

Americans for Democracy and Human Rights in Bahrain



Alsalam Foundation

Contribution to the 76th session of the Convention of the Elimination of All Forms of Discrimination Against Women-CEDAW

**The Government Marginalization of Women in Bahrain**

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**I. Submitting Organization**

Americans for Democracy & Human Rights in Bahrain (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). Alsalam Foundation is a non-profit organization works toward tolerance and youth education creating programs and working on research to prevent extremism and human rights violations. Alsalam Foundation holds ECOSOC consultative status with the United Nation (UN) since 2013.

**II. Introduction**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was ratified by Bahrain in 2002. The government thereby acceded to international obligations against gender discrimination and committed to the protection of women’s rights. However, instead of enacting any substantive measures, the government introduced reservations to five articles of the Convention which blocked its commitment and excluded or modified the legal effect of its provisions.

The government of Bahrain has imposed significant restrictions on women since the 2011 uprisings and continues to undermine the recommendations of the Special Procedures mandates as well as the suggestions of the Working Group on discrimination against women. The government has promulgated legislation designed to limit the rights of women and to intensify gender-based discrimination in several fields, including employment, nationality, health, and religion.

The CEDAW Committee has repeatedly expressed its concern over the lack of progress made by the Bahraini government, but despite this, the state appears to have intensified its campaign to suppress women in society. As more women have taken leading roles in resisting these oppressive government practices and defending their fundamental human rights, they have increasingly become the targets of harassment.

**III. Main Body**

**A. Trafficking and Exploitation of Prostitution**

**1. Providing data on cases of forced prostitution, the number of complaints filed, investigations, and sentences imposed**

Although prostitution is illegal in Bahrain, the state remains a major destination for sex tourism. A study from 2007, which was conducted by the now banned organization Bahrain Youth Society for Human Rights, found that there are at least 13,500 prostitutes in Bahrain.[[1]](#footnote-1) Since then, more recent reports have found that this number has dramatically increased. Despite the fact that in 2016, the CEDAW Committee recommended Bahrain to focus on initiating an implementation strategy to punish traffickers, the government has failed to address the issue of forced prostitution by introducing new legislation or amendments to existing articles.

Law No.1/2018 criminalizes labor and sex trafficking with foreseen penalties from three to fifteen years, as well as fines between 2000 and 10,000 Bahraini dinar ($5,310-$26,530).[[2]](#footnote-2) Additionally, forced prostitution is specifically addressed in Article 325 of the Penal Code. This act allegedly penalizes the practice with prison sentences from two to seven years. Furthermore, in regard to the protection of potential trafficking victims, Article 395 of the Bahraini Penal Code criminalizes passport retention and Article 19(b) of the Constitution forbids to limit or otherwise control any individual’s freedom of movement.[[3]](#footnote-3)

However, when it comes to the implementation of the law, no progress was made within Bahrain. The state lacks significant practical frameworks designed to examine potential crimes and sex trafficking is rarely investigated. In the most recent Trafficking in Person Report from the US State Department in June 2019, it is stated that only 16 cases of sex trafficking were investigated by the Ministry of Interior (MOI).[[4]](#footnote-4) Only seven of those 16 cases were referred to prosecution and just 23 individuals were convicted of sex trafficking in 2019. Considering the fact that Bahrain is home to over 580,000 foreign workers—many of whom are victims of human trafficking and forced labor—23 convicted sex traffickers is a drastically small number. Furthermore, traffickers collecting their victims' passports upon their arrival remains a frequent practice.

