

**SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF ALL FORMS OF
DISCRIMINATION AGAINST WOMEN**

**On the occasion of the review of Bahrain's Third Periodic Report at the
Committee's pre-sessional working group, July 2013**

Submitted by The Bahrain Centre for Human Rights (BCHR)

with the support of FIDH

Introduction

The *Bahrain Centre for Human Rights (BCHR)* is a leading human rights organisation in Bahrain that monitors the human rights situation in the country and focuses on tackling discrimination and promoting universal human rights and democracy.

In cooperation with Caram Asia and with the support of FIDH, BCHR submitted an alternative report to the Committee in 2008. This report focused on the situation of women migrant domestic workers in Bahrain. It was then decided to tackle specifically this issue as there were specific concerns on an issue which was at this time not specifically addressed.

Since February 2011, the violent repression against the protest movement in Bahrain led to human rights violations that affected, and even specifically targeted, women's rights.

This report will examine the implementation of key observations made by the CEDAW Committee in 2008 and highlight the consequences of the current crisis in Bahrain on the fundamental rights and freedoms of women.

Chapter I. A discriminatory legal framework

By ratifying the CEDAW Convention, Bahrain undertook to eliminate all forms of discrimination against women. However, many forms of gender-based discrimination remain evident in Bahrain. Women in Bahrain continue to be victims of discriminatory laws and practices, in both the public and the private spheres.

1. Impact of the reservations to CEDAW on women's rights

Bahrain ratified the CEDAW Convention in 2002 with reservations to key provisions. According to the reservations, the following provisions apply only as far as they are compatible with the provisions of Sharia: article 2 (adoption of measures to eliminate discrimination); article 9(2) (transmission of nationality to children); article 15(4) (freedom of movement and the choice of residence); and article 16 (marriage and divorce).

In its concluding observations of October 2008, the CEDAW Committee called on Bahrain to withdraw its reservations, stressing that these reservations are "contrary to the object and purpose of the Convention". Yet, the Government of Bahrain has not carried out any action in this regard since the 2008 review.

These reservations echo back a discriminatory legal framework as well as practices that undermine gender equality and the human rights of women in Bahrain.

2. Constitutional provisions and other discriminatory laws¹

The reservation on article 2 is related to several provisions of the Constitution. Article 2 provides that Sharia is "a principal source for legislation" and according to article 5 (b), "The State guarantees reconciling the duties of women towards the family with their work in society, and their equality with men in political, social, cultural, and economic spheres without breaching the

¹ See FIDH, *Women and the Arab Spring: Taking their place?*, March 2012, available at : <http://arabwomenspring.fidh.net/index.php?title=Bahrain>

provisions of Islamic canon law (Sharia)". Article 5 (d) specifies that "inheritance is a guaranteed right governed by the Islamic Sharia".

Family laws

The Bahrain judicial system is composed of civil courts and courts applying Sharia law. The latter, which are divided into Sunni and Shi'a courts, deal with family-related matters. Presiding judges are generally conservative, religious scholars with little formal legal training and decisions are based on the judges' individual interpretations of Sharia law. In Sharia courts, a woman's evidence is worth half that of a man.

Until recently there was no legislation governing family life in Bahrain. In 2008, the CEDAW Committee called on Bahrain to adopt a unified family law "so that discrimination relating to marriage, divorce and child custody can be eliminated".

Women have long been subjected to severe forms of discrimination in Shari'a courts by judges who have issued rulings based on their personal interpretation of Islamic texts, instead of codified law.

The process has been so arbitrary that in some instances women's petitions were turned down even before the plaintiffs had an opportunity to present their case. The new law² encompasses many provisions from the Sharia law and does not comply with international conventions.

Marriage

In 2007, the Minister of Justice and Islamic Affairs set the minimum legal age for marriage for girls at 15 and for boys at 18. Polygamy is permitted. In 2008, the CEDAW Committee called on Bahrain to increase the minimum legal age for marriage to 18 for both sexes and to ban polygamy.

Although there are numerous discriminatory provisions in the 2009 Personal Status Law, it includes some provisions to protect Sunni women, such as the condition that a woman must consent to marriage.

