

# Asian Centre for Human Rights

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**Embargoed for: 20 November 2007**

## **Bahrain: Stakeholders' Report**

[Contribution under the Universal Periodic Review of the Human Rights Council]

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## 1. Executive Summary

### I. Human rights situation on the ground

Bahrain has failed to ensure compliance of its obligations to promote and protect human rights as provided under its domestic laws as well as international human rights instruments. The situation of political and civil rights remains grim. Human rights defenders and civil society groups face serious repression. The freedom of speech and expression is gagged and freedom of assembly is unreasonably curtailed. Women face gender abuses while the situation of foreign maids remains deplorable. The Shia people who constitute 70% of Bahraini population face discrimination.

#### Arbitrary arrest and illegal detention

Arbitrary arrests and illegal detentions are rampant in violations of the constitutional guarantees for personal freedom [Article 19 (a)] and the right not to be arrested arbitrarily [Article (b)].<sup>1</sup> The Riot Fighting Forces (RFF) do not spare even the minor students.<sup>2</sup> Victims were also held incommunicado.<sup>3</sup>

#### Torture, inhuman and degrading treatment

Security forces continue to practice torture as a part of law enforcement. Despite classifying torture as a penal offence, instances of torture have been found to be rampant, vindictive, and willful. The security forces also indulge in unrestrained and indiscriminate use of force than is usually necessary to maintain law and order. Victims of police beating reported that RFF shot them with rubber bullets from a distance of only 3 meters although they could have been easily arrested.<sup>4</sup>

#### Plight of Women

The Sharia laws continue to become obstacles to gender equality. Article 5 (b) of 2002 Constitution provides that in pursuit of seeking equality with men in political, social, cultural and economic spheres, women cannot break the provisions of Islamic Sharia laws.<sup>5</sup> Gender discrimination in public life and employment is distinctively visible. According to a 2006 report of the government, women held only 9 percent of senior civil service posts although they constituted 11 percent of the private sector workforce and 42

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<sup>1</sup> . See 2002 Constitution of the Kingdom of Bahrain

<sup>2</sup> . Bahrain: Authorities arrest young men on the account of security incidents, Bahrain Youth Society for Human Rights, 29 October 2007, available at: <http://byshr.org/?p=69#more-69>

<sup>3</sup> . Bahrain: An appeal to locate a young man who disappeared after detention and torture, Bahrain Youth Society for Human Rights, 16 June 2007, available at: <http://byshr.org/?p=18>

<sup>4</sup> . Malkiaya Incidents, according to eyewitnesses and injured participants of the peaceful sit-in, Bahrain Youth Society for Human Rights, 16 June 2007, available at: <http://byshr.org/?p=28#more-28>

<sup>5</sup> . See 2002 Constitution of Bahrain

percent of the government workforce.<sup>6</sup> Gender bias is still strong in the workplace.<sup>7</sup> Women receive significantly low remuneration than their male counterparts. The average wage preference of men over women was BD63 in government and BD147 in the private sector.<sup>8</sup>

In the absence of a codified Personal Status Law, Bahraini women facing divorce, child custody or alimony disputes continue to suffer hardships under the Sharia system of justice. There have been numerous instances in which victims have suffered humiliation, unfair treatment and injustice at the hands of the Sharia Court judges but they still have to endure simply because there is no codified Personal Status Law to adjudicate their disputes/grievances on the basis of established principles of justice.<sup>9</sup>

Migrant workers, especially the female domestic workers, are subjected to conditions of involuntary servitude when faced with exorbitant recruitment and transportation fees, withholding of their passports, restrictions on their movement, non-payment of wages, and physical or sexual abuse. Between 30 to 40 per cent of the attempted suicide cases handled by the government's psychiatric hospitals were foreign maids.<sup>10</sup> The foreign house maids continue to be excluded from labour law reforms carried out by the Bahrain government.<sup>11</sup>

### **Administration of justice**

Although the trial of cases, both civil and criminal, is open and defendants are presumed innocent until proven guilty<sup>12</sup>, judiciary is only independent nominally. The courts were reportedly subject to government pressure regarding verdicts, sentencing, and appeals.<sup>13</sup>

There is enormous scope of executive interference into the functioning of the judiciary and such anomaly is inherent in the constitution. Under Article 33 of the 2002 constitution, the King is the head of the Higher Judicial Council, the body responsible for nomination of the judges and which is also responsible for supervising the work of the courts and the public prosecution. Practically, the king can hand pick the judges of his choice and dictate them.<sup>14</sup>

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<sup>6</sup> . <http://www.state.gov/g/drl/rls/hrrpt/2006/78850.htm>

<sup>7</sup> . Women 'still badly paid' Gulf Daily News, 26 January 2007, available at:

<http://www.bahrainrights.org/en/node/986>

<sup>8</sup> . Bahrain Tribune: Report highlights high cost of living and bias against women, Bahrain Centre for Human Rights, 10 July 2007, available at: <http://www.bahrainrights.org/en/node/1324>

<sup>9</sup> . Family Law with Justice for All: A Dream Yet to Become a Reality, 27 August 2007, The Women's International Perspective, available at:

[http://www.thewip.net/contributors/2007/08/family\\_law\\_with\\_justice\\_for\\_al.html](http://www.thewip.net/contributors/2007/08/family_law_with_justice_for_al.html)

<sup>10</sup> . The shattered dreams, Bahrain Tribune, 18 December 2006, available at:

<http://www.bahraintribune.com/ArticleDetail.asp>

<sup>11</sup> . No legislation yet to ensure welfare of over 50,000 foreign housemaids, Bahrain Tribune, 30 April 2007, available at: <http://www.bahrainrights.org/en/node/1206>

<sup>12</sup> . <http://www.state.gov/g/drl/rls/hrrpt/2006/78850.htm>

<sup>13</sup> . <http://www.icj.org/IMG/pdf/bahrain.pdf>

<sup>14</sup> . See 2002 Constitution

The Sharia Courts have been accused to be biased against women. Women rights groups claimed that women have been subjected to unfair treatment and their rights and dignity violated in the Shari'ah family courts.<sup>15</sup>

### **Situation of Human Rights Defenders**

The human rights defenders face serious repression in Bahrain and they face various forms of systematic persecution, such as arbitrary arrest, judicial proceedings based on false or unfounded charges of “encouraging hatred of the state and distributing falsehoods and rumours”, threats, physical assaults, ill-treatment, torture and numerous other acts of harassment by the authorities and government security forces.<sup>16</sup>

Since 2004 starting with the arrest of Abdul-Hadi Al-Khawaja, President of Bahrain Centre for Human Rights (BCHR) on 26 September 2004,<sup>17</sup> Bahrain authorities have carried out illegal arrest of numerous human rights defenders and perpetrated torture for protecting and promoting the rights of the victims of human rights violations. Some of the prominent human rights defenders who have been victimized included spokesman of the National Committee for Martyrs and Victims of Torture in Bahrain (NCMVT) Abdul Rawf Al-Shayeb and Mr. Mahmud Ramadan, a board member of (NCMVT)<sup>18</sup>; renowned women rights activist and president of the Bahrain Women's Petition Committee (WPC) Ghada Jamsheer<sup>19</sup>; Nabeel Ahmed Rajab, the Vice-President of the Bahrain Centre for Human Rights (BCHR)<sup>20</sup>; a well-known activist of the Unemployed Committee Hassan Abdulnabi Hassan Ali<sup>21</sup>; an activist at the Unemployed and Low-Paid Committee (ULPC) Naji Ali Fateel<sup>22</sup>; HAQ democracy movement leader Hassan Mush-aima'a; and rights activist Shaker Abdul Hussain.

