

Submission to the Office of the High Commissioner for Human Rights

13th session of the Universal Periodic Review

Economic and Social Rights in Bahrain

Bahrain

Joint submission by
Arab NGO Network for Development
Bahrain Transparency Association
Bahrain Human Rights Society

I. GENERAL BACKGROUND AND FRAMEWORK

1. Bahrain witnessed citizens' uprisings and movements for change starting with the peaceful protests in the Pearl Roundabout in Manama since 14 February 2011.

2. Demands for equality and non-discrimination were at the core of protests alongside the call for institutional, political, economic and social reforms aimed at reducing social inequalities and creating better economic and social conditions for all.

3. The uprisings are a culmination of years of inadequate policies that lacked recognition and realization of the rights that Bahrain has obligations to undertaken under international law. Indeed, the commitment to obligations under the International Covenant on Economic, Social and Cultural Rights have been weakened by the change introduced in 2002 to the Bahraini Constitution whereby reference to economic and social rights was changed from "ensuring" rights to "seek(ing) to ensure" rights, such as employment rights.

4. To the contrary of the Bahraini government's pledges for the promotion and protection of human rights during the first cycle of the Universal Periodic Review (as well as pledges the government undertook while accepting the candidacy to the Human Rights Council), the citizen's movement for change was faced excessive use of force and violence. Moreover abuses of economic and social rights were used as tools for oppression against those civilians demanding reforms and change.

5. While Bahrain received appreciation and support for its achievements on economic and social rights during the UPR Working Group session of the first cycle, the demands of the citizens during the movement for change have indicated the deep inequities in the Bahraini society, and highlighted the inadequacy of many policies at the political as well as economic and social fronts, including corruption and nepotism.

6. The significant violations of various rights witnessed in the reaction of the government of Bahrain reflect the shortcomings of the steps undertaken to declare Bahrain a best-case example for the first cycle of the UPR revisions.

7. The following submission is presented by the Arab NGO Network for Development, Bahrain Transparency Association and Bahrain Human Rights Society.

¹It touches upon:

- Human rights conditions, specifically economic and social rights in the four-year cycle
- The recommendations accepted by the Bahraini Delegation in the first cycle and the status of their implementation
- Further recommendations in order to ensure full enjoyment of economic and social rights of all citizens under Bahraini jurisdiction

a) SCOPE OF INTERNATIONAL OBLIGATIONS

8. From the initial issuing of martial law in 14 March 2011 to its lift to 1st July 2011, the human rights violations in Bahrain became severe, due to excessive use of force by military against protesters, together with numerous cases of torture and arbitrary detention. This suppression clearly signals gross violations of the International Covenant on Civil and Political Rights, which was ratified by Bahrain in 1998.

9. On the contrary to the obligations deriving from the International Covenant on Economic, Social and Cultural Rights, alongside relevant ILO Conventions that

¹ Please see the ANNEX for the full contact of the organizations listed

Bahrain is a state party to, mass dismissals occurred in Bahrain for those workers who has taken part in the protests, alongside use of force against them.²

10. While the ratification of the Convention on the Rights of Persons with Disabilities by Bahrain on 22 September 2011 is a positive achievement with regard to international obligations, the actual implementation of the human rights treaties equally in respect to all citizens and under all circumstances remains critical and necessary in Bahrain.

We urge the Working Group and the members of the Human Rights Council to call upon the Bahraini government to:

11. Ensure that all domestic law conforms to international standards and accordingly to make required amendments to the domestic legislation.

12. Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

b) INSTITUTIONAL AND HUMAN RIGHTS INFRASTRUCTURE

13. The establishment of the National Human Rights Institution by the King on 11 November 2009 through Royal Order No. 46 is a welcome step and in line with the voluntary pledges made by Bahrain during the first review session. However, it is worth noting that the head of the National Human Rights Institution Mr. Salman Kamal Aldeen and member Mr Abdulla Alderazi have resigned in April 2011 noting the rejection of the human rights abuses. The Institute failed to document abuses undertaken since the eruption of the peoples' uprising. The Institute failed to document abuses and was silent on the violations undertaken by the official institutions.

14. The renaming of Ministry of Social Development, as Ministry for Human Rights and Social Development is also a positive achievement, but the acts of the ministry often fail to align with international human rights standards and obligations.