Divorce

Men can initiate divorce unilaterally; Sunni men only need to express an intention to divorce orally, while Shi'a men must register a request with a court of law. Women must apply to a court and provide evidence of specific grounds for divorce, such as the husband's impotency or desertion. Women may also initiate a no-fault divorce (*khula*), which requires the return of the dowry (*mahr*).

Custody of children

The 2009 Personal Status Law grants divorced Sunni women custody of their daughters up to the age of 17 years and sons up to the age of 15 year. Divorced Shi'a women have the right to custody up to age 7 for sons and 9 for daughters. In both cases, the father retains parental authority and may therefore, for example, prevent his ex-wife from travelling with their children.

² <http://www.moj.gov.bh/default7850.html?action=article&ID=1620>

Inheritance

The right to inheritance is governed by Sharia law for both Shi'a and Sunnis (Constitution, art. 5 (d)), under which women inherit half of the share of men.

Nationality

Women cannot transmit their nationality to their children or husbands, although the 1963 Bahraini Citizenship Act (amended in 1981) grants these rights to men (art. 4, 5, and 7). In October 2008, the CEDAW Committee called on the government to speed up reform of the nationality law.

Thousands of children born of a non-Bahraini father and a Bahraini mother are waiting to receive Bahraini nationality. In December 2011, the King of Bahrain granted Bahraini nationality to 335 children of Bahraini women married to non-Bahraini nationals through a royal decree. But as of the end of 2011, there were 2,662 children who had introduced between 2004 and 2007 requests to be granted Bahraini citizenship. 397 applications submitted in 2008 were also under review.

Royal decrees remain the only mechanism to grant nationality to children of a Bahraini mother married to a non-Bahraini father.

Recommendations

BCHR calls upon the CEDAW Committee to encourage the Kingdom of Bahrain to not further delay and to take immediate steps to implement the recommendations that the CEDAW Committee addressed in 2008 including,

- to withdraw all reservations to the CEDAW Convention;
- to adopt an Unified Family Law;
- to raise the minimum age of marriage of girls from 15 to 18, and to take measures to end polygamy; to reform the nationality law in order to guarantee that Bahraini mothers can pass on their nationality to their children without any restriction.

Chapter II. Increased violations of the right to political and public participation of women.

In its concluding observations of October 2008, the Committee urged the Government of Bahrain to take measures to increase political participation of women. However, this recommendation was mainly limited to participation in institutions and political parties, as the political situation in Bahrain was at the time, quite calm.

However since the last review of Bahrain by the Committee, the situation has considerably changed. Recent events have confirmed unequivocal restrictions to the enjoyment of these rights by women.

1. Women's representation in political life

Participation by women in the national government and decision-making positions also remains low.

Women have been the victims of power struggles, sectarian differences, mismanagement of the government, and unfair distribution of national wealth and resources.

With regard to political rights, women in Bahrain have participated in elections as candidates and as voters, but only ten other women out of 40 members have been appointed in the "Shura" council based on their loyalty to the ruling family.

Representation in government

As of July 2013, there were three female ministers: Mai Al-Khalifa, Minister of Culture, Fatima Al-Blooshi, Minister of Human Rights and Social Development, and Samira Ben Rajab, Minister of State for Information Affairs.

Representation in Parliament

Council of Representatives (lower house): In 2010, there were nine women candidates, but only Latifa Al-Qa'oud was elected in an uncontested seat. In October 2011, in by-elections organised to fill the seats of members of parliament who had resigned during the protest period, three more loyalist women were elected (two following contested elections). Women currently represent 10% of the 40-seat parliament.

Consultative Council (upper house - Shura council): Members are appointed by the King. Women hold 11 of 40 seats, or 27.5%.

Representation in local councils

The first and only woman municipal councilor, Fatima Salman, was elected in 2010 in Musharraf.

Representation in the judiciary

There are seven women judges in the civil courts. There are no women judges in the Sharia courts that deal with all issues concerning family law.

Discrimination against women in the media

The media today play an important role in people's lives, and Bahraini women have always been steady but underrepresented participants in this field.

Bahrain media cover traditionally female topics such as family, fashion, beauty, and cooking.

2. Repression of the popular movement and subsequent violations of human rights

From the outset of protests in Bahrain, women have been at the forefront of demonstrations calling for political and social reforms. Women doctors, nurses and fellow protesters have provided treatment to the injured. Women teachers have joined in calling for national strikes. Women journalists and activists have alerted the international community on ongoing repression of peaceful protests.

