<u>Submission for Bahrain's List of Issues Prior to Reporting (LOIPR) under the</u> <u>Convention on the Elimination of Discrimination Against Women (CEDAW)</u>



Prepared by Americans for Democracy & Human Rights in Bahrain (ADHRB)

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i. <u>Submitting Organization</u>

1. ADHRB is a non-profit organization fostering awareness of and support for democracy and human rights in Bahrain and the Middle East. ADHRB holds ECOSOC consultative status with the United Nations (UN).

1. Introduction

- 2. Despite ratifying the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2002, discrimination against women remains widespread in Bahrain. Bahrain maintains reservations surrounding Article 2; Article 9 paragraph 2; Article 15 paragraph 4; Article 16; and Article 29 paragraph 1.ⁱ Special Procedures offices have repeatedly communicated with Bahrain to address the situation of gender discrimination. Bahrain has not allowed any Special Procedures mandates to visit since 2006 despite requests, including from the Working Group on discrimination against women.ⁱⁱ
- 3. This submission demonstrates the continued trend in widespread and systematic discrimination against women in Bahrain. The CEDAW Committee has expressed concern over wide-reaching discrimination, including the absence of legislation directly addressing gender discrimination and the slow rate of implementation for new reforms.ⁱⁱⁱ The Convention ensures women the right to employment, education, and economic and social activities absent of gender discrimination, and additionally asserts equal rights within marriage and family life to the woman and man.^{iv} Bahrain, however, exhibits consistent discrimination against women in sectors of employment, in marriage, and even obtaining justice, including due to their reproductive roles, which the Convention prohibits.

2. Discrimination within the Justice System

a. Violence Against Women

- 4. In August 2015, Bahrain promulgated Law 17/2015 granting the Office of Public Prosecution (OPP) and the courts greater authority to address domestic violence.^v However, the law still does not criminalize spousal rape. Bahrain's most recent ICCPR review, CEDAW review, and ADHRB's UPR submission highlighted concerns involving Article 353 of Bahrain's Penal Code, which mandates "no penalty shall be inflicted against a person who has committed [rape or assault] if he was subject to a final court judgement before concluding the marriage, such judgement shall be subject to a stay of execution and its penal effects shall cease."^{vi} This law allows for the perpetrator to rape a victim, marry her to escape punishment, then divorce her.^{vii} Meanwhile, criminal charges for sexual relations outside of marriage and prostitution are disproportionately enforced against women.^{viii} The Human Rights Committee expressed concern over the slow rate of repeal of this section of the Penal Code,^{ix} while the most recent CEDAW committee observations expressed the same concerns, in addition to raising the lack of data on cases reported to the Supreme Council for Women or police.^x
- 10. Female victims of domestic violence rarely seek justice against their abusers. When women do take legal action, the justice system does not hold perpetrators accountable in a way that deters criminal behavior.^{xi} Probable sentences against a convicted domestic abuser include less than a week in jail and a fine, along with a signed pledge,^{xii} signaling extremely lax repercussions for perpetrators of domestic and gender-based violence. Women have reported lack of clarification on points of contact when filing a complaint, while interview processes for complaints put the victim and the perpetrator in the same police station, leaving victims vulnerable.^{xiii} While the Bahrain Center for



Human Rights reported that 30 percent of women in the state have experienced abuse,^{xiv} the issue remains widely under-reported.

11. Joint communication BHR 9/2017 addressed the psychological and sexual torture of female detainee Ebtisam al-Saegh, a prominent human rights defender. On 26 March 2017, she was interrogated by the National Security Agency and was subjected to sexual assault, threatened with rape, received threats to her family, and was beaten. ^{xv} She recently publicly acknowledged being raped by NSA officers.^{xvi} Ms. al-Saegh has been the subject of two prior joint communications from Special Procedures – BHR 4/2016^{xvii} and BHR 8/2017^{xviii} – addressing allegations of torture, brutality, and travel bans for her human rights work. The use of sexual torture and verbal sexual harassment are frequently cited as intimidation methods of Bahrain's security forces. Another Bahraini woman Taiba Darwish was arrested and sentenced in March 2016 on charges of "harboring fugitives," stemming from her having rented part of her home to activists. ^{xix} Ms. Darwish was diagnosed with uterine fibroids prior to her arrest and in April 2016 prison authorities did not allow her to receive a direct examination without an officer serving as an intermediary between patient and doctor. A medical report was not provided, nor has she since received consistent medical treatment. Authorities threatened to remove her uterus if she did not improve.^{xx}

