



Second Cycle

Universal Periodic Review: Bahrain

Submission to the Stakeholders' Summary

Alkarama, 21 November 2011

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1. Background and 14 February 2011 Uprising

1. In 1999, after the death of his father, Sheikh Hamad bin Isa Al Khalifa became the head of State and inaugurated political reforms founded on a "plan of national action," approved by national referendum in February 2011. The stated aim of this plan was the will to put an end to the internal conflicts of the 1990s and to establish a constitutional monarchy. The new Constitution of 2002 created a bicameral system: 40 elected members and 40 appointed by the King. However, this constitutional reform was accompanied by decrees limiting citizens' rights and freedoms. Despite the promises of change, party leaders calling for a boycott of parliamentary elections in 2006 were arrested, tortured and convicted based on the 2006 Anti-Terrorist Law.
2. As was the case in other Arab countries, thousands of people demonstrated on 14 February 2004 calling for democratic reforms and denouncing discrimination against the Shi'ite community. On the morning of 17 February, members of the security forces assaulted the "Pearl Roundabout" with live ammunition. In four days, seven demonstrators and seven members of the security forces were killed before the King called for a dialogue with the opposition. The only concession made was the release of political prisoners (of which 23 had been arrested in August and September 2010) but this measure did not silence the protestors and several general strikes were launched.
3. Because of the ongoing protests, the Government appealed to the Gulf Cooperation Council, which ordered the dispatch of military troops to help the government silence the demonstrators. The Council justified this intervention by declaring "the breach of security and stability brought about by the division of [Bahrain's] citizens is a dangerous violation of the security and stability of the Gulf Cooperation Council."¹ In response to widespread criticism, the Council said that the measure resulted from defence agreements put in place by Bahrain to protect its economic interests and that Bahrain's internal security was being assured by the internal security forces.² The troops were withdrawn after more than three months.
4. On 15 March, the King declared a state of emergency that prohibited assemblies and implemented a partial curfew. The next day, the security services were sent to the Pearl Roundabout to repress demonstrations with tanks and live ammunition. The monument in the square, a symbol of protest, was destroyed and repression increased to prevent all attempts at assemblies.
5. In June, the government lifted the state of emergency and established an independent commission charged with investigating human rights violations committed in the course of the protests. Its conclusions will be presented to the King at the end of November 2011. The authorities have recognized that many human rights violations took place, but deny that they are systematic in nature.³ Several decrees were issued to compensate victims and reintegrate workers who had lost their jobs back to their former positions. However, medical personnel accused of treating demonstrators were not reinstated to their former positions.
6. At present, numerous critics of the Government remain detained awaiting trial and others have been sentenced to heavy penalties. The frequency and scale of the protests has diminished but there is reason to fear further violations. For example, on 4 November 2011, a demonstration took place at the funeral of Ali Hassan al-Dehi, a 70-year-old father of a militant Shi'ite who reportedly died as a result of police brutality. The protest was violently dispersed.⁴

¹ Gulf Coordination Council press release, الأمين العام لمجلس التعاون ينوه بمواقف دول مجلس التعاون المساندة لمملكة البحرين (Secretary-General of the GCC speaks on member States' contributions to the maintenance of security and order in Bahrain), 15 March 2001, <http://www.gcc-sg.org/indexbde1.html?action=News&Sub=ShowOne&ID=1931&T=A> (accessed 24 August 2011).

² Press release of the Gulf Coordination Council, الأمين العام لمجلس التعاون: السبيل الأمثل لتجاوز الأوضاع الراهنة التي تشهدها: المملكة البحرين يتطلب وضع المصلحة الوطنية العليا فوق أي اعتبار وبعبدا عن التدخلات الخارجية (Secretary-General of the GCC: best way to overcome current situation in Bahrain requires putting national interest above any other consideration, excludes possibility of foreign interference), 23 March 2011, <http://www.gcc-sg.org/index1998.html?action=News&Sub=ShowOne&ID=1944&T=A> (accessed 24 August 2011).

