

# Asian Centre for Human Rights

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C-3/441-C, Janakpuri, New Delhi - 110058, INDIA

Tel/Fax: +91-11-25620583, 25503624

Email: suhaschakma@achrweb.org; Web site: www.achrweb.org

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## **Bahrain: Stakeholders' Report**

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

### **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

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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>

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 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**

<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

<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>

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>

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

<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

<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>

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 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>

<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

<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>

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 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.

<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>

<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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### **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 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.