The authorities extensively used the Societies Law [Decree No. 21 of 1989] to repress the human rights activists and civil society groups. Article 15 read with Article 22 gives the Specialised Administrative Authority very wide discretionary powers of monitoring and the authority to reject the registration of any organisation on unreasonable grounds.<sup>23</sup> The

<sup>15</sup> . <http://www.bahrainrights.org/en/node/19>

<sup>16</sup> . HUMAN RIGHTS DEFENDERS AT RISK IN BAHRAIN, available at:

<http://www.frontlinedefenders.org/files/en/Bahrain%20report.pdf>

<sup>17</sup> . <http://www.omct.org/index.php?id=&lang=eng&actualPageNumber=1&articleId=5177&itemAdmin=article>

<sup>18</sup> . Bahrain: Sentencing and release of Mr. al-Khawaja, persisting ban of BCHR, World Organisation Against Torture, 26 November 2006, available at:

<http://www.omct.org/index.php?id=&lang=eng&actualPageNumber=1&articleId=5177&itemAdmin=article>

<sup>19</sup> . Bahrain: Woman human rights defender Ghada Jamsheer banned from national media, Frontline Defenders, 10 October 2007, available at: <http://www.frontlinedefenders.org/node/1184/print>

<sup>20</sup> . HUMAN RIGHTS DEFENDERS AT RISK IN BAHRAIN, available at:

<http://www.frontlinedefenders.org/files/en/Bahrain%20report.pdf>

<sup>21</sup> . Abduction and Torture of Activists Return, The Committee of Solidarity with Activists and Detainees of Conscience in Bahrain, 11 September 2007, available at: <http://www.bahrainrights.org/en/node/1417>

<sup>22</sup> . National Security threatens an activist and NGO member, Baharain Youth Society for Human Rights, 28 June 2007, available at: <http://byshr.org/?p=34#more-34>

<sup>23</sup> . See Article 11 of Decree No. 21 of 1989

Ministry also has the authority to close down any society temporarily (Article 50) and Article 20 bars all association from receiving foreign contribution.<sup>24</sup>

### **Freedom of Speech and Expression**

The 2002 constitution of Bahrain provides for freedom of speech and of the press, but the government limited the exercise of these rights. The government continues to illegally enforce the draconian Press Decree of 2002 at its discretion and restricted freedom of speech and press although it was suspended soon after it came into force in 2002.<sup>25</sup> According to the data collected by the Bahrain Journalists Association (BJA), 27 cases were filed against journalists in 2006, of which only 7 were considered by the Public Prosecution. In 2007, 32 cases were filed against journalists. Out of these, 12 cases were considered by the Public Prosecutor.<sup>26</sup>

In recent months, the authorities indiscriminately invoked Article 47 of the 2002 Press and Publication Law, and Articles 15 and 365 of the 1976 Penal Code of Bahrain to interrogate and prosecute more than 14 journalists as well as bloggers and website administrators. The other journalists who have been victimized include Hesham Al-Zayani and the editor-in-chief of “Akhbar Al-Khaleej”<sup>27</sup>; Mr Saleh Al-Amm, a journalist, writer and the editor of the journal; Muath Al-Meshari, a columnist for “Al-wasat” newspaper; and Fareed Al-Shayeb, a writer for “Al-Saheefa”<sup>28</sup> and Al-Alam television news channel’s Isa Town reporter Ms. Zainab Abdulnabi along with her cameraman Mr. Seyed Ali Al-Najjar.<sup>29</sup>

Since 24 April 2005, numerous websites have been blocked and many website owners, bloggers and internet users faced prosecution. In 2007, over 26 blocked websites, local and international continue be blocked.<sup>30</sup>

### **Religious Intolerance**

There were consistent reports of discrimination against the majority Shi’a Muslims by the minority Sunni followers, to which the royal family also belongs. The Sunni Muslim minority enjoyed a favored status. In the private sector, Shi'a tended to be employed in lower paid, less skilled jobs. Educational, social, and municipal services in most Shi'a neighborhoods were inferior to those found in Sunni communities.<sup>31</sup> According to a study

<sup>24</sup> . See Articles 23, 50 and 20 of Decree No.21 of 1989

<sup>25</sup> . <http://www.state.gov/g/drl/rls/hrrpt/2006/78850.htm>

<sup>26</sup> . ARTICLE 19 supports collective appeal for stronger protection of freedom of expression in Bahrain, Bahrain Centre for Human Rights; 19 November 2007; available at: <http://www.bahrainrights.org/en/node/1616>

<sup>27</sup> . <http://www.ifex.org/en/content/view/full/87313>

<sup>28</sup> . <http://www.ifex.org/en/content/view/full/87175>

<sup>29</sup> . <http://www.ifex.org/en/content/view/full/84531>

<sup>30</sup> . <http://www.ifex.org/en/content/view/full/86994>

<sup>31</sup> . International Religious Freedom Report, 2007 of the US State Department, available at: <http://www.state.gov/g/drl/rls/irf/2007/90208.htm>

of the BCHR, Shias hold only 18% of the total high posts such as posts of director or higher in the Government of Bahrain.<sup>32</sup>

Shias alleged that in spite of their being overwhelming majority, strategic and important ministries in the government are continued to be held by the members of the Sunni royal family members.<sup>33</sup> The government is reportedly pursuing policies to alter the island's demographic balance through granting citizenship to non-Bahrainis — mainly Sunni Arabs from around the region – to mitigate Shiite dominance.

Proposals to include the Ja'afari traditions of Shi'a Islam in the school curriculum continue to be rejected by the Bahraini Ministry of Education (MOE).<sup>34</sup> Shias are also shown in bad light in the Islamic curriculum of Bahrain. They are shown as non-believers and erratic.<sup>35</sup> Shi'as also face discrimination in matters of allocation of lands, provision of public funds and/or granting permission for building or refurbishment of worship places and mosques.<sup>36</sup>

## II. Enhancement of State's Capacity

Bahrain requires technical cooperation for strengthening of the civil society organizations, reform of the administration of justice sector and labour sector, especially migrant women workers.

## III. Cooperation with the HRC, Treaty Bodies and OHCHR

Bahrain has failed to issue Open /Standing invitation to the Special Procedures of the UN. Bahrain allowed the Special Rapporteur on Trafficking in Persons, especially women and children to visit the country from 29 October – 1 November 2006. Working Group on arbitrary detention was also allowed to visit from 19-24 October 2001 but request of the Special Rapporteur on migrants remain pending although the situation of migrant workers is deplorable.

Bahrain had ratified some of the major human rights instruments. These included Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment in 1998; International Covenant on Civil and Political Rights in 2006; Convention on the Elimination of All Forms of Discrimination Against Women in 2002; International Convention on the Elimination of All forms of Racial Discrimination in

<sup>32</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

<sup>33</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

<sup>34</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

<sup>35</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

<sup>36</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

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1990; Convention on the Rights of Persons with Disabilities in 2007; Convention on the Rights of the Child in 1992.

However, Bahrain has not yet ratified the Convention for the Protection of All Persons from Enforced Disappearance; International Covenant on Economic, Social and Cultural Rights; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Bahrain has so far failed to submit periodic reports under the UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment since 4 April 2007; under the Convention on the Elimination of All Forms of Discrimination against Women since 18 July 2003; under the International Convention on the Elimination of All Forms of Racial Discrimination since April 2007; and under the Convention on the Rights of the Child since 12 March 1999.