³ BBC, البحرين: الحكومة تعترف بوقوع انتهاكات لحقوق الإنسان بحق المحتجين (Bahrain: The government admits to human rights violations against protesters), 14 October 2011 http://www.bbc.co.uk/arabic/middleeast/2011/10/111014_bahrain_govt_admits_human_rights_abuses.shtml

⁴ AFP, *Bahrain forces violently disperse protest: opposition*, 4 November 2011, <http://www.google.com/hostednews/afp/article/ALeqM5iTEC3nKE6goA1Nr78OAKNs7GCZJQ?docId=CNG.169f45a6794162076f0de0671b82b663.5f1> (accessed 6 November 2011)

2. Attacks on Freedom of Expression and Association

7. The voluntary commitment made by Bahrain to “ensure that the draft press law does not unduly restrict freedom of expression” does not appear to have been kept.⁵ Recent events demonstrate that the freedom of the press is regularly violated. On 28 March 2011, the Attorney General issued Military Decree No. 5/2011 prohibiting the publication of information concerning ongoing investigations in the name of “national security.” It also permits the authorities to penalize all criticism of human rights violations.⁶ On 3 April 2011, the principal opposition newspaper Al Wasat was accused of “lies, falsification and plagiarism” and suspended.⁷
8. An independent television channel, Lulua TV, was launched by Bahraini activists in London on 17 July 2010 after authorities refused to allow it to broadcast its programming from Bahrain. It is regularly shut down by the authorities despite regular changes to its channel frequency.⁸
9. **Freedom of association** also faces strong constraints: under Legislative Decree No. 21 of 1989, non-governmental organizations (NGOs) in the country require official approval. In September 2010, the government dissolved the board of directors of the Bahraini Society for Human Rights for “administrative and legal irregularities” and named a new director to head it. The authorities have failed to meet their promises to support NGOs and accelerate a draft NGO law.⁹
10. “Political” associations can be created as per Law No. 26 of 2005 but they must be free of any partisan positioning, and not hold political events. The Ministry of Justice can prosecute violations of this act.
11. **The right to assembly and peaceful protest** is regulated by Law No. 18 of 1973 (modified by Law No. 32 of 2006), which obliges organizers to obtain a permit from the authorities at least three days before the planned demonstrations. During the first cycle of the Universal Periodic Review (UPR), Bahrain’s authorities said they did not oppose the holding of peaceful demonstrations and that they were allowed to take place without undue interference.¹⁰ However, this right has been systematically violated in the recent protests which have been marked by mass arrests, torture, summary trials, and the dismissal of 2000 employees¹¹, several hundred of whom have not been reinstated yet. Employers face heavy pressure from the authorities not to rehire them.¹²

3. Arbitrary Detention and the Right to a Fair Trial

12. Arbitrary arrests and detention are common during times of political tensions, especially as elections approach. The administration of justice is also hampered by the political will to punish demonstrators, peaceful opponents, or anyone who denounces human rights violations.

⁵ United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Bahrain*, Geneva, 22 May 2008, (A/HRC/8/19), para. 60.7.

⁶ Communiqué de la FIDH, *Bahrain: risk of blackout on human rights violations*, 1 April 2011, <http://www.fidh.org/Bahrain-risk-of-blackout-on-human> (accessed 21 August 2011).

⁷ Reporters Sans Frontiers press release, *Journalists hounded Bahraini and Syrian authorities try to impose news blackout, kidnapping in Yemen*, 4 April 2011, <http://www.unhcr.org/refworld/pdfid/4d9ab3a32.pdf> (accessed 21 August 2011).

⁸ Alkarama press release, *Bahrain: Activists' TV channel jammed by the Kingdom*, 25 October 2011.

http://en.alkarama.org/index.php?option=com_content&view=article&id=823 (accessed 6 November 2011)

⁹ At the time, the authorities stated that “[t]he draft law on ONGs will be fast-tracked for enactment” (see United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Bahrain*, Geneva, 22 May 2008, (A/HRC/8/19), para. 12). They also made the voluntary pledge that “Bahrain is fully committed to supporting non-governmental organizations through legal and other instruments [...]” (see *National Report submitted in accordance with paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1 - Bahrain*, Geneva, 11 March 2008, (A/HRC/WG.671/BHR/1), p. 12, para. 3(e)).

