



## **PEN International**

### **Contribution to the 13th session of the Working Group of the Universal Periodic Review Submission on the Kingdom of Bahrain**

21 November 2011

1. PEN International welcomes the opportunity provided by the Office of the High Commissioner on Human Rights to comment on the climate for free expression and human rights in Bahrain.

#### **Bahrain's International Commitments to Freedom of Expression**

2. Bahrain is bound by several international commitments to freedom of expression. The country acceded to the Convention Against Torture in 1998 and the International Covenant on Civil and Political Rights in 2006. It is also bound, like all state parties of the United Nations, by Article 19 of the Universal Declaration of Human Rights that guarantees freedom of expression.

3. Despite these commitments, Bahrain has failed to meet its obligation to protect freedom of expression and has flouted fundamental due process norms, especially in the course of an extended campaign to suppress popular demonstrations in Bahrain since February 2011.

#### **Introduction**

4. Citizen protests spread throughout the Middle East and North Africa starting in December 2010. These protests called for greater protections for human rights, political reforms, and more substantial popular participation in government. The leaders and citizens of Bahrain followed these demonstrations closely, particularly the mass protest movements in Tunisia and Egypt. When the Mubarak government fell in Egypt on 11 February 2011, Bahrain's foreign minister, Sheik Khalid bin Ahmed al-Khalifa, wrote on Twitter: "Egypt takes the Arab world into a new era. Let's make it a better one." This led to hopes that there would be similar democratic reform in Bahrain.

5. Three days later, on 14 February 2011, popular protests erupted in Bahrain at a plaza known as the Pearl Roundabout in the capital city of Manama. Similar to other countries affected by the Arab Spring, demonstrators called for greater participation in government. Bahraini police immediately resorted to violence to disperse the protesters, firing rubber bullets and releasing tear gas. Human rights organizations reported that seven people were killed and hundreds wounded within the first few days.<sup>1</sup>

6. The repression of nonviolent demonstrations escalated on 14 March 2011 when the government invited security forces from Saudi Arabia and the United Arab Emirates into Bahrain, under the aegis of the Gulf Cooperation Council, to help manage the unrest. Security forces cleared protesters from the Pearl Roundabout and destroyed its 30-year-old monument to prevent the site from becoming a regular staging ground for popular protests. The following day, the king announced a state of emergency that imposed curfews and banned all public assembly. The combined security forces then initiated a brutal crackdown targeting protesters and supporters.

7. The human rights violations that occurred—the use of live ammunition, the violent seizure of protesters, and the conversion of hospitals and health care facilities into de facto detention and interrogation centers<sup>2</sup>—will no doubt have been brought to the attention of the Office of the High Commissioner on Human Rights. PEN is deeply troubled by the use of violence, the widespread detentions, and the gross due process violations during this crackdown, all of them aimed at depriving Bahraini citizens of their universally-guaranteed rights to freedom of expression and freedom of assembly. PEN is especially concerned that the crackdown particularly targeted writers, academics, and journalists who were attempting to exercise these fundamental rights.

8. Although the state of emergency was lifted on 1 June 2011, the repressive atmosphere lingers and important structural impediments to freedom of expression remain in place.

### **Violations of the Right to Freedom of Expression During the 2011 Crackdown on Peaceful Dissent**

9. During the heavy-handed crackdown on peaceful dissent, Bahrain's security forces detained writers and others simply for expressing dissatisfaction with the government in public. Protesters congregated on the Pearl Roundabout because it was one of the few public spaces in Bahrain where they believed they could exercise the right of freedom of assembly, but merely expressing dissenting political opinions at the Pearl Roundabout led to persecution by security forces. For example, Ayat al-Gormezi, a 20 year-old poet, was arrested on 29 March 2011 for reciting a poem at the Pearl Roundabout that criticized the government. She was then reportedly tortured with electric shocks and beaten while in prison. Al-Gormezi was released from prison on 13 July 2011 after receiving a one-year sentence for "causing incitement" and "hatred" to the king and prime minister.

10. In two cases, Bahrain security forces detained writers and apparently tortured them so severely that they subsequently died from their wounds. Publisher Karim Fakhrawi and blogger Zakariya al-Ashiri both died in government custody in early April 2011 after

suffering brutal torture. Although the government claimed that the men died from chronic diseases, both families have disputed this and photographs of Mr. Fakhrawi's body published online depicted cuts and bruises that support allegations of torture.<sup>3</sup>

11. In a third case, although the victim did not die, she suffered severe injuries that required hospitalization. Nazeeha Saeed, a reporter for France24, was arrested on 22 May for reporting a story about a death by security forces. She reported that she was tortured and beaten so badly while in custody that she had to be airlifted to France to recover in a hospital.

12. Still other reports emerged of people being detained and tortured without having been formally charged with a crime. Hayder Mohamed, a journalist for the independent newspaper *Al Wasat*, was abducted from his house by security forces on 24 April. He was then tortured and informed that he had been sentenced to execution by hanging. Pretending to mete out the punishment, his captors prepared the gallows until Mohamed fell unconscious. He was subsequently released without charge. Similarly, 10 lawfully registered photographers were also detained and several reported torture in custody; they, too, were subsequently released without having been charged or tried.