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## 2. Human rights situation on the ground

### I. Arbitrary arrest and illegal detention

Article 19 (a) of the Constitution of Bahrain states, “Personal freedom is guaranteed under the law” and Article 19 (b) states, “A person cannot be arrested, detained or imprisoned or searched, his place of residence specified or his freedom of residence or movement restricted, except under the provision of law or under judicial supervision.”<sup>37</sup>

Yet, there have been several instances of arbitrary arrest and illegal detention in Bahrain during the last couple years. On 19 October 2007, Bahrain riot fighting forces besieged the area of an expected demonstration in Karzakan province and that led to clashes between the security forces and the suspected demonstrators. After the clashes, security forces resorted to random arrests in different parts of the province and many innocent persons including employees, shop owners, beach goers and students were arrested and kept in detention. Some of the detainees include Hassan Ahmed Hassan, (17), Hassan Mansour Ali, (18), Sayed Shoubeir Sayed Mekki (18), Hassan Mekki Abbas (17), Ja’afar Abdul Nabi Abbas, (18). According to family members, the detainees were tortured in custody and many of them sustained injuries.<sup>38</sup>

On 21 May 2007, Ali Saeed Al Khabaz, a 22-years-old student of the Bahrain Training Institute, reportedly went missing after he went out for dinner from the house of his grand parents in Sanabis. He remained untraceable till 15 June 2007 when the Director of Police Media at the Ministry of Interior revealed that he has been in the custody of the security forces.<sup>39</sup> He has been allegedly held incommunicado and even his family members were not allowed to meet him. He has been subjected to severe torture in custody and had to be given medical treatment at the military hospital.<sup>40</sup>

### II. Torture, inhuman and degrading treatment

The 2002 Constitution of Bahrain prohibits torture. Article 19 (d) specifically provides that no person shall be subjected to physical or mental torture, inducements, or undignified treatment and torture is a penal offence in Bahrain. In order to lessen the scope of custodial torture, the article also categorically provided that any statement obtained or extracted under torture, inducement, or undignified treatment, or under any threat to mete out such treatment shall be null and void.<sup>41</sup>

However, the above constitutional guarantees failed to prevent torture in Bahrain and scores of people have been tortured. Instances of torture have been found to be rampant,

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<sup>37</sup> . See 2002 Constitution of the Kingdom of Bahrain

<sup>38</sup> . Bahrain: Authorities arrest young men on the account of security incidents, Bahrain Youth Society for Human Rights, 29 October 2007, available at: <http://byshr.org/?p=69#more-69>

<sup>39</sup> . Al Khabaz in security custody, Bahrain Tribune, 16 June 2007

<sup>40</sup> . Bahrain: An appeal to locate a young man who disappeared after detention and torture, Bahrain Youth Society for Human Rights, 16 June 2007, available at: <http://byshr.org/?p=18>

<sup>41</sup> . See Article 19 (d) of 2002 Constitution of Bahrain.

vindictive, and willful. The security forces indulge in unrestrained and indiscriminate use of force than is usually necessary to maintain law and order. According to testimonies of the victims who have been tortured by the Fighting Riot Forces (FRF) at Al-Malkiaya village near the seacoast on 9 June 2007, many have been beaten up or shot at with rubber bullets or thrown tear gas or sound bombs not just to disperse them but to physically harm them. Many of them said that they have been chased while dispersing from the place of demonstration and shot at rubber bullets from a close distance of 3 meters although the security forces can arrest them without shooting. While pursuing the dispersing protestors, security forces also illegally penetrated, entered into and searched houses indiscriminately and they also threw sound bombs inside one house to force the hiding protestors to come out.<sup>42</sup>

### III. Plight of Women

The constitution provides for equality; equal opportunity; and the right to medical care, welfare, education, property, capital, and work for all citizens. However, these rights were protected unevenly, depending on the individual's social status, sect, or gender. To this end, Article 5 (b) of 2002 Constitution provides that in pursuit of seeking equality with men in political, social, cultural and economic spheres, women cannot break the provisions of Islamic Sharia laws.

#### a. Discrimination in public life and employment

Bahrain can be proud and boast of having the lone and the first elected woman Member of Parliament namely Latifa al-Qa'oud in the Gulf region but there were still very less number of women in policy or decision making positions. Except Latifa al-Qa'oud, none of the 18 women candidates who contested the legislative and five who ran in the municipal elections in 2006 were elected.<sup>43</sup> Male domination over public post/position was demonstrated bare in August 2007 when Ebrahim Bu Sandal, representing Bahrain second largest political party namely Al Asala, stated that his party was opposed to the possibility of fellow MP Latifa heading the finance committee when the parliament reconvenes because she was a woman. He went further to state that his party adheres to its principle based on religious precepts that women should not run for parliament, let alone head committees.<sup>44</sup>

Only an insignificant percentage of women hold key positions in the Government. In 2004, the Ministry of Cabinet Affairs revealed that women held only 9 percent of senior civil service posts although women constituted 11 percent of the private sector workforce and 42 percent of the government workforce, according to a 2006 report of the government.<sup>45</sup> A study conducted by an NGO, the Bahrain Centre of Studies and

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<sup>42</sup>. Malkiaya Incidents, according to eyewitnesses and injured participants of the peaceful sit-in, Bahrain Youth Society for Human Rights, 16 June 2007, available at: <http://byshr.org/?p=28#more-28>

<sup>43</sup> . <http://www.state.gov/g/drl/rls/hrrpt/2006/78850.htm>

<sup>44</sup> . Women activists flay MPs' remarks, Gulf News, 13 August 2007, available at: <http://archive.gulfnews.com/region/Bahrain/10146274.html>

<sup>45</sup> . <http://www.state.gov/g/drl/rls/hrrpt/2006/78850.htm>

Research in January 2007 also stated that only 9.9 per cent are in key positions and pointed out that gender bias is still strong in the workplace. The report found that most of the women were employed at jobs traditionally associated with women such as secretaries, receptionists and clerks.<sup>46</sup>

Women also receive significantly low remuneration than their male counterparts. A report published by the defunct Bahrain Centre for Human Rights (BCHR) in July 2007 stated that the average wage preference of men over women was BD63 in government and BD147 in the private sector. The BCHR report also revealed that in the public sector, average monthly salary of Bahraini women was BD643 compared to BD706 for their male counterparts. As for the private sector, Bahraini females received average monthly salary of BD307 compared to BD454 for men.<sup>47</sup>

### **b. Victims of matrimonial discord at the mercy of the clerics**

In the absence of a codified Personal or Family Law, Bahraini women facing divorce, child custody or alimony disputes continue to suffer hardships under the Sharia system of justice. As the decisions of their cases depend upon the nature of interpretations of the Islamic law by the judges who are religious scholars, women are virtually at the mercy of the clerics. Their legal rights vary according to interpretations of Islamic law, which are often divergent and conflicting, depending upon their faith (Shia or Sunni) or by the court in which various contracts, including marriage, were made. There have been numerous instances in which victims have suffered humiliation, unfair treatment and injustice at the hands of the Sharia Court judges but they still have to endure simply because there is no codified Personal Status Law to adjudicate their disputes/grievances on the basis of established principles of justice. Because Bahraini civil law doesn't have any jurisdiction over Shariah Court verdicts there is no legal way to challenge arbitrary, inconsistent and unjust verdicts till a unified Personal Status Law is introduced. According to Afaf al-Jamri, a Shiite activist and a member of the main Islamic National Accord Association, "The situation of many Bahraini women is tragic. Each neighborhood has an average of four women thrown on the street by their husbands after, say, 30 years of marriage just because they (husbands) wanted to have younger wives."<sup>48</sup>

Any attempt to introduce a unified Personal Status Law has received vehement opposition from Sunni and Shiite conservative scholars who are the judges in the Sharia courts. The government avoids antagonizing the powerful religious scholars. In November 2005, the state controlled Supreme Council for Women (SCW), chaired by Sheikha Sabeeka bint Ibrahim Al-Khalifa, the wife of the Emir, sponsored a bill to pass a