Although the police, the MOI, and the Labor Market Regulatory Agency (LMRA) established channels for individuals to report trafficking crimes, the relevant Bahraini authorities fail to investigate typical indicators for forced labor, such as cases of unpaid or withheld wages, and passport retention. If filed, the crimes are rather classified as labor law violations.[[5]](#footnote-5) Out of the 5654 individuals who made use of the provided channels to report a crime, no trafficking victims were identified. Additionally, despite the fact that the MOI investigated 1373 cases of withheld salary payments, only 48% were resolved by a non-juridical settlement and were hence not classified as crimes in human trafficking.[[6]](#footnote-6)

Consequently, the recommendations of the CEDAW treaty to establish an effective implementation strategy was completely disregarded by the Bahraini authorities and they continue to avoid punishing traffickers. Impunity likely stems from the involvement of government officials in the business of sex trafficking. The hotel Jufair Grand Hotel, which is owned by the Prime Minister of Bahrain, is known for its complicity in forced prostitution and trafficking. There are several similar facilities owned by members of the Alkhalifa who involved in forced prostitution and sex trafficking. As a result, there is no motivation for the authorities to follow the recommendations of the CEDAW Committee and prosecute criminals, as many would be subject to investigation themselves.

**2. The sexual, physical, and psychological abuse of victims by their traffickers**

There are several ways in which foreign women are trafficked into sex work in Bahrain; some are kidnapped in their home countries and then coerced into sex labor, others travel legally and voluntarily to Bahrain with the promise of falsified jobs in child care, as secretaries, teachers, or in domestic labor by illegal labor agencies. Hotels also play a role in sex trafficking, as they use a three-month short term visa to attract Asian women with the pretext of employing them as dancers. As soon as the women arrive in Bahrain, they realize that they have been sold to human traffickers for the purpose of prostitution, though they have no means of escape. Often, women are also forced into prostitution after they have fled from abusive environments as domestic workers. They frequently flee without a phone, money, passport, or any contact that could help them within the foreign country. Consequently, they quickly become vulnerable to exploitation.[[7]](#footnote-7)

Despite the various channels into coerced prostitution, women’s experiences as forced sex workers are often very similar; traffickers beat their victims, sexually violate them, and verbally abuse them in order to gain control. Victims are further subjected to close surveillance by their traffickers while they acquire clients, organize appointments, and arrange the transport of the women accordingly. The majority of women are also forced to meet a certain quota of men per night. Even on days when they do not work, victims are not allowed to leave the overcrowded apartment where they often live with other trafficked women.[[8]](#footnote-8)

**3. Government shelters for sex trafficking victims**

In order to protect human trafficking victims, the LMRA, the International Organization of Migration (IOM), and the United Nations Office on Drugs and Crime (UNODC) set up the *Expat Protection Center*, a shelter for abused women, in January 2016. The shelter provides accommodation for 259 potential victims of trafficking. In April 2018, the Bahraini government further established a fund to support human trafficking victims.[[9]](#footnote-9) However, the accommodation provided and the fund set up have not proven successful. Only eleven of the 259 persons were identified as actual victims of sex trafficking, and only ten persons were beneficiaries of the established fund.[[10]](#footnote-10)

As evidenced, the government of Bahrain has not been able to significantly curb sex trafficking and bring perpetrators to justice. Although prostitution is still illegal, women remain exposed to exploitation and are left without protection. Despite superficial changes made by the Bahraini government, habitual practices of trafficking continue to fundamentally violate the CEDAW treaty, specifically Article 6.

**B. Participation in Political and Public Life**

**1. Women and politics**

a. Parliamentary elections

The political participation of women is not prohibited by Bahraini legislation. Just like men, women can both vote and run for office. Since the first parliamentary elections in 2002, women have therefore attempted to participate in the political sphere. In 2006, the first woman was elected to the Bahraini Parliament.[[11]](#footnote-11) In the most recent election of the Council of Representatives in 2018, 41 of the 293 candidates were women. Of these 41, six were elected. The result of this election was framed as a “historical record” due to the highest ever representation of women in the Bahraini Council of Representatives.[[12]](#footnote-12) However, the fact that several women were unable to find their online voter registration was not openly reported. ADHRB found that there was also an unpublished “no-voting list”, which banned individuals from participating in the elections.[[13]](#footnote-13)

