning organizations from intervening in internal affairs.

Ending the prosecution of the associations and their leaderships.

Reenabling previously dissolved associations in order to reopen and practice their work again.

Second: Freedom of Demonstration and Peaceful Assembly:

Law on organizing demonstrations and gatherings, and the autocracy of its use

The law on organizing demonstrations and assemblies was originally designed by the Bahraini authorities as a tool to impose more pressure on demonstrations. The law grants the Chief of General Security or his representative the power to change the time and place and path of a demonstration and disperse the assembly altogether.

Furthermore, a royal decree was issued in January 2013 banning any activity in the Bahraini capital Manama, and gatherings that take place near commercial areas and security places. The decree also prohibits holding demonstrations before sunrise and after sunset.

The Law on assemblies stipulates that any type of protest should be held by notifying the Chief of General Security three days before the protest. However, the tyranny used in this law made this notice “a statement or an approval”, where security authorities repressed many activities due to the refusal of the General Security Directorate, despite the fact that the protests were peaceful .

Banning Events

Bahraini authorities, since the end of the Universal Periodic Review session in May 2012, and over two periods, banned announced demonstrational events held by registered civil and political associations.

The Minister of Justice, on October 29, 2012, ordered the prohibition of any form of assembly as a result of many repetitive violations done by the organizers. The ban stretched till December 8, 2012, a time when the civil society was able to stage its first activities.

The second period of the ban was in parallel with the Parliamentary and municipal elections in Bahrain. The ban stretched out from October 2014 to March 1, 2016. During this period, the authorities refused to receive 143 applications for protests and assemblies that civil associations requested in 2015 in different areas of Bahrain and during different times. Civil associations also presented 21 applications to stage demonstrations and assemblies in 2016, which the authorities also refused to receive. Civil associations were only able to stage one demonstration on December 27, 2015 during this period.

Recommendations regarding the freedom of demonstration and peaceful assembly:

Allow all forms of peaceful demonstration without restrictions or conditions and without permission from the General Security Directorate, and suffice to give notice as stipulated in the Bahraini law.

Amend the demonstration law in a way that does not allow the Chief of General Security or anyone to change the time and place of an assembly or disperse it arbitrarily.

Amend article no.11 of the law of demonstrations that does not allow events and demonstrations to take place in the capital Manama and in commercial areas.

Stop prosecution of demonstrations' organizers and participants.

Allow unregistered associations to hold their events.

Third: Excessiveness in Suppressing Protests

Unofficial movements in Bahrain staged protests in villages and areas far from main roads since the beginning of the February 14, 2011 events, in coordination with youth groups in the villages, without prior notice or permission, seeing that these groups demanded change to the political regime in Bahrain. This led to judicial and legal prosecution of the people responsible for these events and their participants. Consequently, security authorities usually suppress these activities. We have recorded over 9000 events out of 24200 being repressed from January 2012 to December 2015. Civil parties observed the injury of more than 2450 citizens during the same period by shotguns, rubber bullets and tear gas canisters that were often used as a direct ammunition on protesters. Despite the resolution no.14 of 2012 that stipulated the issuance of a police conduct log, emanated from the Interior Ministry on March 2012, this log has yet to be implemented, despite the absence of any extrajudicial killing in 2015 and 2016 during the suppression of protests.

Recommendations regarding the excessiveness in suppressing demonstrations:

Holding accountable those caused serious injuries to citizens during crackdown on protests.

Committing to self-restraint in suppressing events that derail from a peaceful nature, to spare human lives.

Fourth: Freedom of Opinion and Speech

Prosecution of activists

Bahraini authorities arrested many activists due to the crises that events of February 14, 2011 caused. Moreover, it continued to detain opposition leaderships that were arrested in 2011, whom the Human Rights Council's Universal Periodic Review on Bahrain advised to set free.

In December 2014, the Bahraini authorities arrested the Secretary General of al-Wefaq Society - the largest opposition in Bahrain - Sheikh Ali Salman, and sentenced him to 4 years of imprisonment on charges of insulting a state institution, inciting hatred against a certain group of people and refusing to abide by the laws, while the case was still under consideration in the Court of Appeals. The Court of Appeals then harshened the sentence to 9 years.

Political activist and Secretary General of al-Wahdawi Society, Fadel Abbas, was arrested on March 27, 2015 after security forces raided his house. He was sentenced to 5 years of prison on charges of spreading false news and prejudiced rumors and broadcasting inciting propaganda that aimed at damaging the military operations of the Armed Forces after he had issued a statement criticizing the war on Yemen.

Bahraini authorities also arrested Ibrahim Sharif, former Secretary General of Waad Society, on June 2015. He was sentenced to jail for a whole year on charges of instigating hatred towards the regime. He was previously released by a royal amnesty before his 5-year sentence was over, only to be arrested again for a speech he gave in a memorial of one of the regime's victims. (He was released on June 2016).

In July 2015, the Bahraini authorities arrested Majid Melad, member of al-Wefaq's general secretariat and a former chairman of the municipal council. He was sentenced to two years of imprisonment on charges of instigation and refusing to abide by the law, before the Court of Appeals reduced the sentence to one year, and he was released in July 2016.

Jamil Kazim, president of al-Wefaq's legislative council, was arrested in January 13, 2015 after being charged with spreading false news that aimed at disturbing elections. This came after Kazim's tweet regarding political finances. The Court sentenced him to 6 months in jail for that tweet, and he was released after completing his sentence.

Bahraini courts sentenced the Twitter activists "Bou Khamis" and "Haji Ahmad" to 5 years in prison after accusing "Bou Khamis" of broadcasting inciting statements and propaganda at a time of war, which in turn damaged war preparations. On the other hand, "Haji Ahmad" was accused of insulting the forces that participated in Operation Determination Storm and broadcasting statements that damage and invoke panic within people at a time of war.

The authorities also pursued several activists and citizens after posting tweets on Twitter. Among these activists was the civil activist Nabil Rajab, who was indicted in April 2015 for insulting both the Interior and Defence Ministries after a tweet on his Twitter account. The court sentenced Rajab to prison for 6 months, and the Court of Appeals endorsed the sentence. He was later released by a royal amnesty in consideration to his health. The authorities then arrested Nabil Rajab again on June 13, 2016 after raiding his house, on grounds of spreading false news.

Means of Arresting Activists and Opposition

The Penal Code - with its charges of "promoting change of the regime by force" (article no.160), "inciting hatred against the regime" (article no. 165), "inciting disobedience of the law" (article no. 173), "insulting the King, the state's flag or national slogan" (article no. 214), "insulting a foreign state or international organization" (article no. 215) and "insulting corporations" (article no.216) - has become an effective way to suppress voices of activists, as their indictments always seem to include one of these aforementioned accusations.

Recommendations regarding freedom of speech

Releasing all leaderships and political activists arrested since the 2011 events.

Allowing all political activists who immigrated to return to Bahrain.

Stopping the prosecution of activists and protesters.

Amending the Penal Code so judicial authorities cannot prosecute activists.