<sup>46</sup> . Women 'still badly paid' Gulf Daily News, 26 January 2007, available at: <http://www.bahrainrights.org/en/node/986>

<sup>47</sup> . Bahrain Tribune: Report highlights high cost of living and bias against women, Bahrain Centre for Human Rights, 10 July 2007, available at: <http://www.bahrainrights.org/en/node/1324>

<sup>48</sup> . Family Law with Justice for All: A Dream Yet to Become a Reality, 27 August 2007, The Women's International Perspective, available at: [http://www.thewip.net/contributors/2007/08/family\\_law\\_with\\_justice\\_for\\_al.html](http://www.thewip.net/contributors/2007/08/family_law_with_justice_for_al.html)

Personal Status Law which was still supposed to be based on the Sharia but the result was devastating. Islamic scholars, mainly Shiite, vehemently opposed the proposal and they organized counter campaigns and the Government had to abort SCW's proposal. Till a Personal Status law is introduced, Bahraini women will continue to suffer.<sup>49</sup>

### **c. Sufferings of the migrant women workers**

Like other countries in the Gulf, Bahrain remain one of the favoured destinations for several men and women from all over the world looking for jobs. Many though end up being cheated by travel agents and manpower agencies. Thousands from South and Southeast Asia come to Bahrain to work as labourers or domestic servants, but are subjected to conditions of involuntary servitude when faced with exorbitant recruitment and transportation fees, withholding of their passports, restrictions on their movement, non-payment of wages, and physical or sexual abuse. It has been commonly reported that domestic servants, especially women, were forced to work 12 or 16-hour days, given little time off, were malnourished, and were subjected to verbal and physical abuse, including sexual molestation and rape. Between 30 to 40 per cent of the attempted suicide cases handled by the government's psychiatric hospitals were foreign maids.<sup>50</sup>

As on April 2007, there were at least 50,000 foreign housemaids in Bahrain who were awaiting legislations that would ensure them better treatment, decent work environment and better wages. In 2007, the Government of Bahrain carried out sweeping labour law reforms including comprehensive insurance covers for expatriate workers through amendment of labour laws of the island country. Sadly the labour law reforms did not cover the sufferings of the housemaids. In spite of the continuous pressure from the human rights groups and non-governmental organizations, Bahrain failed to bring the domestic workers or housemaids, the most vulnerable section of the workforce within the purview of labour laws. The government had said that a separate law for the housemaids was being drafted and would be passed soon but that has not yet happened.<sup>51</sup> Citing that the domestic workers are not covered by the labour laws, the General Federation of Bahrain Trade Unions (GFBTU) which has been taking up the cudgels for thousands of expatriate workers stated that the foreign domestic workers are "simply beyond" protection mandate of the GFBTU.<sup>52</sup>

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<sup>49</sup> . Family Law with Justice for All: A Dream Yet to Become a Reality, 27 August 2007, The Women's International Perspective, available at:

[http://www.thewip.net/contributors/2007/08/family\\_law\\_with\\_justice\\_for\\_al.html](http://www.thewip.net/contributors/2007/08/family_law_with_justice_for_al.html)

<sup>50</sup> . The shattered dreams, Bahrain Tribune, 18 December 2006, available at:

<http://www.bahraintribune.com/ArticleDetail.asp>

<sup>51</sup> . No legislation yet to ensure welfare of over 50,000 foreign housemaids, Bahrain Tribune, 30 April 2007, available at: <http://www.bahrainrights.org/en/node/1206>

<sup>52</sup> . Unions have no role in domestic helpers' cases, Bahrain, 2 April 2007, available at:

<http://www.bahrainrights.org/en/node/1126>

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While the fate of the law governing the rights of the domestic workers hang in balance, numerous cases of abuse of expatriate housemaids by their sponsors and employers are being reported every month.

#### **IV. Administration of justice**

##### **a. Structure of the court system**

The Bahraini legal system is based on a mix of British civil law, Common Law, Shari'a (Islamic law), and traditional laws. The judiciary is organized into two separate branches: the civil law courts and the Shari'a courts.<sup>53</sup>

The civil law courts (criminal and civil), adjudicate all civil and commercial cases, criminal cases, and personal status cases involving non-Muslims while the Shari'a courts have jurisdiction over personal status cases involving citizen and non-citizen Muslims. The constitution established the Constitutional Court to rule on the constitutionality of laws and statutes. The Constitutional Court consists of a president and six members (judges), who were all appointed by the king. These seven judges serve nine-year terms and cannot be removed before their terms expire. The court's determination is final and "binding on all state authorities and on everyone," according to the constitution. The Bahraini Defense Force (DINARSF) maintains a separate court system that only tries military personnel accused of offenses under the Military Code of Justice. The Ministry of Interior (MOI) has a similar system for trying police officials.<sup>54</sup>

While the Courts of Minor Causes (the Lower Courts and the Court of Execution) have one judge with jurisdiction over minor civil, commercial, and misdemeanor cases, the High Civil Courts have three judges with jurisdiction over larger civil and commercial cases, felonies, and personal status cases involving non-Muslims. Above the High Civil Courts is the Civil High Court of Appeal with a panel of three judges which hears appeals. Both the civil and criminal court systems have a Supreme Court of Appeal, and a Court of Cassation, which is the final appellate court. In the Sharia court system, there are two levels: the Senior Shari'a Court and the High Shari'a Court of Appeal. At each level is a Sunni Maliki Shari'a Court with jurisdiction over all personal status cases brought by Sunni Muslims, and a Ja'afari Shari'a Court with jurisdiction over cases brought by Shi'a Muslims. The High Shari'a Court of Appeal is composed of a minimum of two judges. In the event of a disagreement, the Ministry of Justice (MOJ) provides a third judge, and the decision is based on a majority vote. There are 11 judges in the Sunni Maliki Shari'a courts and 12 judges in the Shi'a Ja'afari Shari'a courts.<sup>55</sup>

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<sup>53</sup> . <http://www.state.gov/g/drl/rls/hrrpt/2006/78850.htm>

<sup>54</sup> . <http://www.state.gov/g/drl/rls/hrrpt/2006/78850.htm>

<sup>55</sup> . <http://www.state.gov/g/drl/rls/hrrpt/2006/78850.htm>

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**b. Trial procedures**

Trial of cases, both civil and criminal, is conducted openly. According to the constitution, defendants are presumed innocent until proven guilty. The defendants/respondents have the right to counsel, question witnesses, and the right to appeal. Defendants may choose their own attorneys. If they are unable to afford a private attorney, defendants may ask the MOJ to appoint an attorney to represent them in court. Juries are not a part of the judicial system.<sup>56</sup>

**c. Executive interference**

Under the 2002 constitution of Bahrain, judiciary is nominally independent but practically it is not independent, and courts were reportedly subject to government pressure regarding verdicts, sentencing, and appeals.

There is enormous scope of executive interference into the functioning of the judiciary and such anomaly is inherent in the constitution. Article 33 says, "The King chairs the Higher Judicial Council. The King appoints the Judges by Royal Orders, as proposed by the Higher Judicial Council." Under this Article, the King is the head of the Higher Judicial Council the body responsible for nomination of the judges and which is also responsible for supervising the work of the courts and the public prosecution. This means that the King can hand pick the judges of his choice and dictate them. Given that Bahrain is ruled mostly by the members of the royal family, scope of interference by the Ministers, many of whom are close relatives and aides of the king, are enormous. The constitution does not provide a legislative branch confirmation process for judicial appointees nor does it establish an impeachment process.