An amendment in May 2018 to Article 3 of Law No.14 introduced harsher restrictions and permanent voting prohibition against “those who have been convicted of a felony and those convicted of a misdemeanor with a prison sentence of more than six months; leaders and members of politically dissolved groups; and those who have disrupted ‘parliamentary life’ from running for the Council of Representatives.”[[14]](#footnote-14) Despite this change in legislation, Bahraini authorities assured that the amendment would not affect voting rights. This promise strongly contradicts information available to ADHRB. A survey conducted by ADHRB and found that at least six women who considered themselves affiliated with the Al Wefaq or the Amal political group were de-registered from voting in the 2018 elections. Additionally, due to the new amendment, all female political prisoners were banned from participating in the elections. Hence, the framed ‘success’ of the increased participation of women in politics must be considered with caution as the elections were anything but free and fair.[[15]](#footnote-15)

The second parliamentary body in Bahrain is called Shura Council. In contrast to the Council of Representatives, its members are appointed by royal decree. Since 2018, nine out of the 40 members have been women.[[16]](#footnote-16) However, like the women represented in the Council of Representatives, they are largely disenfranchised.

b. Municipal elections

In Bahrain, municipal elections are held at the same time as parliamentary elections, the most recent of which in 2018. While no woman is represented in the municipality of Muharraq (only two women stood for election), one woman was elected in the Southern municipality (from the two women who presented themselves), and all three women who stood for election were elected in the Northern municipality.[[17]](#footnote-17) Although the growth of women represented in parliament and in the municipality council is an improvement, the increased proportion of women in the Representative Council is still not representative of the population.

Finally, despite the fact that the current head of parliament is a woman, women in Bahraini politics have little leverage to act and are greatly disenfranchised. The sole measure to appoint women to a parliamentary body and give the impression that the Bahraini government is taking steps toward gender equality does not hide the fact that women are, in reality, still oppressed by their male counterparts. Hence, while minimal steps have been taken to provide a more equal representation of women in Bahrain’s political and public life, there is no representation of women in higher positions. Due to these practices, Bahrain is in violation of Articles 3 and 7 of the CEDAW treaty and must still take concrete measures to empower women in politics.

**C. Nationality**

The government of Bahrain made specific reservations to CEDAW recommendations concerning women and nationality in Article 9(2). The Constitution of the Kingdom of Bahrain decrees that nationality is acquired from the father unless he is unknown and without nationality, or paternity is otherwise proven. The mother subsequently has little means of conferring Bahraini nationality without a husband. The CEDAW Committee has called upon Bahrain to give high priority to the reviewing and revision of its Penal Code and Nationality Law, however the law reform process has been long, delayed, and ineffective.

Women in Bahrain are subject to Law No.10/1981, which maintains discriminatory stipulations regarding the transference of nationality to their children. Due to this law, Bahraini nationality may only be conferred from the father, whereas Bahraini women are only able to pass on their nationality when the father of their child is unknown.[[18]](#footnote-18) If the father is not a citizen of Bahrain, then the child is similarly denied citizenship.[[19]](#footnote-19) In January 2014, the Prime Minister of Bahrain referred a draft law to the National Assembly which permitted the conference of Bahraini citizenship to children from non-Bahraini fathers, however this law has not yet been promulgated.[[20]](#footnote-20)

The law is therefore based on paternal *jus sanguinis,* meaning that nationality can only be transferred through Bahraini men. Women cannot transmit their nationality to their children or foreign spouses. According to this law, Bahraini mothers can only confer their nationality to their children when the father is unknown or not legally related to the children, whereas men are able to do so even if they are married to foreign women. Reports additionally suggest that some Bahraini women married to *Bidoon*—literally meaning “without nationality”[[21]](#footnote-21)—men have not been able to transfer their nationality to their children.[[22]](#footnote-22) As a result, Bahrain remains one of 27 countries that continue to discriminate against women in their ability to confer nationality to their children on an equal basis with men, rendering them as lesser citizens under Bahraini law.