Women, like men, have been the victims of violent repression by security forces and many have been assaulted. Several have been killed during protests. On 15 March 2011, Bahiya Abdelrasool Alaradi was shot in the head by members of the Bahrain military while driving her car. Many women have been arrested, detained and tortured. Several women have been prosecuted before the emergency military tribunal, the National Safety Court, in proceedings that flagrantly violated international standards on the right to a fair trial, receiving sentences of up to 15 years imprisonment.

The regime has targeted political opposition leaders and human rights defenders, but also doctors, nurses, teachers, men and women, for their perceived role in protests. Several women remain in prison for charges related to freedom of expression and freedom of assembly.

3. Flagrant human rights violations in the context of the repression of the protest movement, including of Article 7 of the Convention

According to the 2002 Constitution, “people are equal in human dignity, and citizens are equal before the law in public rights and duties” and “there shall be no discrimination among them on the basis of sex” (art. 18). The Constitution further states that, “citizens, both men and women, are entitled to participate in public affairs and may enjoy political rights, including the right to vote and to stand for elections” (art. 1 (e)).

As already mentioned, this provision is strongly mitigated by other provisions, in particular article 5 (b) of the Constitution.

Numerous violations, including of article 7 of CEDAW, under which the State party shall “take all appropriate measures to eliminate discrimination against women in the political and public life” and guarantee (7 (c)) the right “to participate in non-governmental organizations and associations concerned with the public and political life of the country”, have been documented over the past two years.

Officials have released statements warning families against the participation of women in protests. Such statements represent not only a violation of women’s right to participate in public life but also, tend to encourage the perpetuation of patriarchal attitudes maintaining women under the responsibility of the family.

According to a statement released by the Interior Ministry Assistant Under-Secretary for Legal Affairs on 29 September 2011, “the ministry calls on parents to abide by the Bahraini customs and traditions to protect women and preserve their dignity by not encouraging them to take part in illegal acts.”³

The following day, in a statement, the Ministry of Interior reiterated this call: “The ministry hit back at those who hid behind, pushing women to break the law. It urged decent Bahraini families to

³ Published on Bahrain News Agency’s portal: <http://bna.bh/portal/en/news/474273>

steer women away from flouting the law to spare them any danger or affront.”⁴ The statement also warned against deliberately politicizing the issue.

The so-called “illegal acts” which these statements referred to were peaceful protests of a group of women which took place at a shopping centre in Manama on 23 September 2011. The group was arrested and was allegedly ill-treated. These cases have been documented by Amnesty international, which has denounced a series of violations including possible ill-treatments against some of those arrested.⁵

In the light of such statements, the repression against the protest movement which has also targeted women and girls and, in numerous instances, have constituted violations of international human rights standards and in particular, freedom of expression, freedom of association and of peaceful gatherings, can also be regarded as a way to deter women from being involved in demonstrations or even in human rights or trade union activities.

Five women were sentenced to six months in detention on 17 January 2013 on the charge of “illegal gathering”. Being subjected to harassment and fearing dawn house raids, they turned themselves in to serve the prison sentence⁶.

In 2011, the main universities in Bahrain conducted mass dismissal of students based on their political positions, opinions, views, as well as their social media posts. Estimates place the number of dismissed female students at about 200⁷. Several girls’ schools, including primary schools, were repeatedly raided by the security forces; some students and teachers were arrested after being insulted and beaten. In the interrogation centres students and teachers were cursed and sworn at, beaten and had their scarves (Islamic dress) removed. They were also threatened and had their beliefs insulted and their patriotism questioned.

Other sanctions have also been reported Bahraini authorities against students. Even if the girls’ education enrolment in Bahrain is high at all levels of the educational system, Bahraini girls and women still face limits related to traditional attitudes and the conservative family concerns in particular in the possibility to travel abroad for studying. In this regard, several students including girls, have been prevented (travel bans or suspension of scholarship) from resuming their courses in foreign universities. Such repressive acts have indiscriminately concerned male and female students but can have in some instances, more serious consequences for female students as an impediment of women empowerment.