In the past, some attorneys and family members involved in politically sensitive criminal cases have argued that the Government intervenes in court proceedings to induce the result or to obstruct rulings from being carried out. There are also occasional allegations of corruption in the judicial system.<sup>57</sup>

**d. Gender bias**

The Sharia Courts have been accused to be biased against women. Since 2002, women have filed complaints with the Ministry of Justice and Islamic Affairs against several Shari'a judges, arguing that women were often treated unfairly in their courts. The Women's Petition Committee led by activist Ms. Gada Yusif Jamsheer has claimed that women have been subjected to unfair treatment and their rights and dignity violated in the Shari'ah family courts.<sup>58</sup> In March 2004, the Minister of Justice suspended six Shari'a court judges indefinitely. According to the ministry, the judges reportedly had lost the

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<sup>56</sup> . <http://www.state.gov/g/drl/rls/hrrpt/2006/78850.htm>

<sup>57</sup> . <http://www.icj.org/IMG/pdf/bahrain.pdf>

<sup>58</sup> . <http://www.bahrainrights.org/en/node/19>

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trust of the community due to their misconduct and could no longer serve the community successfully.<sup>59</sup>

## V. Situation of Human Rights Defenders

The situation of human rights defenders in Bahrain remains grim. Despite Bahrain being party to a number of international human rights treaties/instruments and having provisions for basic rights in its national laws, practically these rights are substantially limited. Human rights defenders continue to face high levels of insecurity and are victim to various forms of systematic persecution and repression, such as arbitrary arrest, judicial proceedings based on false or unfounded charges of “encouraging hatred of the state and distributing falsehoods and rumours”, threats, physical assaults, ill-treatment, torture and numerous other acts of harassment by the authorities and government security forces.<sup>60</sup>

### a. Arbitrary arrest, torture and false prosecutions of human rights defenders

Since 2004 starting with the arrest of Abdul-Hadi Al-Khawaja, President of Bahrain Centre for Human Rights (BCHR) on 26 September 2007,<sup>61</sup> Bahrain authorities have carried out illegal arrest of numerous human rights defenders and perpetrated torture upon them in a bid to intimidate them from protecting and promoting the rights of the victims of human rights violations.

On 6 October 2007, Royal Court Minister Shaikh Khalid bin Ahemd Al-Khalifa reportedly ordered Bahraini newspapers and media sources to prevent the publication or broadcast of any news item related to Ghada Jamsheer, a women's rights activist and president of the Bahrain Women's Petition Committee (WPC). The prohibitory was in response to Ghada Jamsheer's letter of dated 1 April 2007 to King Sheikh Hamad bin Asa Al-Khalifa, calling for the dissolution of the Supreme Council for Women, chaired by the King's wife, Sheikha Sabika Bint Ibrahim Al-Khalifa, due to its failure to promote women's rights and its political loyalty to the Government. She has been victim of harassment, including a campaign of judicial harassment against her and she faced series of criminal charges for allegedly criticising family court judges. Although, these charges were eventually dropped on 19 June 2005, she has been under permanent surveillance since 2006.<sup>62</sup>

On 10 September 2007, National Security Service personnel abducted Hassan Abdalnabi Hassan Ali (26 years), a well-known activist of the Unemployed Committee multiple times, when he tried to sit in protest against the termination of his job in the traffic

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<sup>59</sup> . US State Department's Reports on Human Rights Practices, 2005, available at:

<http://www.state.gov/g/drl/rls/hrrpt/2005/61686.htm>

<sup>60</sup> . HUMAN RIGHTS DEFENDERS AT RISK IN BAHRAIN, available at:

<http://www.frontlinedefenders.org/files/en/Bahrain%20report.pdf>

<sup>61</sup> . <http://www.omct.org/index.php?id=&lang=eng&actualPageNumber=1&articleId=5177&itemAdmin=article>

<sup>62</sup> . Bahrain: Woman human rights defender Ghada Jamsheer banned from national media, Frontline Defenders, 10 October 2007, available at: <http://www.frontlinedefenders.org/node/1184/print>

directorate at the Ministry of Interior, near the royal office in Refaa area in Manama. First, he was picked up from near the Grievances and Complaints Bureau in the Royal Court at 10 o'clock when he started the sit in. He was detained for sometime but released after intimidation and threatening. On his way, he was arrested and taken to Refaa police station where he was intimidated. At 2 pm, he was released but again lifted by the Special Forces personnel while he was on his way to the place of protest. He was blindfolded, interrogated and roughed up. After threatening with dire consequences in case of his sitting in protest, he was released at 5.30 p.m.<sup>63</sup>

Since 2005, Nabeel Ahmed Rajab, the Vice-President of the Bahrain Centre for Human Rights (BCHR), has been subjected to continued harassment by the Bahraini authorities. Since 7 July 2007, Nabeel has been daily pursued by unidentified traveling in civilian cars to and from his home. Earlier on 19 July 2005, Nabeel was severely beaten by police security forces during a demonstration. In October 2006, he was summoned by the Public Prosecutor's Office for questioning in relation to BCHR's article on the 'Bandargate Scandal' on its website.<sup>64</sup>

On 27 June 2007, Naji Ali Fateel, 33, of Bani Jamra who is an activist at the Unemployed and Low-Paid Committee (ULPC) was summoned by the National Security Bureau. When he reported to them at the Al-Jora Police Station he has been verbally accused, intimidated and asked not to hold the proposed rally of the ULPC two days later. The responsible officer allegedly threatened Naji to punish him severely in future if he did not stop his activism in ULPC. Naji has previously suffered physical and verbal attacks by security forces during his participation in a peaceful event of ULPC. He was interrogated twice in one year.<sup>65</sup>

On 2 February 2007, President and Executive Director of Bahrain Centre for Human Rights (BCHR) Abdul-Hadi Al-Khawaja, HAQ democracy movement leader Hassan Mush-aima'a; and independent rights activist Shaker Abdul Hussain were arrested, detained and interrogated<sup>66</sup> but were released the same day following huge public protest.<sup>67</sup> On 3 February 2007, the three have been charged with trying to illegally change the kingdom's political system after their arrests sparked protests and clashes with police.<sup>68</sup> In May 2007, following public protest, the king of Bahrain has declared that the court proceedings against three activists have been frozen.<sup>69</sup> Abdul Hadi Al-khawaja's arrest was the latest in a series of persecution by the authorities. Earlier, he was arrested

<sup>63</sup> . Abduction and Torture of Activists Return, The Committee of Solidarity with Activists and Detainees of Conscience in Bahrain, 11 September 2007, available at: <http://www.bahrainrights.org/en/node/1417>

<sup>64</sup> . HUMAN RIGHTS DEFENDERS AT RISK IN BAHRAIN, available at: <http://www.frontlinedefenders.org/files/en/Bahrain%20report.pdf>

<sup>65</sup> . National Security threatens an activist and NGO member, Baharain Youth Society for Human Rights, 28 June 2007, available at: <http://byshr.org/?p=34#more-34>

<sup>66</sup> . Three prominent rights activists arrested in Bahrain, Gulf News, 3 February 2007, available at: <http://archive.gulfnews.com/region/Bahrain/10101409.html>

<sup>67</sup> . Bahraini Police Release 3 Activists, The Associated Press, 2 February 2007

<sup>68</sup> . Bahrain rights activists charged after their arrests spark protests, The Associated Press, 3 February 2007

<sup>69</sup> . Bahraini king drops case against rights activists, The Associated Press, 18 May 2007



on 26 September 2004 after he had criticized the government's policy and called for the dismissal of the Prime Minister, in a symposium on economic rights in Bahrain, organized by his organization on 24 September 2004. He was charged with the offence of "encouraging hate of the state" and "distributing falseness and rumours" under articles 165 and 168 of the Bahraini penal code and was remanded in custody for 45 days.<sup>70</sup>