When a child is unable to gain Bahraini citizenship and is hence rendered stateless, they are at risk of being denied access to the educational system, the right to own property, state healthcare, and may also face travel restrictions.[[23]](#footnote-23) A sponsorship from an employer or family member allows them not to have to obtain a residency permit to live in Bahrain, which must otherwise be renewed annually.[[24]](#footnote-24) All of the aforementioned stipulations concerning nationality further highlights the lack of new legislation to be implemented by the government despite international criticism, as it is in violation of not only Article 9 of the CEDAW treaty, but also Article 26 of the International Covenant on Civil and Political Rights (ICCPR).[[25]](#footnote-25)

**D. Employment**

Discrimination within women’s fields of employment continues to be prevalent within Bahrain. Despite achievements in education indicating that women outweigh men, women’s participation in the labor force remains underrepresented and there are no laws in place to mandate non-discrimination when hiring women.[[26]](#footnote-26) Statistics given by the General Authority for Social Insurance indicates that women make up 30% of those working in the private sector, and 45% of those in the public sector.[[27]](#footnote-27) Although women may be better represented in the public sector, there is a vast wage-gap that favors male over female workers. Similarly, while the government promulgated Labor Law No.36/2012 for the private sector, women-related issues were not considered.[[28]](#footnote-28) In Article 55(a) of the Family Law, women’s right to work is also unacknowledged, however women are still expected to have their work approved by their husbands or otherwise explicitly stated within their marriage contract.[[29]](#footnote-29)

A woman's alleged right to work is therefore entirely negated by Bahrain’s legislation. Gender discrimination within employment is evidenced in the field of journalism, in which women journalists’ experiences are exacerbated by existing inequalities due to Bahrain’s failure to implement the CEDAW Committee’s Article 11 recommendations. Women face gender-based questioning on marital status and their political and religious backgrounds, while also experiencing various forms of harassment, including sexual.[[30]](#footnote-30) In particular, the case of **Female Victim** who is a journalist represents the suffering of female journalists in Bahrain, as she was detained and tortured following the 2011 protests for covering the violent suppression of protesters by security forces.[[31]](#footnote-31) A travel ban was then placed on her in June 2016, and the Special Investigations Unit (SIU) refused to investigate her case following her submission of a formal complaint. The Bahrain Journalists Association allegedly represents and protects Bahrain-based journalists, however it is not an independent group and women are not equally represented on its board of members.[[32]](#footnote-32)

**E. Migrant Domestic Workers**

Women migrant domestic workers are partial subjects in the Bahraini Labor Code.[[33]](#footnote-33) While they are defined in Article 1 as workers or, in more explicit terms, as natural persons employed in return of a wage, they do not benefit from all of the law's provisions. The government continues to exclude domestic servants in Article 2(b)[[34]](#footnote-34) from crucial sections and articles that determine their wage, dispute settlements, and compensation, which is in violation of Article 3 of CEDAW. Accordingly, Bahrain should have taken all appropriate measures, including legislation amendments, in order to guarantee the full rights of women in all fields, particularly those that are social and economic.[[35]](#footnote-35) As a result, Article 20 of the Bahraini Labor Code[[36]](#footnote-36), which refers to the creation of a contract of employment, is not applicable to domestic workers and their agreed wages and methods of payment are subject to change. Moreover, Article 38[[37]](#footnote-37), which determines the calculation of their pay period, is not applied to domestic servants.

The LMRA introduced a Tripartite Domestic Contract between the employment agency, the employee, and the employer to avoid further exploitation of domestic workers at the end of 2017.[[38]](#footnote-38) This agreement obliges the employer to give general information to the domestic servant about the job in Bahrain, such as working hours, duties, and salary.[[39]](#footnote-39) However, as there is no law to protect the employees and enforce their basic labor rights, the conditions of the contract are set under the employer’s discretion, which violates Article 3 of CEDAW. Consequently, domestic servants are forced to sign an agreement which deliberately omits essential information in order to make it more beneficial to the employer.