Human rights activists and unionists targeted by repression

Several women are among the activists, including unionists and human rights defenders, who have been specifically targeted by the regime in the context of the popular protests. The means of repression against these women activists are similar to those used against men (judicial

⁴ Idem: <http://www.bna.bh/portal/en/news/474822>

⁵ <https://www.amnesty.org/en/news-and-updates/torture-fears-bahraini-women-and-girls-detention-2011-09-26>

⁶ See for further details: ... These women are : Fatima Al-Naino, 17 years old, is a high school student. She has been subjected to harassment by the authorities; Khadija Hubail, 16 years old, in her last year of high school; Zainab Duhaim, 21 years old, is engaged to be married and was studying at the university until she was forced to withdraw due to the harassment; Fatima Al Jishi, 22 years old, a university graduate; Aqeela Al-Muqabi, 25 years old, a university graduate.

⁷ For more background information, see: <http://bahrainrights.org/en/node/4832>

harassment; torture and ill-treatments, etc.) However cases of gender-specific violations have been documented.

Rula Al-Saffar, scholar and president of the Bahraini Nursing Society, provided treatment to injured demonstrators at Salmaniya Medical Centre in Manama. On 4 April 2011, she was arrested and held in custody for five months, during which time she was subjected to torture, sexual assault and threats of rape.

In September 2011, Rula Al-Saffar was with **Nada Dhayf**, a doctor and human rights activist who volunteered medical assistance during protests⁸, among 20 medics convicted by the National Safety Court, following a trial that lasted just a few minutes, for offences including “unauthorized possession of weapons and ammunition”, “inciting sectarian hatred” and “inciting the overthrow of the regime”. They were both sentenced to 15 years in prison. Both had their verdicts dismissed by the Appeals Court in June 2012.

Jalila Al-Salman, the Deputy President of Bahrain Teachers Association, has been arrested three times since March 2011. She was first arrested on 29 March 2011 during a house raid conducted by more than 40 masked members of the security forces that broke into her house and terrorized her family. She was beaten, threatened with rape and denied access to her family and lawyer⁹.

Jalila Al-Salman was sentenced by a military court to three years in prison in 2011, a verdict which was reduced to six months’ imprisonment on 22 October 2012. The charges against her included “inciting hatred against the regime”, “calling for a teachers strike”, and “participating in and calling for illegal gatherings”. Human rights groups have denounced what appeared as politically motivated charges related to the role that the Teachers Association has played since the beginning of the popular uprising in Bahrain. In February 2013, she received a letter from the Ministry of Education, stating that [she had been fired](#) from her position with them, despite her case still being pending at the Court of Cassation. Her dismissal came days after speaking publicly about human rights in Bahrain at an event in Washington. In addition, she has been [targeted by pro-government media](#) with smear campaigns calling for charges to be brought against her as retribution for her engagement with and activism at the UN Human Rights Council. <http://bahrainrights.org/en/node/5740>

In 2011, over 4000 employees were sacked from their jobs on basis of their political affiliation, views, and opinions. According to statistics from the general federation of Bahrain Trade unions, 30% of the sacked employees were women. Some of them were later reinstated in their jobs.

Judicial harassment against human rights activists has been continuing. Over the last year, activist **Zainab Al-Khawaja** was arrested several times for participating in peaceful protests. She

⁸ Dr Nada Dhaif volunteered medical assistance, together with other medics, at the medical tent at Pearl roundabout and administered treatment to people who were not able to access the main hospitals during the demonstrations. She was arrested on 19 March 2011 by security forces and detained for nearly 2 months, during which time she was tortured, FIDH, op. cit., p48

⁹ In an [interview about her detention, Jaleela states](#) “I was in solitary confinement, it was very, very dirty. The walls were covered in dried blood. There was a hook hanging off the ceiling. There were no windows. I was forced to stand for almost all of the time. Every five minutes someone would come inside my cell. I was not allowed to lie down or even to go to the toilet or to have water. Because of that I had to be treated for kidney problems. The food they gave me was full of hairs, sand and dirt. I am on medication for high blood pressure and they only allowed me to take it on the fifth day. By that time I was in a really bad state and I was fainting during questioning. Still, I was never allowed to sit down.”

has been imprisoned since 27 February 2013 after she staged a one-person protest in front of Hamad bin Salman's/King's palace, holding a sign that stated: "You have arrested our fathers and children, (...). Let your palaces hear, we don't fear your prisons". She is currently serving nine months and 22 days of prison sentences for multiple charges that include "entering a restricted area" (the Pearl roundabout area), "damaging Ministry of Interior property" (tearing a photo of Hamad bin Salman Al-Khalifa, the King of Bahrain), "insulting a police officer", and "illegal gathering". A full list of the cases against her can be found full [here](#)¹⁰.