On 28 October 2004, spokesman of the National Committee for Martyrs and Victims of Torture in Bahrain (NCMVT) Abdul Rawf Al-Shayeb and Mr. Mahmud Ramadan, a board member of (NCMVT) were arrested by the anti-riot Police, together with several dozens demonstrators during a Car Parade protest march that was organized by the (NCMVT) to call for the release of Mr. Al-Khawaja.<sup>71</sup>

### **b. Repression through the draconian Societies Law no. 21 of 1989 and related legislations**

All societies and associations are required to be registered under the Societies Law [Decree No. (21) of 1989] and an unlicensed society is prohibited to operate. Article 2 of this Decree provides for a Specialised Administrative Authority which is the Ministry of Labour and Social Affairs to issue license as well as to monitor the activities of societies dealing in human rights related issues. Article 15 read with Article 22 gives the concerned Ministry very wide discretionary powers of monitoring and has the authority to reject the registration of any organisation on the grounds that- (i) the society does not need its services or if there are other associations which fulfill the society's needs in the field of activity the association wants to practice and (ii) if the creation of such association undermines the welfare and security of the state; and (iii) if the premises of the association are not appropriate on the health or social level for the performance of its activities.<sup>72</sup>

Under Article 23 of this law, the Ministry also has the authority to appoint management of the societies while under Article 50, it has the power to close down any society temporarily. Under Article 20 no association can legally receive foreign contribution.<sup>73</sup>

This law is a regressive legislation seemed primarily designed to prevent the creation of independent societies and impede the existing ones from carrying out their activities successfully. On 29 September 2004, the Labour and Social Affairs Minister Majid al-Alawi decided to close the Bahrain Centre for Human Rights (BCHR) because of "activities contravening the Societies Law of 1989". The order prohibits members of the BCHR from resuming activities and freezes all funds. Similarly, in May 2007, the

<sup>70</sup> . Bahrain: Sentencing and release of Mr. al-Khawaja, persisting ban of BCHR, World Organisation Against Torture, 26 November 2006, available at:

<http://www.omct.org/index.php?id=&lang=eng&actualPageNumber=1&articleId=5177&itemAdmin=article>

<sup>71</sup> . Bahrain: Sentencing and release of Mr. al-Khawaja, persisting ban of BCHR, World Organisation Against Torture, 26 November 2006, available at:

<http://www.omct.org/index.php?id=&lang=eng&actualPageNumber=1&articleId=5177&itemAdmin=article>

<sup>72</sup> . See Article 11 of Decree No. 21 of 1989

<sup>73</sup> . See Articles 23, 50 and 20 of Decree No.21 of 1989

Women's Petition Committee, the Unemployed committee, the Bahrain Youth Human Rights Association and other non-registered human rights organizations received official letters from the Ministry of Social Development to halt activities or face legal persecution.<sup>74</sup> In the last week of August 2007, Bahrain Youth Society for Human Rights (BYSHR) reported that the Feminine Society of Bahrain, a registered feminist association, was asked by the Ministry of Development to obtain a separate license for each of association's activities while the Bahrain Society for Human Rights, a registered human rights organization, was served notice by the Ministry of Development to the society to obtain a license for hosting prominent figures from outside Bahrain to attend one of the events to be held by political and non-governmental NGOs on Transformational Justice. BYSHR also reported that the authorities threatened four organizations viz, (1) The Committee of Unemployed and Law-paid labor; (2) The Committee of the Returning from Exile; (3) The Committee of Adequate Housing; and (4) The Committee of Feminist Petition while refused registration to it (BYSHR) and Bahrain Child Association.<sup>75</sup>

As if the official closure/ban of BCHR was not enough, the authorities have been pursuing a consistent and sustained malicious campaign against the organization and its President and Executive Director Abdul-Hadi Al-Khawaja and Vice president Nabeel Ahmad Rajab. The government has reportedly been pursuing a well knitted strategy both at the international level and in Bahrain of maligning the human rights defenders. The authorities allegedly distributed malicious information about fabricated accusations of relations to acts of violence which occurred in Bahrain during the eighties and nineties, sympathizing with Iran and coordinating with neo-conservatives in the United States! Abdulhadi Alkhawaja, president of the BCHR has been the main target of the Authorities' defaming campaign. The government has reportedly been sending the malicious information and fabricated accusation through direct communications, using well known global information websites and launching new websites. Sizable human and financial resources have been allocated to carry out the campaign.<sup>76</sup>

The apparent objective of the smear campaign by the authorities is to weaken regional and international cooperation and solidarity with members of the BCHR and other national activists.

## **VI. Freedom of Speech and Expression**

The 2002 constitution of Bahrain provides for freedom of speech and of the press, but the government limited the exercise of these rights. In 2002, the king decreed a press law namely Press Decree of 2002 and the government began implementing the law but later "froze" it due to a public outcry. Yet the government enforced the suspended law at its discretion and restricted freedom of speech and press. The law provides for prison

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<sup>74</sup> . <http://www.frontlinedefenders.org/files/en/Bahrain%20report.pdf>

<sup>75</sup> . The government targets NGOs, Bahrain Youth Society for Human Rights, 28 August 2007, available at: <http://byshr.org/?p=62#more-62>

<sup>76</sup> . BCHR: Bahraini Authorities Persistent Campaign Defaming Human Rights Defenders: Signals Possible Crackdown, BCHR, 18 September 2007, available at: <http://www.bahrainrights.org/en/node/1438>

sentences in three general categories of offenses: (i) criticizing the state's official religion; (ii) criticizing the king; and (iii) inciting actions that undermine state security. Besides, the law imposes fines up to \$5,300 (2,000 dinars) for 14 other offenses, including publicizing statements issued by a foreign state or organization before obtaining the consent of the Minister of Information; publishing any news reports that may adversely affect the value of the national currency; reporting any offense against the head of a state that maintains diplomatic relations with the country; or publishing offensive remarks towards an accredited representative of a foreign country because of acts connected with the person's position.<sup>77</sup>

#### **a. Repression on media and academic freedom**

The Ministry of Information has reportedly let loose crackdown on freedom of expression, including the banning of books and films, the blocking of websites, and the prosecution of individuals, such as writers and journalists, for exercising their right to free expression. According to the data collected by the Bahrain Journalists Association (BJA), 27 cases were filed against journalists in 2006, of which only 7 were considered by the Public Prosecution. In 2007, 32 cases were filed against journalists of which 12 cases were considered by the Public Prosecutor.<sup>78</sup>

Since the beginning of 2007, two prominent authors namely Dr. Nader Kathem and Abdullah Khalifa Omar bin Al-Khattab continued to be denied permission to publish their books. Despite repeated requests, the Publication and Press Directorate of the Ministry of Information have failed to respond and effectively prevented the publication of Dr. Kathem's book titled, "Memory Exploitations: In a Pluralistic Society, Saddled with History" and another book by Abdullah Khalifa Omar bin Al-Khattab. Earlier, the Ministry of Information had also issued a formal decision to ban an earlier novel by Mr Khalifa entitled Husain's Head.<sup>79</sup>

In recent months, the authorities indiscriminately invoked Article 47 of the 2002 Press and Publication Law, and Articles 15 and 365 of the 1976 Penal Code of Bahrain to interrogate and prosecute more than 14 journalists as well as bloggers and website administrators. On 28 October 2007, the Supreme Criminal Court of Appeals convicted journalist Hesham Al-Zayani and the editor-in-chief of "Akhbar Al-Khaleej" newspaper of smear and defamation against the President of Arabian University, Dr. Rafia Ghabbash. They were fined a liability of BD 1000 (approx. US\$2,650) in addition to court fees. The initial conviction was made on the basis of article no. 15 of the 1976 Penal Code and no. 47 of the 2002 Press Code.<sup>80</sup>