b. Discrimination Against Migrant Women

- 12. Under the *kafala* system, migrant laborers are required to obtain sponsorship from an employer to work. This system is effective in supplying labor for the domestic labor force an economic sector that is disproportionately comprised of women. Bahrain has taken steps to formally dismantle the Kafala system, including the establishment of a flexible work permit allowing self-sponsorship, but it is unclear whether this system applies to migrant domestic and service workers, and some more exploitative actions, such as wage withholding and passport confiscation, persist.^{xxi} Domestic workers may be subject to abuse, including sexual abuse, and have difficulty achieving justice due to the nature of labor courts and refusal of employers to attend hearings.^{xxii} Migrant women attempting to escape from their sponsors may face repercussions for breach of contract.
- 13. In Bahrain's Isa Town Women's Prison, reports have indicated that migrant women were subject to commonplace and casual violence by prison officials.^{xxiii} Immigrant women are typically housed in the Women's Removal Centre,^{xxiv} where reports have noted a lack of surveillance cameras,^{xxv} leaving women vulnerable to further unmonitored violence by prison authorities.

c. Gender Discrimination in Nationality Law

- 14. Law No. 10 for 1981 maintains discriminatory stipulations on the transference of nationality. Under this law, nationality may only be passed down through the father, while Bahraini women may only confer their nationality when the father of the child is unknown or not legally related to the children. If the father is not Bahraini, neither the child nor the father may obtain citizenship through the woman.^{xxvi} Nationality has occasionally been granted to children by royal decree.^{xxvii} In January 2014, Bahrain's Prime Minister referred a draft law to the National Assembly permitting Bahraini mothers to confer nationality to children of non-Bahraini fathers, ^{xxviii} but it has not yet been promulgated. Previous CEDAW committee observations expressed concern for the slow rate of implementation.^{xxix}
- 15. Born stateless, a child is at risk of being unable to enroll in the educational system, own property, or obtain healthcare, and may face travel restrictions. Unless children obtain sponsorship from other family members, they must renew residency permits annually and gain sponsorship from an



employer once they reach adulthood.^{xxx} Without inheriting nationality from their mothers, children are vulnerable to any of the aforementioned risks.

d. Discriminatory Reprisals

- 16. Female human rights defenders are consistently targeted for reprisals. At times, these reprisals are discriminatory in nature, targeting female relatives of prominent human rights defenders. Hajer Mansoor, mother-in-law of human rights defender Sayed Ahmed AlWadaei, has been targeted for her son-in-law's activism. In 2017, authorities arrested Ms. Mansoor and two other family members on charges of planting a "fake bomb" on a public road. They were convicted under Bahrain's counter-terror law and are serving prison sentences.^{xxxi} When Bahrain's reprisals against Ms. Mansoor and her family were reported by the Secretary-General in September 2018, she was subjected to assault by prison authorities.^{xxxii} In response to these allegations, Bahrain's Ministry of the Interior (MoI) Ombudsman released a statement claiming that Ms. Mansoor was not subjected to abuse by prison guards, but instead injured herself.^{xxxiii}
- 17. Funding cuts for women's organizations have put women in an increasingly vulnerable position. In June 2016, the Bahraini government cut funding for 13 women's rights NGOs, including a charity that provided support for victims of domestic abuse. Women who left their abusers and were single mothers relied on fundamental support from these organizations to both obtain emotional and legal support to sustain their families.^{xxxiv} Cuts in funding for these organizations are believed to be a government reprisal against non-profit organizations, particularly the Bahrain Women's Union for its 2015 report on the government's failure to adhere to the CEDAW.^{xxxv}

3. Discrimination in Political and Public Space

a. Women's Rights Defenders

18. The Government of Bahrain has barred women human rights defenders from their right to free expression and association consistently. From 2011 to 2015, BCHR documented 300 arrests of women human rights defenders relating solely to charges based on the exercise of the rights to free expression, assembly, and other fundamental rights. ^{xxxvi} Leader of the Women's Petition Committee Ghada Jamsheer was arrested as she was returning to Bahrain on 15 August 2016. She was originally arrested in 2014 after officials accused her of defamation for tweets she posted, and was released after 10 weeks in Isa Town Women's Prison. On 14 March 2016, security forces rearrested Zainab al-Khawaja on charges related to her peaceful dissent against the government. She was detained for two months along with her 1-year-old son until releasing her for "humanitarian" reasons on 31 May 2016. She fled the country in 2016 after further threats of arrest. Her sister, Maryam al-Khawaja, has also been subjected to government targeting.^{xxxvii}