Moreover, according to the contract, the employment office holds responsibility for any misunderstanding[[40]](#footnote-40), and if domestic workers flee their employer and/or their sponsor before the end of their agreement, they can be prosecuted for breaching their contracts and absconding.[[41]](#footnote-41) This practice not only defies basic human rights, but also violates Article 11(c) of CEDAW, as the rights to free choice of profession and employment are not applied in the cases of domestic servants.[[42]](#footnote-42) Additionally, in the event of a problem or dispute arising between the two parties, the employees may allegedly lodge a complaint but under no circumstances may quit their jobs.[[43]](#footnote-43) Despite this, reported cases of Bangladeshi domestic workers show that female employees are unofficially discouraged by governmental institutions to file complaints following threats of lengthy and expensive court processes.[[44]](#footnote-44)

Similarly, according to the Bahraini government’s Decision No.23/2018, domestic migrant workers have allegedly been eligible for health insurance since 2019.[[45]](#footnote-45) However, it does not stipulate that the employer must provide this benefit to their employees. Hence, employers do not include health insurance in their contracts, violating Article 12 of CEDAW which urges the government to take all appropriate measures in order to ensure that women have access to healthcare services.[[46]](#footnote-46) On all sides of the spectrum, domestic workers remain without assistance and are exposed to abuse and exploitation. Notably, Bahrain has also not taken any steps to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[[47]](#footnote-47), nor the ILO Domestic Workers Convention.[[48]](#footnote-48)

**G. Detention Discrimination**

**1. Detention conditions**

Violations occur at every stage of the criminal procedure in Bahrain, and a majority of excessive and arbitrary abuses are directed at political prisoners who were connected to the 2011 pro-democracy protests. ADHRB has provided a detailed documentation of the systemic discrimination against women prisoners of conscience incarcerated in the Isa Town Women’s Prison and Detention Center.[[49]](#footnote-49)

a. United Nations Standard Minimum Rules

Bahraini authorities systematically violate the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) and the United Nations Rules for The Treatment of Women Prisoners and Non-Custodial Measures For Women Offenders (Bangkok Rules). Instead of ensuring that all prisoners are properly respected, Bahrain permits the widespread and degrading treatment of detainees. Cases documented by the ADHRB evidence excessive punishments, arbitrary harassment, denial of medical care, and coerced confessions to be frequent procedures performed in Bahraini prisons.[[50]](#footnote-50)

b. Nelson Mandela Rules

The government of Bahrain has not taken any measures to bring the conditions of detention in line with the Nelson Mandela Rules. For instance, as stressed by ADHRB and a coalition of activist groups[[51]](#footnote-51), Bahraini authorities violated Rules 36 and 47 of the Mandela Rules when prisoners in Building 7 of Jau Prison suffered disproportionate and degrading punishments during their internment, which prevented detainees from receiving the basic healthcare they required.

c. Bangkok Rules

The government has taken no steps to align Bahrain with the Bangkok Rules. On the contrary, the state violated the UN standard minimum rules by allowing its women prisoners to be victims of severe abuse. ADHRB have documented their silenced voices recounting experiences of torture, sexual abuse, inhumane treatment, as well as various forms of intimidation.[[52]](#footnote-52) Such violations confirm the whitewashing performed by oversight institutions established by the government which are supposed to protect women’s rights, but rather contribute to the deterioration of human rights in Bahrain.

**IV. Conclusion**

When the government of Bahrain ratified the CEDAW treaty, it undertook an international commitment to protect women’s rights and take all necessary measures to prevent gender-based discrimination and harassment. However, Bahrain continues to allow the extensive and systematic abuse of women in all spheres of their existence. This includes the prostitution of women, which remains prevalent despite its criminalization in 2018. Oversight bodies fail to investigate its practice, traffickers go unpunished, and impunity likely stems from the involvement of government officials.

Women also continue to be severely underrepresented in public and political life. Despite attempts from the government to conceal their actions, women have been restricted from voting in parliamentary elections. When involved in politics, women are largely suppressed and disenfranchised. In regard to nationality, women are similarly repressed by Bahraini law and a lack of legislation designed to revise the Penal Code and Nationality Law. Without a Bahraini husband, women have little means of conferring citizenship to their children, hence rendering them as lesser citizens under the Bahraini law.

In fields of employment, women must still receive their husband’s approval to seek work, though their rights to employment are entirely negated by Bahrain’s legislation. Moreover, women migrant workers are only partial subjects under the Labor Code and it is necessary for a legal framework to be put in place by the government in order to protect their fundamental rights in the workplace. Likewise, greater attention needs to be brought to the health services that are routinely denied to all women in Bahrain, and transparent checks need to be conducted in Bahrain’s detention centers, with a focus on women’s treatment in accordance with the Nelson Mandela Rules and Bangkok Rules.