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<sup>77</sup> . <http://www.state.gov/g/drl/rls/hrrpt/2006/78850.htm>

<sup>78</sup> . ARTICLE 19 supports collective appeal for stronger protection of freedom of expression in Bahrain, Bahrain Centre for Human Rights; 19 November 2007; available at: <http://www.bahrainrights.org/en/node/1616>

<sup>79</sup> . ARTICLE 19 supports collective appeal for stronger protection of freedom of expression in Bahrain, Bahrain Centre for Human Rights; 19 November 2007; available at: <http://www.bahrainrights.org/en/node/1616>

<sup>80</sup> . <http://www.ifex.org/en/content/view/full/87313>

Other persons, mostly journalists and activists who have been arrested and faced prosecution include Mr Saleh Al-Amm, a journalist, writer and the editor of the journal; Muath Al-Meshari, a columnist for "Al-wasat" newspaper; and Fareed Al-Shayeb, a writer for "Al-Saheefa" who were convicted on 21 October 2007 of defaming the director of Dar Al-Manar Elderly Care Centre and her husband;<sup>81</sup> Al-Alam television news channel's Isa Town reporter Ms. Zainab Abdulnabi along with her cameraman Mr. Seyed Ali Al-Najjar who were arrested and interrogated on 1 July 2007.<sup>82</sup>

Freedom of expression is also assailed by state-backed vigilante groups. In August 2005, Aqeel Al Mousawi, a religious scholar reportedly threatened Al Ayam's Editor-in-Chief Isa Al Shaygi for publishing in his newspaper a cartoon which the Islamic scholar considered offensive. The letter threatened that the editor "would soon be punished by the people for being a traitor."<sup>83</sup>

### **b. Restrictions on Internet websites**

On 24 April 2005, the Government of Bahrain announced that all websites touching on Bahrain were required to register with the Bahraini Information Ministry and websites were required to be six months as of 2 May 2005 to be eligible for registration.<sup>84</sup> Since then, numerous websites have been blocked and many website owners, bloggers and internet users faced prosecution. In 2007, over 26 blocked websites, local and international continue to be blocked allegedly in reaction to online reporting about political scandals in Bahrain, especially what was locally dubbed the "Bandergate report" about the misappropriation of public lands, administrative and financial corruption, discrimination and favoritism.<sup>85</sup>

On 16 November 2006, authorities arrested Dr M. Al Sahlawi, a Dentist, and Mr. H. Al Hebshi, Insurance sales executive, for possessing downloaded printed copies of a publication deemed by the authorities to be "subversive literature".<sup>86</sup> Other victims include founder and editor of <http://www.bahrainonline.com> Abdel Imam who was arrested 27 February 2005, his two technicians namely Mohamed al-Musawi and Hussein Yousef who were arrested on 1 March 2005. Abdel Imam's website features a blog with commentary about Bahraini news, as well as a discussion forum.<sup>87</sup>

## **VII. Racial Discrimination**

With an area of 231 square miles, Bahrain has a population of 725,000 persons. Of these, only 62 percent are citizens and 99 percent of the citizen population is Muslims. Muslims belong to the Shi'a and Sunni branches of Islam, with Shi'a constituting an estimated 70

<sup>81</sup> . <http://www.ifex.org/en/content/view/full/87175>

<sup>82</sup> . <http://www.ifex.org/en/content/view/full/84531>

<sup>83</sup> . <http://www.ifex.org/en/content/view/full/67704>

<sup>84</sup> . <http://www.ifex.org/en/content/view/full/66276>

<sup>85</sup> . <http://www.ifex.org/en/content/view/full/86994>

<sup>86</sup> . <http://www.ifex.org/en/content/view/full/80539/>

<sup>87</sup> . <http://www.ifex.org/en/content/view/full/65305>

percent of the Muslim population. Jews and Christians constitute the remaining 1 percent. Half of the resident foreigner population is Muslim while the other half is non-Muslim.<sup>88</sup>

The Constitution provides that Islam is the state religion of Bahrain and the Islamic Sharia is a principal source for legislation.<sup>89</sup> Yet, followers of other persuasions and beliefs, like Judaism, Buddhism, Hinduism, Sikhism, have their private worship places and enjoy full religious freedom.<sup>90</sup>

However, there were consistent reports of discrimination against the majority Shi'a Muslims by the minority Sunni followers, to which the royal also belongs. The Sunni Muslim minority enjoyed a favored status. In the private sector, Shi'a tended to be employed in lower paid, less skilled jobs. Educational, social, and municipal services in most Shi'a neighborhoods were inferior to those found in Sunni communities.<sup>91</sup>

The major areas of discrimination are discussed as under: -

#### **a. Causing demographic changes through illegal naturalization**

The government is reportedly pursuing policies to alter the island's demographic balance through granting citizenship to non-Bahrainis — mainly Sunni Arabs from around the region – to mitigate Shiite dominance. According to the International Crisis Group (ICG), as many as 50,000 to 60,000 foreigners have been “politically naturalised” and extended citizenship as of February 2005. The government also awarded citizenship to as many as 8,000 Saudis, who claim affiliation with the Dawasir tribe that was once in Bahrain but has long resided in eastern Saudi Arabia.<sup>92</sup> The Bahrain Centre for Human Rights put this figure at 20,000. It says that these people are Saudi nationals who never lived in Bahrain.<sup>93</sup>

Earlier in August 2002, the Government, through an electoral measure gerrymandered parliamentary district boundaries to dilute Shi'a votes. The Government divided the country into imbalanced sectarian constituencies. For example, in the southern governorate, where newly naturalized persons reside (tribal Sunnis), a block of around 2000 voters hold a seat in parliament, whilst in the central and northern governorate,

<sup>88</sup> . International Religious Freedom Report, 2007 of the US State Department, available at:

<http://www.state.gov/g/drl/rls/irf/2007/90208.htm>

<sup>89</sup> . See Article 2 of 2002 Constitution of Bahrain

<sup>90</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

<sup>91</sup> . International Religious Freedom Report, 2007 of the US State Department, available at:

<http://www.state.gov/g/drl/rls/irf/2007/90208.htm>

<sup>92</sup> . International Crisis Group's report titled BAHRAIN'S SECTARIAN CHALLENGE of 6 May 2005, available at:

[http://www.crisisgroup.org/library/documents/middle\\_east\\_\\_\\_north\\_africa/iraq\\_iran\\_gulf/40\\_bahrain\\_sectarian\\_challenge.pdf](http://www.crisisgroup.org/library/documents/middle_east___north_africa/iraq_iran_gulf/40_bahrain_sectarian_challenge.pdf)

<sup>93</sup> . Naturalization as a mean of discriminatory demographic change, Bahrain Centre for Human Rights, 4 March 2005, available at: <http://www.bahrainrights.org/en/node/27>

where the majority are Shi'a, block of around 7800 voters hold one seat. This led to boycott of the October 2002 elections by the Shia, and Sunnis won 27 of the 40 seats.<sup>94</sup>

### **b. In military services and strategic public offices**

The Sunni Muslim minority enjoyed a favored status in Bahrain. Sunnis often received preference for employment in sensitive government positions, in the managerial ranks of the civil service, and in the military. Shi'a citizens do not hold significant posts in the defense and internal security forces, although they were found in the enlisted ranks. According to the United States, there is historical evidence of discrimination against Shi'a Muslims in recruitment for military and domestic security services in Bahrain. Its 2007 International Religious Freedom Report released in September 2007 stated that the Ministry of Defense of Bahrain did not recruit Shi'a for military services while the Ministry of Interior made increasing efforts to recruit additional Shi'a into non-military security agencies during the period from October 2006-September 2007.<sup>95</sup> According to a study of the BCHR, out of the total high posts such as posts of director or higher in the Government of Bahrain, Shias holds only 18%.<sup>96</sup>