15. The formation of Bahrain Independent Commission of Inquiry was urgent and necessary after the violations of Bahraini authorities against peaceful protesters. However, the transparent and independent work of the Commission remains questioned.

16. The National Victims' Compensation Fund under the authority of the Human Rights and Social Development Ministry to compensate eligible victims for the harm caused to them during the uprisings can play a crucial role to redress the violations of the rights of those who suffered material, moral or physical damage from public security forces or public officials are eligible for compensation.³ However further details on the implementation of the fund (allocation of funds or on eligibility without discrimination) needs still to be clarified.

We urge the Working Group and the members of the Human Rights Council to call the government of Bahrain to:

17. Ensure that the work of the newly established National Human Rights Institution is aligned with Paris Principles and is actively working to document, report human rights violations and protects rights of all.

²http://www.ilo.org/global/about-the-ilo/press-and-media-centre/statements-and-speeches/WCMS_154099/lang--en/index.htm

³ <http://gulfnews.com/news/gulf/bahrain/bahrain-sets-up-national-compensation-fund-1.870371>

18. Improve the availability and accessibility of database and indicators relevant to human rights issues in a disaggregated level for the efficient and effective work of all human rights related institutions.

19. Ensure that respecting human rights is at the very foundation of all relevant Bahraini institutions.

20. Ensure the genuine transformation of all relevant institutions in Bahrain in order to operate in full respect of human rights and the will of the people.

c) POLICY MEASURES

21. After the uprisings, a National Consensus Dialogue was launched in Bahrain (July 2011). The current Dialogue is deemed non-genuine and unrepresentative. Therefore, national stakeholders still call for a genuine and real national dialogue, led by a national consensus government that includes all the major political and social forces and adopts clear mechanisms for further implementation.

We urge the Working Group and the members of the Human Rights Council to call the government of Bahrain to:

22. Ensure that the process of the National Dialogues is revisited to include all major political and social forces, and is only led by a national consensus government, and its outcomes do actually correspond to the obligations under international human rights law and the fully respect and protection of human rights of all Bahrainis and are transformed into action immediately.

23. Ensure that human rights and equality is at the core of the formulation of reforms and policies (rather than the domination and prioritization of kingdom's security and stability⁴).

24. Ensure the transparency of the work of all the official actors and institutions, ensuring the submission of periodical reports with regard to the implementation of the reforms and in line with their responsibilities

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS OBLIGATIONS

A. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

a. Equality and non-discrimination

25. While the Bahraini Economic Vision 2030 states the objectives of achieving fairness in society, “described as all are treated equally under the law, in accordance to international human rights; and that everyone has equal access to services, namely education and health care, and that the needy are supported via adequate job training and a targeted social safety net”⁵, the 2011 protests signaled the lack of equality in the implementation of social and economic policies and the discrimination among Bahraini citizens and geographic regions.

26. There has been severe violations of the enjoyment of economic and social rights, in different geographic regions of Bahrain. For example, there has been discrimination between the Northern region, the Middle region, the Capital and the Southern region of Bahrain with regard to the implementation of the state-subsidized

⁴ <http://www.bna.bh/portal/en/news/478342>

⁵ [http://www.bahrainedb.com/uploadedFiles/BahrainEDB/Media_Center/Economic%20Vision%202030%20\(English\).pdf](http://www.bahrainedb.com/uploadedFiles/BahrainEDB/Media_Center/Economic%20Vision%202030%20(English).pdf)

housing projects. Whereas the former regions face the gap between the demand and supply, more such services are offered in the Southern region of Bahrain.

We urge the Working Group and the members of the Human Rights Council to call upon the government of Bahrain to:

27. Ensure that the principles of equality and non-discrimination are well articulated and implemented with adequate policies and dynamic mechanisms respecting the human rights of all citizens in unity.

b. The right to adequate standards of living

28. The Human Development Index of Bahrain restored to 0.806 in 2011, at the same level as during the first revision in 2008, after slight decrease for 2009 and 2010 at 0.805.⁶

29. Although Bahrain is a welfare state and government subsidizes a lot of utilities, eliminating wide income gaps that generate relative poverty remains a core challenge for Bahrain.