¹⁰ “The Ministry of the Interior consistently states that it has no objection to peaceful demonstrations provided that they are conducted lawfully and participants do not engage in criminal acts of rioting.” (*National Report submitted in accordance with paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1 - Bahrain*, Geneva, 11 March 2008, (A/HRC/WG.671/BHR/1), p. 27, para. 7(f). In addition, “[T]he Ministry of the Interior stresses its continuous commitment to ensuring that peaceful and lawful assemblies and gatherings take place free from unlawful interference” (United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Bahrain*, Geneva, 22 May 2008, (A/HRC/8/19), para. 17).

¹¹ Human Right Watch press release, *Bahrain's human rights crisis*, 5 July 2011, <http://www.hrw.org/news/2011/07/05/bahrain-rights-crisis> (accessed 14 August 2011).

¹² Al Jazeera, *'Mass sackings' in Bahrain crackdown*, 14 May 2011, <http://english.aljazeera.net/news/middleeast/2011/05/2011514104251715508.html> (accessed 29 August 2011).

13. Arrests are often accompanied by violence committed by members of the police or National Security's special forces without an arrest warrant. In many cases, plainclothes agents of the security services have arrested known members of the opposition or human rights defenders at their homes, after which they carry out searches and seized personal effects. Victims often have no access to their families or lawyers during the first weeks of detention. Almost 1400 people have been arrested by the security forces since the beginning of the events of 2011, the majority for exercising their right to protest. Hassan Mushaima, opposition leader and Secretary-General of the Al-Haq movement, has been the subject of constant harassment. Following seven arrests since 1994, he was again arrested on 17 March 2011 and sentenced on 22 June to life imprisonment in a military court along with seven other activists for "conspiracy against the government."
14. Dozens of opponents have been brought before the State Security Court and sentenced to heavy penalties (including death) in unfair trials based on confessions obtained under torture.¹³ This court is a special court established by the declaration of a state of emergency in March 2011. Trials are not public and, according to lawyers, no open investigation into allegations of torture and the use of signed confessions as incriminating evidence. On 29 June, the King announced that all trials relative to recent events in February and March 2011 would be transferred to the civil courts (Decree No. 62). People condemned in the State Security Court could appeal to the civil court. Twenty doctors and paramedics from Salmaniya Hospital in Manama were arrested in mid-March having been accused of treating demonstrators or talking to the media. They were sentenced on 28 September by the State Security Court to prison terms ranging from 5 to 15 years. Their appeal trial began on 23 October and should be continued in late November 2011.
15. During the UPR in 2008, the authorities claimed to respect the principles of the independence of justice, the equality of individuals before the law, and the right to a remedy¹⁴, adding that judges were under no external influence and no one could obstruct the course of justice.¹⁵

4. Excessive use of Force and the Resurgence of Torture

16. Since the beginning of unrest in February 2011, the security forces have suppressed demonstrations, claiming they are illegal, threaten security and the national interests, and aim to "conspire" against the government. The security forces have used excessive force and sometimes resort to the use of live ammunition, causing the deaths of several people. After the intervention of the Gulf Coordination Council's troops, the repression intensified.
17. Security forces have also attacked health professionals.¹⁶ Hospitals have been surrounded by such forces, as was the case at Salmaniya Medical Centre on 16 March. On that day, tanks surrounded the largest public hospital in the country to prevent the passage of ambulances, wounded people, and medical personnel. Some people were arrested in the hospital and 47 members of the medical staff were brought before the military court on charges of incitement to overthrow the regime. They were also charged with having "refused to provide assistance to people in danger, embezzlement of funds, assault causing death, illegal possession of arms and ammunition and refusing to perform their duties."¹⁷
18. On 28 July, police raided the premises of Doctors without Borders (Medecins sans frontiers, MSF) and arrested one of its employees, Mahdi Saeed. Because they did not have permits for the

¹³ Amnesty International press release, *Bahrain urged to halt execution of protesters*, 28 April 2011, <http://www.amnesty.org/en/news-and-updates/bahrain-urged-halt-execution-protesters-2011-04-28> (accessed 24 August 2011).

¹⁴ *National Report submitted in accordance with paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1 - Bahrain*, Geneva, 11 March 2008, (A/HRC/WG.671/BHR/1), p. 6, para. 3(a).

¹⁵ *National Report submitted in accordance with paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1 - Bahrain*, Geneva, 11 March 2008, (A/HRC/WG.671/BHR/1), p. 7, para. 3(b).