Al-Khawaja has been prevented from meeting with her family, including her three-year old daughter, since 4 March 2013¹¹.

Recommendations

BCHR calls upon the CEDAW Committee to encourage the Kingdom of Bahrain:

- to fully guarantee the participation of women in public and political life and to amend domestic law accordingly;
- to put an end to all forms of repression including judicial harassment against those who exercise their legitimate right to freedom of association, expression and opinion, including women human rights defenders and unionists;
- to guarantee the right to freedom of association and to freedom of opinion and expression;
- to implement without any further delay "all appropriate measures (...) to accelerate the increase of women in (...) Councils" and "to undertake awareness-raising campaigns about the importance of women's participation in decision-making at all levels", as recommended by the Committee in 2008.

Chapter III. Violence against women

1. Domestic violence

In 2008, the Committee expressed concern over the absence of laws sanctioning violence against women, in particular domestic violence, and called for the adoption of legislation criminalising all forms of violence, including marital rape. The Committee also called for the reform of article 535 of the Penal Code, which exempts perpetrators of rape from prosecution and punishment if they marry their victims.

The phenomenon of violence against women represents one of the most dangerous social phenomena that arouse concern. It is also considered to be an indicator of the receding human and moral values in society, resulting in a number of negative results both at the levels of society and of the family, especially taking into consideration the increase in the frequency of violence, in all its forms, against women.

¹⁰ https://docs.google.com/document/d/1JkGo_Uhldvfs3SQbb0TTilzGSxtemKvTmqtwBRB0o_c/edit?pli=1

¹¹ For more information, see: <http://bahrainrights.org/en/node/5740>

The failure to adopt legislation and criminal laws that protect women should be added to this picture. As a result, many violently abused women do not resort to police stations or hospitals to report violence inflicted on them, either to avoid scandals or out of fear for the negative reaction of society, or due to total ignorance of their rights.

Many victims do not report the circumstances of their abuse, as they feel ashamed or worried about suspicions in their report, or fearing that they may not be believed, or may be exposed to additional violence. Hence, the absence of information and accurate statistics does not negate the presence of this phenomenon from which many Bahraini women suffer. Domestic violence is tremendously under-reported.

Domestic violence continues not to be specifically addressed in the Criminal Code. There is no specific law criminalizing domestic violence. Sexual harassment and domestic abuse against women is commonplace, with very little institutional support for victims, and marital rape is not considered a crime under the Bahraini law.

Domestic violence in Bahrain is thought to be widespread, but it is usually covered up and kept secret within the family. Studies carried out indicate that 30 percent of Bahraini women face some sort of domestic abuse.

Although "honor killings" are punishable under the law, the Criminal Code provides for reduced sentences for the authors of "honor crimes" (art. 334). The Code allows a lenient sentence for the killing of a spouse who is caught in the act of adultery (this applies to both women and men who find their spouse committing adultery).

Rape (although, not of a spouse) is a crime punished with life in prison. But under the Criminal Code, perpetrators of rape can avoid prosecution by agreeing to marry the victim (article 535).

2. Specific violence perpetrated by security forces and governmental institutions against women in the context of the repression of the popular movement

The repression of the popular movement in Bahrain has also led to acts of violence against women. Gender-based violence is not specifically criminalised in domestic law.

Cases of women assaulted when their homes are raided at night in search of wanted family members have been documented. Fatima, Sallah Al-Khawaja's wife was beaten, threatened, demeaned and intimidated when her house was raided on 21 March 2011 for the arrest of her husband. After arresting Sallah, the security forces went to his wife's bedroom, where she was sleeping with her children, and pointed a gun on her 10-year old daughter's head forcing her to leave the bed. The children were put in a corner of the room while Mr Khawaja's wife was pulled from her hair from room to room. They asked her the whereabouts of her wanted nephew, when she told them she did not know, they threw her on the floor in a dark room where five men started beating, kicking and slapping her. They insulted her and verbally abused her using obscene words. One of the men put his genitals on her face. She says she was terrified and feared for her children and honour. She still fears they might come back to attack the house even after the arrest of her husband. Days after the event, the beating marks were still visible on her arm and leg.