30. In this regard, the adoption and the revision of the national strategy to decrease relative poverty and support needy families is a positive achievement.⁷ However this process should be supported with up-to-date disaggregated data on poverty levels, across different regions of Bahrain in order to achieve effective implementation and outcomes. The call for an in-depth study to identify low-income target groups and improve the redistribution of government support was also raised during the National Consensus Dialogue, in order to improve social justice in Bahrain.

31. Crony capitalism and corrupt privatization practices exacerbates the income inequalities in Bahrain, enabling the wealth to be focused in the hands of those close to ruling power⁸. In this regard while the ratification of the United Nations Convention against Corruption with the Law No.7 (2010) is an achievement, the implementation of the Convention must be assured, with relevant amendments to domestic legislation.

We urge the Working Group and the members of the Human Rights Council to call upon the government of Bahrain to:

32. Ensure the availability and accessibility of the up-to-date data on poverty level on a disaggregated level in order to structure and implement pro-poor programmes addressing root causes of poverty and inequality in Bahrain.

33. Open transparent and independent investigations of the cases raised by the Bahraini Parliament in regards to privatization of public land and its implications on the realization of economic and social rights of Bahrainis.

c. The right to work

34. Severe violations of the right to work were witnessed in light of the clash back by the Bahraini government on the peoples' uprising.

35. As registered by Bahraini workers union around 3500 workers were dismissed from public and private companies. For example, union leaders of the

⁶ <http://hdrstats.undp.org/en/countries/profiles/BHR.html>

⁷ <http://www.bna.bh/portal/en/news/477723>

⁸ Reference can be made to the report issued by the Bahraini Parliament during March 2010 documenting the seize of state land by top officials and privatization for prices much lower than its real value. This happens while officials claim that public land for public housing is in shortage.

public companies Gulf Air, Bapco and Batelco were dismissed and thousands of workers were fired. The dismissals were done under the pretext of absence during the time of the uprisings as the Article 113(4) of Bahrain's Labor Law (23/1976) allows a firm to dismiss a worker if he or she has been absent "without reasonable cause" for more than 20 days in a year, or more than 10 consecutive days. It is important to note that by being dismissed, impacted persons lose access to receiving unemployment benefits.

36. The official Economic Vision 2030 highlights the lack of quality employment and appropriate skills for the employment sector. Bahrainis suffer from high levels of unemployment, which is specially severe and increasing among university graduates. Unemployment and underemployment level remains disproportionate between different religious communities. Moreover, while unemployment is increasing, inflow of migrant workers is increasing, while unemployment among migrant workers themselves witnesses an increase. Such context indicates lack of policy and institutional arrangements that address employment issues from a rights based perspective and seek to redress the violations in the rights to work. This includes the practice of the ministry of Labor.

37. While the data on unemployment remains questioned, at the end of 2010 official numbers were indicating 16.5%, while unofficial estimates were around 30%.⁹

38. As the difference in the size of wages between men and women gets wider especially in the private sector where women earn 70% of men's wages only¹⁰, the non-discrimination and equality principles are violated in Bahrain.

39. While the Bahraini government introduced unemployment insurance, the mechanisms of implementation lack democratic practice. Public jobs are not available based on competition basis among applicants but based on allocation, which raises the possibilities of misuse and discriminatory practices.

40. Although, in March 2010, the Kingdom signed the "National Program for Decent Work in Bahrain", following the protests several violations in the area of right to work occurred. These include firing teachers and medical professionals, arbitrary arrests and charges against them in mass trials before military courts. Despite the King's pledge, many of them have not been reinstated.¹¹

41. The number of women who occupy leading positions in both the private and public sector is still disproportionately low in view of their qualifications.¹²

42. Although the rise of the maternity leave from 45 days to 60 days is a positive step, it is still far below the 14 weeks ILO standard, necessitating the revision of the Labor Code to promote gender equality.¹³

⁹ International Crisis Group, Popular Protests In North Africa And The Middle East (Iii):The Bahrain Revolt Page 9 available at <http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iran%20Gulf/Bahrain/105-%20Popular%20Protests%20in%20North%20Africa%20and%20the%20Middle%20East%20-III-The%20Bahrain%20Revolt.pdf>

¹⁰ The Bahrain Economic Quarterly, Economic Development Board Report, 2011 available at www.2030.bh/edbpress/en/index.php/news/item/download/110

¹¹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0475+0+DOC+XML+V0//EN&language=EN>

¹² Abdel Nabi Alekry, Social Watch 2010 <http://www.socialwatch.org/node/12060>

We urge the Working Group and the members of the Human Rights Council to call upon the government of Bahrain to:

43. Ensure the reinstatement of the employees that were fired during and after the uprisings in connection to political practice immediately to their positions and ensure that they are compensated for their lost income

44. Reform the Labor Code to promote gender equality and ensure that all labor legislation and policy formulation meets international human rights standards.