¹⁶ Human Rights Watch press release, *Bahrain: Systematic Attacks on Medical Providers*, 18 July 2011, <http://www.hrw.org/news/2011/07/18/bahrain-systematic-attacks-medical-providers> (accessed 27 August 2011).

¹⁷ Bahrain News Agency, *Justice and Health Ministers Reveal Doctors' Crimes During Recent Unrest*, 3 May 2011, <http://www.bna.bh/portal/en/news/455193> (accessed 23 August 2011).

management of their medical centre¹⁸ the agents confiscated medical equipment and drug stocks. It is likely that the real reason for the raid was the aid given by MSF to nearly 200 injured protesters.

19. In the early 2000s, the authorities had taken significant steps to curb the practice of torture that had been prevalent for decades. During their 2008 UPR, they even claimed that there were no cases of torture in Bahrain.¹⁹ Since 2007, however, torture is the common practice of the security forces. When victims raise allegations of torture, prosecutors often do not record complaints and rarely allow a medical examination to be conducted. In addition, Bahraini legislation does not explicitly prohibit torture and does not define torture according to the UN Convention against Torture. Bahrain further committed to incorporating a definition of torture into its domestic laws during the UPR²⁰ but has yet to uphold this commitment.
20. Decree 56 of 2002 that aimed to establish "national unity" has fostered impunity through amnesty for those who perpetrated acts of torture during the 1990s in the interest of "supporting national reconciliation."²¹ It has been invoked many times when citizens filed complaints against officers.
21. Since the beginning of protests in February, four people – including Karim Fakrawi, a 49-year-old journalist and founding member of the al-Wefaq party – were killed during their detentions, probably following acts of torture.²² Numerous others, including medical personnel, testified to being victims of beatings, verbal abuse, humiliation, and threats of rape to force them to confess to having worked for Hezbollah or having been sent by Iran to overthrow the government.²³ Two former members of the al-Wefaq party, Mr Fairuz and Mr Ghuloom, confirmed after their release on 7 August that they had suffered torture and ill-treatment.²⁴ Abdulhadi Al Khawaja, a human rights defender who was arrested on 9 April, had to undergo several surgeries to the head and face after having been tortured.²⁵

5. The Anti-Terrorism Law of 2006 and the Declaration of a State of Emergency

22. The provisions of the Anti-Terrorism Law of 2006 are contrary to international law, despite the statements of the authorities to the contrary during the UPR in 2008.²⁶ This law vaguely defines terrorism as the action of an organization to "prevent state enterprises or public authorities from performing their duties or seeking to undermine national unity." This law provides the Attorney General with excessive powers to detain suspects without oversight of a judicial authority for a maximum of fifteen days according to its article 27.²⁷

¹⁸ Stewart Catrina, "Aid group condemns armed raid on its Bahrain offices", *The Independent*, 5 August 2011, <http://www.independent.co.uk/news/world/middle-east/aid-group-condemns-armed-raid-on-its-bahrain-offices-2332091.html> (accessed 27 August 2011).

¹⁹ United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Bahrain*, Geneva, 22 May 2008, (A/HRC/8/19), para. 15.

²⁰ United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Bahrain*, Geneva, 22 May 2008, (A/HRC/8/19), para. 9.

²¹ The Committee against Torture expressed its concern about this decree during Bahrain 2005 review "[T]he blanket amnesty extended to all alleged perpetrators of torture or other crimes by Decree No. 56 of 2002 and the lack of redress available to victims of torture", *Conclusions and recommendations of the Committee against Torture : Bahrain*, Geneva, 21 June 2005 (CAT/C/CR/34/BHR), para. 6(g).

²² CNN, *Agency: 4th protester to die in Bahrain may have been tortured*, 13 April 2011, http://articles.cnn.com/2011-04-13/world/bahrain.activist.dead_1_human-rights-watch-bahraini-authorities-bahrain-news-agency?_s=PM:WORLD (accessed 27 August 2011).

²³ Cockburn Patrick, "Bahrain security forced tortured 'patients' ", *The Independent*, 22 April 2011, <http://www.independent.co.uk/news/world/middle-east/bahrain-security-forces-tortured-patients-2272618.html> (accessed 29 August 2011).