Television channel France 24 Correspondent **Ms. Nazeeha Saeed**, who reported on pro-democracy demonstrations held at Bahrain's Pearl Roundabout in the spring of 2011, was detained after being called into a Bahraini police station for questioning in May 2011. There, she

was blindfolded, kicked, punched, and slapped. Her hair was pulled, she was whipped with plastic tubing, had a shoe forced into her mouth and her head dunked into a toilet. An unknown, caustic liquid said to be urine was poured onto her face, she was repeatedly insulted and mentally abused and asked to make a false confession. Three independent medical reports, two of which were from Bahraini government doctors, corroborate Ms. Saeed's account of the [torture she suffered while in custody](#)¹². On October 22, 2012 a court in Bahrain has acquitted a *female officer* of her charges of torturing Nazeeha Saeed. *The ruling was upheld by the Appeals Court in June 2013.*

Dr. Fatima Haji, a 34-year old mother of two boys, a 4-year old and a 4-month old, who is an Internal Medicine Rheumatology specialist, was arrested at her home around midnight on 17 April 2011. During her detention, which lasted 21 days, including three in solitary confinement, Dr. Fatima was subjected to different types of torture: slapping on the face, severe beatings, beatings with a rubber hose on the feet, electrocution to the head, sleep deprivation, standing for long hours without food or drinks, prevention from using the toilet, hanging from her wrists, threats of execution and rape, threats to kill her child. Dr. Fatima was then sentenced to five years imprisonment by a military court on trumped up charges. She was later found innocent, but the Ministry of Health refuses to reinstate her, which means that she is not allowed to practice medicine. **Noura Al-Khalifa**, a member of the ruling family, took part in Dr. Fatima's arrest and torture. A case was filed against Noura, then dropped after the first hearing¹³.

3. Trafficking in Bahrain

While prostitution is illegal in Bahrain and a law on the elimination of trafficking has been adopted in 2008, there is evidence that a number of foreign women, particularly Asian women, were forced into commercial sexual exploitation through deception or intimidation¹⁴. Although many women traveled to the country voluntarily, traffickers reportedly used false job offers and physical force to traffic some of them into commercial sexual exploitation.

In cases of forced prostitution, it has been reported that there have been prosecutions of victims. Cases of prosecutions of the victim's sponsor or employer have also been reported. However, the Government has not provided any specific details on such cases.

The fear of deportation or employer retaliation prevents many victims of trafficking from filing complaints with the authorities.

Recommendations

BCHR calls upon the CEDAW Committee to urge the Kingdom of Bahrain to implement its previous recommendations, in particular:

- Adopt a specific law punishing violence against women, including domestic violence and gender-based violence;

¹² See Reporters without borders press release at www.bahrainrights.org/en/node/4151

¹³ The full testimony can be found here: http://www.doctorsinchains.org/?page_id=160

¹⁴ See among others, www.bchr.net/ar/node/5329 and US Report about Trafficking http://bahrain.usembassy.gov/news_from_washington/bahrain-trafficking-in-persons-report.html

- Reform article 535 of the Penal Code, which exempts perpetrators of rape from prosecution and punishment if they marry their victims;
- Criminalize all forms of violence against women, including marital rape and gender-specific violence;
- Effectively implement the law on human trafficking and introduce and implement a strategy that includes measures of prevention, prosecution and punishment of offender as well as measures to protect and rehabilitate victims.

In addition to this, the Committee should also call upon the Kingdom of Bahrain:

- To put an end to all kinds of gender-based violence, to carry out independent and transparent investigations into all cases of ill-treatment and torture, including gender-specific violence, and to order the review of judicial cases during which flagrant violations of fair trial guarantees were reported;
- Provide support, protection and rehabilitation to victims of violence (domestic violence and violence perpetrated by institutional bodies, in particular law enforcement officers).