45. Reform the labor policies and employment policies to address the rising unemployment both among nationals and migrant workers and reform the institutional mechanisms responsible for the unemployment insurance to ensure respect of equality and non-discrimination in its practice.

46. Take corrective measures to address persistent wage gaps ensuring that the principles of equality and non-discrimination are at the core of the wage policies.

d. Right to education

47. While the universal primary education (commitment under MDG 3) is nearly achieved in Bahrain (overall intake in primary schools reached 99% and in the intermediate schools reached 88.3% and in secondary schools reached 89%¹⁴) the challenge remains in the areas of providing quality education for all, which is creative, diversified and technology-based.¹⁵

48. Significant challenges remain in the area of providing for the full enjoyment of the right to education by all citizens without discrimination.

49. During the peoples' uprisings in Bahrain, more than 300 students, especially university students that have taken part actively in the anti-government protests, have been arrested and suspended from their universities and many subjected to trials by military courts.¹⁶ Universities were closed and students lost significant educational terms due to the official suspension of universities. This is stark contrast to state's obligations with regard to the right to education.

50. Moreover, around 30 academics were suspended in light of the peoples' uprising and several were prosecuted. The ones allowed to return to their positions will not be allowed to undertake their previous positions.

We urge the Working Group and the members of the Human Rights Council to call upon the government of Bahrain to:

51. Take immediate corrective measures to redress the violations against the rights of students and academics that have been violated in light of the clash back from the government on the peoples' uprisings.

52. Reform the educations policy to ensure that equality and non-discrimination in access to quality education is ensured among all Bahraini and geographic regions.

e. The Right to health

¹³ Maternity at work, A review of national legislation, ILO, 2010 p.12
http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_124442.pdf

¹⁴ <http://www.bna.bh/portal/en/news/477883>

¹⁵ Abdel Nabi Alekry, Social Watch 2010 <http://www.socialwatch.org/node/12060>

¹⁶ For the Report of the Expelled Students please check
<http://www.scribd.com/doc/61190426/REPORT-Related-Background-Information-on-the-Expulsion-of-the-Students>

53. The targeting of medical personnel and patients¹⁷ in Salmaniya Medical Complex during the protests not only violated the right of medicals to work but also has curtailed the right to access to healthcare for those patients and lead to degradation of medical services in one of the central health service centers. Such practice by the Bahraini government is in violation of the International Convention on Economic, Social and Cultural Rights, which Bahrain is a party to.

54. Since March 17th 2011, military and security forces took over the Salmaniya Medical Complex and undertake interrogation of patients, which violates the civil nature of medical facility and the right of Bahrainis and residents to access the facility (these conditions makes the complex an unsafe place for many citizens to go to).

55. The need to improve national health standards through a comprehensive strategy and in closer coordination with the private sector, while ensuring equal access to quality services across the country was pointed out during the National Consensus Dialogue. There is an urgent need to immediately implement these reforms agreed upon. However it should be well ensured that privatization of the health sector do no violate the right to health of the citizens and is accompanied by relevant measures that ensure equal access of all citizens to quality health care without any discrimination.

We urge the Working Group and the Human Rights Council to call upon the government of Bahrain to:

56. Take immediate measures to redress the violations of the right of health workers and overall citizens and residents to the right to health, and restore the civil nature of the Salmaniya Medial Complex.

57. Reform the health care system and ensure the availability and accessibility and acceptability of the right to health to all citizens, with full realization of the principles of equality and non-discrimination.

¹⁷ Documentations estimates 70 physicians, paramedics, and nurses were arrested, tortured, and tried in front of military courts (sentences of health workers range between 3 and 15 years).

ANNEX:

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