²⁴ Alkarama press release, *Bahrain: Two resigned members of the Parliament arrested and tortured by the military forces*, 21 June 2011, http://en.alkarama.org/index.php?option=com_content&view=article&id=753:bahrain-two-resigned-members-of-the-parliament-arrested-and-tortured-by-the-military-forces-&catid=19:communiqu&Itemid=84 (accessed 29 August 2011).

²⁵ Amnesty International press release, *Urgent action : human rights defender tortured in detention*, 6 May 2011, <http://amnesty.org/en/library/asset/MDE11/024/2011/en/048242c2-aa08-4942-ab8c-42c459411325/mde110242011en.pdf> (accessed 29 August 2011).

²⁶ *National Report submitted in accordance with paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1 - Bahrain*, Geneva, 11 March 2008, (A/HRC/WG.671/BHR/1), p. 26, para. 7(f).

²⁷ United Nations News Centre, *Bahrain terror bill is not in line with international human rights law – UN expert*, 25 July 2006, <http://www.un.org/apps/news/story.asp?NewsID=19298&Cr=Bahrain&Cr1=> (accessed 27 August 2011).

23. Numerous activists and human rights defenders have been arrested and detained on the basis of this law. During the 2008 UPR, authorities said that measures to protect citizens from terrorist threats do not target human rights defenders because "their activities are not related to terrorism according to the law."²⁸
24. In addition, the state of emergency declared by the King on 15 March 2011 (lifted on 1 June) instituted martial law, prohibited all demonstrations, and prevented certain people from travelling outside of the country under the pretext of protecting national interests. All associations and NGOs were suspended if their activities were judged to be contrary to the interests of the State. What is more, members of the security forces can arrest any person suspected of being dangerous without any limit to the duration of pre-trial detention before being deferred to the State Security Court.²⁹
25. Many members of the opposition and human rights defenders, arrested in the context of recent uprisings, were convicted under the Anti-Terrorism Law. Abdulhadi Al Khawaja, a human rights defender (referred to above), was convicted on 26 June 2011 by a military court to life imprisonment for "organizing and managing a terrorist organization" and "attempting to overthrow the government by strength in connection with a terrorist organization working for a foreign country".³⁰
26. On 29 June 2011, the King established an independent Commission of Inquiry (Decree No. 28/2011) charged with "investigating the incidents that occurred during the months of February and March 2011 and their consequences."³¹ Its forthcoming conclusions will certainly help clarify international public opinion, although some local NGOs are of the opinion that its mandate is too narrow and limited in time given that violations continue to be committed to this day.

6. Recommendations

1. Put an end to all violence used against demonstrators and respect their right to peaceful assembly and freedom of expression;
2. Modify domestic law in order to guarantee freedom of expression in all forms, notably the press and on the internet. Amend Decrees Nos. 47/2002 on the press, 21/89 on associations, and 18/73 on the right to protest;
3. End the systematic arrests of political opponents or human rights defenders, annul judgments made by the State Security Court, and release all prisoners condemned following unfair trials or those held without trial;
4. Immediately end all use of torture and ill-treatment and proceed to investigate allegations of torture. Prosecute and sentence all those responsible for torture and compensate victims. Integrate a definition of torture into domestic law as the authorities promised in the UPR of 2008. Fight against impunity by amending Decree No. 56/2002 granting amnesty to those responsible for torture;
5. Abolish the Anti-Terrorism Law of 2006 and revisit all judgments made in view of this law and guarantee defendants a fair trial.

²⁸ United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Bahrain*, Geneva, 22 May 2008, (A/HRC/8/19), para. 96(e).

²⁹ Human Rights Watch press release, *Bahrain: Martial law does not trump basic rights*, 16 March 2011, <http://www.hrw.org/node/97372> (accessed 27 August 2011).

³⁰ FrontLine press release, *Bahrain: Front Line's Andrew Anderson highlights the denial of justice in the trial of Abdulhadi Al Khawaja*, 19 October 2011, <http://www.frontlinedefenders.org/node/16337> (accessed 6 November 2011).

³¹ Bahrain News Agency, *HM King Hamad Sets up Royal Independent Investigation commission*, 29 June 2011, <http://bna.bh/portal/en/news/462963> (accessed 29 August 2011).