b. Political and Economic Representation

19. Despite the adoption of national models for women's empowerment, Bahrain maintains discriminatory practices in political and economic spheres. In 2017, female economic participation was assessed at .537, dropping from 2015, with women earning about 21 percent less than men.^{xxxviii} Leadership positions are notoriously occupied by men in politics and business, while women report discrimination over their potential to get pregnant and working harder for recognition.^{xxxix} Bahrain favors male candidates for elected office, while women have reported harassment.^{x1} Women's roles in government have also decreased, with women in Parliament hovering around 8.1 percent in 2017



and women in Ministerial roles falling to 4.8 percent.^{xli} In political empowerment, women held a ranking of 0.037 in 2017.^{xlii} Numerous bodies have recommended temporary special measures to be implemented to increase the role of women in government.

4. Social Discrimination of Women and the Girl Child

a. Family Law, Forced and Child Marriages

- 20. Legislative Decree No. 19 of 2017 amended Law No. 19 of 2009, the Family Law. xliii Article 17 states that finds that, under Sunni jurisprudence, a guardian may not marry a woman he has guardianship over without her consent, "or" with the approval of a judge, ^{xliv} effectively providing a loophole to a woman's consent. Should a woman not have a guardian, the judge is to become her guardian.^{xlv} Under Article 40, a woman may not prevent pregnancy without excuse or permission from her husband, nor may she leave the marital home without legal excuse.^{xlvi} The law also makes it difficult for women to divorce their husbands. The government may document the retraction of a divorce the husband has filed without the required permission of the wife for a revocable divorce while the woman is in the iddah, instead simply notifying her.^{xlvii} The law maintains stipulations around the woman's agency in a divorce, delineating that separation may occur "at the request of and with the consent of the husband with the payment of compensation . . . called Khula," under Article 81.^{xlviii} However, women often do not have the financial means to repay the Khula, while men may fabricate a more substantial dowry to be repaid than was initially given.^{xlix} Should a husband abandon his wife and she cannot file for divorce, she is barred from claiming any welfare benefits though she may still be legally responsible for child care. Social welfare benefits may be received only through husbands, and should a woman attempt to file for divorce based on abandonment, she risks being "blacklisted" socially and further disadvantaged from receiving aid from friends or family.¹ Fathers retain full guardianship over children until age 21, and automatically gain custody for children over age 9 (girls) and 7 (boys) in the event of divorce. Sunni women also may only inherit a small portion of a deceased husband's property in absence of a direct male heir, while male relatives receive a full share.^{li}
- 21. Under the law, marriage of a girl under the age of 16 is prohibited only if performed without the permission of the Shari'a Court after checking the girl's suitability for marriage,^{lii} effectively legalizing child marriage by definition of adulthood under the UN Convention on the Rights of the Child.^{lii} Currently, the minimum marriage age is 18 for men and 15 for women, indicating failure by Bahrain to bring its marriage age in line with international standards. Married women between the ages of 15 and 19 the range that the World Economic Forum categorizes as "early marriage" accounted for approximately 4% of Bahrain's population in 2015, or roughly 53,600 people. A member of the Women and Children's Committee of the Shura Council called for the marriage age for girls to be raised to 18 a suggestion that saw minimal efforts to be implemented.^{liv} The ICCPR review further reported continued instances of early marriage.^{lv}

e. Free Movement

22. In August 2016, the Ministry of Justice and Islamic Affairs (MOJ) announced a policy that mirrored neighboring Saudi Arabia, requiring women under the age of 45 to be accompanied by a male guardian to participate in the hajj, preventing single women, divorced women, and women who do not or cannot have a guardian from making the pilgrimage.^{1vi} Travel bans have also been used against female human rights defenders for their activism. Ebtisam al-Saegh encountered a travel



ban placed on her for her involvement in the UN Human Rights Council.^{1vii} Journalist Nazeeha Saeed,^{1viii} head of the Monitoring and Documentation Section of BCHR Enas Oun,^{lix} human rights defender Maryam al-Khawaja,^{1x} and other outspoken women have also been subjected to arbitrary travel bans.

5. Conclusion

23. Bahrain continues to discriminate against women from the uppermost levels of government to social and marital life. It has largely failed to adhere to its CEDAW obligations, and instead has maintained a low standard for progress in achieving gender equality.

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