Shias alleged that in spite of their being overwhelming majority, strategic and important ministry in the government are continued to held by the members of the Sunni royal family members. The Bahrain Centre for Human Rights (BCHR) states that in the last cabinet change in October 2005, Shias were represented by only five out of 22 ministers, equivalent to 22.7%. In the Shura council, whose members are appointed by the Head of the State, the King, only 18 Shia members (45%) are appointed out of 40. Similarly in the Elected Council, Shias won only 12 out of 40 seats, representing 30% of the total seats while there number only 22 in out of 50 in Municipal Council elections. It is alleged that the demarcation of the constituencies of the Elected Council by royal decree favoured the Sunnis and negatively affected the Shias.<sup>97</sup>

### **c. Exclusion of Shia theology from school curriculum**

Islamic studies are a part of the curriculum in government schools and mandatory for all public school students. The decades-old curriculum is based on the Maliki school of Sunni theology.<sup>98</sup> There were demands to teach the religion curricula on the basis of five sects (four Sunni and Shia) in the elementary, intermediate and secondary stage of public education. Proposals to include the Ja'fari traditions of Shi'a Islam in the curriculum

<sup>94</sup> . International Crisis Group's report titled BAHRAIN'S SECTARIAN CHALLENGE of 6 May 2005, available at: [http://www.crisisgroup.org/library/documents/middle\\_east\\_\\_\\_north\\_africa/iraq\\_iran\\_gulf/40\\_bahrain\\_sectarian\\_challenge.pdf](http://www.crisisgroup.org/library/documents/middle_east___north_africa/iraq_iran_gulf/40_bahrain_sectarian_challenge.pdf)

<sup>95</sup> . International Religious Freedom Report, 2007 of the US State Department, available at: <http://www.state.gov/g/drl/rls/irf/2007/90208.htm>

<sup>96</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

<sup>97</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

<sup>98</sup> . International Religious Freedom Report, 2007 of the US State Department, available at: <http://www.state.gov/g/drl/rls/irf/2007/90208.htm>

have been rejected by the Bahraini Ministry of Education (MOE) citing administrative and financial difficulties. The MOE states that the allocated budget for the Ministry is not sufficient to cover the additional cost of implementing the proposal as well as the fact that such inclusion will disturb the balance of credit hours dedicated to teaching Islamic curriculum as compared with other courses. Furthermore, the MOE considered including Fiqh (Sharia legislation) on the basis of five sects of Islam will increase the amount of knowledge and considered a burden to pupils.<sup>99</sup>

In the Ministry of Education, Shi'a are under-represented in both leadership and in ranks of head teachers who teach Islamic studies and supervise and mentor other teachers. Out of more than a dozen Islamic studies head teacher at the secondary school level, there were only two Shi'a head teachers. Although there were many Shia Islamic studies teachers, they were not allowed to introduce content about Shi'a traditions and practices and were instructed to follow the curriculum.<sup>100</sup>

#### **d. Denigration of Shia theology**

Shias are shown in bad light in the Islamic curriculum of Bahrain. They are shown as non-believers and erratic. This is done through the text definition and elaboration in the concept of disbelief and considering conducts, referenced or linked to Shia, as being blasphemous. The indication in these texts goes beyond detaching Shia from Islam to consider them non-believers. Such dictated abatement extends to the historic background related to Shia and their figures, to include falsification or concealment of detailed historic events of relation. This would include exodus of Prophet Mohammed from Mekkah to Madina and the prepense of his cousin in his bed , the role of Emam Ali, first of Twelvish Shia emams, in the wars in the early stage of Islamic period , the demise of the Prophet, the status of his only daughter, Fatema Zahraa, and her birth , the demise of Fatema Zahraa, killing of the fourth Khalif- Emam Ali, killing of Prophet Mohamed grandson Husain-third Emam of Shia who was brutally slaughtered with 72 of his family and companions in Karbala.<sup>101</sup>

#### **e. In matters of grant of permission, sanction and allocation of resources for places of worship etc.**

In Bahrain, the Ministry of Islamic Affairs and the Ministry of Municipality and House controlled the construction or rebuilding of mosques or procession places (called locally 'matam' which are place of worship and social activities). They are official authorities to grant permission, allocate land or funds for construction or rebuilding of any new or old mosque and community centers. There were numerous complaints of discrimination

<sup>99</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

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<sup>101</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

against Shia in matters allocation of lands, provision of public funds and/or granting permission for building or refurbishment worship places and mosques.<sup>102</sup>

A comparison of number of Shia and Sunni places of worship and community centres in some of the towns of Bahrain indicate that the Sunnis enjoy a preferred status. Out of the 70 mosques in four newer towns of Bahrain namely Isa town, Hamad town, Zayed town and Arad - Deir area in Muharraq, only 14 (20%) mosques are dedicated to the Shia Muslims.<sup>103</sup>

In Hamad Town, where the population was estimated to be more than 50 percent Shi'a, there were 24 Sunni mosques and 2 Sunni grand mosques, but only 4 Shi'a mosques and no Shi'a grand mosques. The Ministry of Islamic Affairs has rejected applications of Shia community to establish ma'tams in Hamad Town. Land has been given to establish the Sunni Hamad Town Charity Fund, but no land has been similarly granted to the Shi'a community.<sup>104</sup> In Isa town, Shia were to build only four mosques whereas Sunni were allowed to build 20 mosques. In Zayed town, two sites have been allocated for Sunni mosques but none for the Shia. Similarly, in the new Arad area out of the 22 mosques only six are Shia mosques.<sup>105</sup>

### **3. Enhancement of State's Capacity**

Bahrain requires technical cooperation for strengthening of the civil society organizations and reform of the administration of justice sector.

### **4. Cooperation with the HRC, Treaty Bodies and OHCHR**

Bahrain has failed to issue Open /Standing invitation to the Special Procedures of the UN from Bahrain. Bahrain allowed the Special Rapporteur on Trafficking in Persons, especially women and children to visit the country from 29 October – 1 November 2006. Working Group on arbitrary detention was also allowed to visit from 19-24 October 2001 but request of the Special Rapporteur on migrants remain pending although the situation of migrant workers is deplorable.

Bahrain had ratified some of the major human rights instruments. These included Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment in 1998; International Covenant on Civil and Political Rights in 2006;

<sup>102</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

<sup>103</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>

<sup>104</sup> . International Religious Freedom Report, 2007 of the US State Department, available at: <http://www.state.gov/g/drl/rls/irf/2007/90208.htm>

<sup>105</sup> . Religious Freedom for Shia in Bahrain:"Systematic Oppression and Marginalization", Bahrain Centre for Human Rights, 19 September 2007, available at: <http://www.bahrainrights.org/en/node/1442>



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Convention on the Elimination of All Forms of Discrimination Against Women in 2002; International Convention on the Elimination of All forms of Racial Discrimination in 1990; Convention on the Rights of Persons with Disabilities in 2007; Convention on the Rights of the Child in 1992.

However, Bahrain has not yet ratified the Convention for the Protection of All Persons from Enforced Disappearance; International Covenant on Economic, Social and Cultural Rights; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Bahrain has so far failed to submit periodic reports under the UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment since 4 April 2007; under the Convention on the Elimination of All Forms of Discrimination against Women since 18 July 2003; under the International Convention on the Elimination of All Forms of Racial Discrimination since April 2007 and under the Convention on the Rights of the Child since 12 March 1999.