The government of Bahrain is currently complicit in the violent and discriminatory treatment of women across the state. Regardless of employment, religion, or nationality, a woman's fundamental right to a safe and equal life deserves to be respected. The government must take great strides if this is to be achieved in Bahrain, and the measures outlined in the CEDAW treaty must be addressed if Bahrain is truly committed to its international obligations.

**V. Recommendations**

**Trafficking and Exploitation of Prostitution**

1. Ensure an efficient implementation of Article 325 and Article 395 of the Penal Code as well as Article 19(b) of the Constitution;
2. Ensure an efficient investigation of unpaid or withheld wages and passport retentions in regard to human trafficking;
3. Establish an effective implementation strategy for the outlined legislation on trafficking and exploitation of prostitution;
4. Take immediate measures to withdraw from the complicity in forced prostitution and trafficking in person;
5. Allocate sufficient resources to relevant bodies responsible for the implementation of the law which criminalizes human trafficking and forced prostitution; and
6. Financially support institutions responsible for the protection and the support of victims in human trafficking and forced prostitution.

**Participation in Political and Public Life**

1. Take immediate measures to ensure the right of every citizen to vote and stand for election;
2. Ensure an equal representation of women in the political and public life; and
3. Take immediate measures to increase the representation of women in the political and public life.

**Nationality**

1. Amend the Bahraini Citizenship Law, granting women their right to full citizenship, ensuring equality of women and men with regard to the acquisition, changing and retention of nationality and enabling women to transmit their nationality to their children;
2. Ensure that any obstacles to practical implementation of nationality laws are removed, including transferring their citizenship to their children;
3. Ratify the First Optional Protocol to the International Covenant on Civil and Political Rights, which establishes an individual complaint mechanism for reporting violations of the ICCPR, particularly regarding the right to a nationality; and
4. Ratify the 1954 and 1961 UN Conventions on Statelessness, which guarantee the human rights of stateless individuals and commit states to preventing and reducing statelessness over time.

**Employment**

1. Take all appropriate measures to eliminate discrimination against women in the field of employment;
2. Amend the Family Law to ensure women’s equal right to work; and
3. Repeal Article 56(b) of the Family Code requiring a husband’s approval for a woman to work.

**Migrant Domestic Workers**

1. Create and enforce a legal framework by which migrant workers have the ability to leave employers and seek alternative employment at will;
2. Amend the article 2 paragraph (b) of the Labor Code for the Private sector in order that domestic workers are not excluded from provisions of the law;
3. Establish expedient procedures for migrant complaints;
4. Ensure that domestic workers have access to healthcare services;
5. Generate and implement legislation providing maximum working hours and shifts, and ensure that employers will provide overtime pay for additional hours; and
6. Ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the ILO Domestic Workers Convention.

**Detention Discrimination**

23. Conduct an impartial, independent review of conditions at Isa Town Women’s Prison and Detention Centre and hold perpetrators of human rights abuses accountable; investigate allegations of medical negligence, assault, punitive measures, and denial of religious rights; and assure that all prisoners are provided full protections under the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners (Bangkok Rules);

24. Provide a timely, transparent, and thorough investigation into allegations of arbitrary arrests, coercive interrogation tactics, and physical and sexual assault, ensuring that all responsible officers are held accountable;

25. Urge the Bahraini authorities to fulfil their obligations under international laws and covenants stipulating that the authorities cannot restrict the right to health as punishment, and political detainees should receive medical care without discrimination according to their legal status as well as the need to end their unlawful detention;

26. Allow country access to the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Working Group on Arbitrary Detention, and the Special Rapporteur on Violence Against Women and allow them to independently assess allegations of torture;

27. Ensure the improvement of the prison conditions particularly regarding the restrictive measures, health and medical care, denial of religious participation and violation of confidentiality; and

28. Take measures to bring the conditions of detention in places of deprivation of liberty, including in women’s removal centers, into line with the Nelson Mandela Rules and the Bangkok Rules.

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