13. When the government chose to prosecute demonstrators, it often tried them before military tribunals, not civilian courts, that fell short of international due process norms. In these proceedings, attorneys had little or no opportunity to consult with their clients and defendants were denied the ability to give testimony, often under threat of further torture. Writer, blogger, and human rights activist Dr. Abduljalil al-Singace was arrested on 16 March 2011 after publicizing the deteriorating human rights situation in the country and sentenced to life in prison on 22 June. Dr. al-Singace is disabled and relies on a wheelchair or crutches for his mobility. He appealed to the National Safety Court of Appeal, a military tribunal, along with 13 other defendants. His life sentence was confirmed on 28 September 2011. Dr. al-Singace has since appealed to the Bahrain Court of Cassation (the highest court in Bahrain) but there is no indication the judgment will be reversed.

14. Writers and journalists who were never detained or charged at all also suffered summary punishment in violation of their right to freedom of expression, including 95 journalists and writers who were fired from their jobs with no explanation, 14 of them members of the Bahraini Journalists Society. Many more reportedly suffered intimidation and threats. These dismissals and threats are especially troubling in light of a report by the International Labour Organisation that the government had assured union leaders that employees could return to work without fear of reprisals for participating in protests.<sup>4</sup>

15. Finally, punishments for those exercising their right to freedom of expression were not limited to those living within the country. Journalists and bloggers living outside of Bahrain were tried *in absentia* as a means of restricting their speech at home and abroad. Bahrainis in exile do not have the right to lodge an appeal against their judgments. For example, Ali Abdul Imam, editor of *Bahrain Online*, was sentenced in absentia to 15

years in prison on 12 separate charges. Eleven other writers fled into exile to prevent threats against their families, arbitrary detention and torture—despite an invitation by the government for Bahrainis living in exile to return to the country in 2002. These writers could not appeal against their judgments by military tribunals.

16. Taken together, these violations of the right to freedom of expression decimated the ability of Bahraini journalists and writers to document human rights in Bahrain, to engage in peaceful activism, and to pursue journalistic inquiry. As a result, the citizens of Bahrain were systematically denied the right to receive information about events in their own country that would enable them to assess developments and participate in the public discourse about their country's future.

17. Through severe restrictions and intimidation of international reporters and news services operating in Bahrain, the international community was similarly denied the ability to monitor and assess the situation. Security forces in Bahrain directly threatened members of the international media; foreign media workers had travel visas revoked, and journalists from major international news outlets including *CNN*, *The Wall Street Journal*, and *The New York Times* either suffered collateral injuries inflicted by security forces as demonstrations were being violently suppressed or were directly targeted themselves.<sup>5</sup>

### **Ongoing Barriers to Freedom of Expression**

18. The current crackdown on freedom of expression is not an isolated incident precipitated solely by the Arab Spring, but a natural extension of historical, structural barriers in Bahrain.

19. After protests in the 90's, the government held a popular referendum that approved the National Action Charter of Bahrain in 2001. Article 4 of Chapter 1 grants every citizen "the right to express himself orally, in writing or in any other way of expression of personal opinion or creativity." Freedom of research, publishing, press and printing are also guaranteed.

20. However, one year later the government enacted its Press Law (Law No. 47 of 2002), which directly contravenes the aspirations of the National Action Charter and Bahrain's commitments under international instruments. Freedom House has listed 17 categories of protected expression that are criminalized under the Press Law, with offenses such as criticizing the king, inciting actions that undermine state security, or advocating for change in the government punishable by up to five years in prison. Journalists are vulnerable to substantial fines in connection with 14 additional offenses.<sup>6</sup>

21. The government maintains tight control of the Bahraini press. The Ministry of Information and Cultural Affairs oversees both print and broadcast media and the government has maintained a controlling financial interest in all broadcast media since 1971.<sup>7</sup> Only two newspapers, *Al Waqt* and *Al Wasat*, were considered truly independent

in 2010 before the crackdown. State operating licenses for newspapers can cost over \$2 million.<sup>8</sup>

22. Even before the 2011 crackdown, the content of newspapers was censored—as in the case of public corruption trials—and news websites including blogs and other social media were routinely blocked. Before *Bahrain Online* editor Ali Abdul Imam was forced to flee persecution in Bahrain in 2011, the Bahraini National Security Agency had already arrested him twice, on 4 September 2010 and in 2005, in connection with his reporting.

23. The government censored books as well before the crackdown. In March 2010, for example, the Ministry of Information and Cultural Affairs removed books by several Lebanese publishers from a book fair. The majority of the banned books were written by Shia authors.<sup>9</sup>

24. All of these weaknesses in the law and in the structures of media ownership and control adversely impact the ability of Bahraini citizens to exercise their right to seek and receive information as guaranteed under international free expression protections. That ability is further compromised by the fact that Bahrain does not have a freedom of information act or analogous legislation that ensures the public's right to a full and accurate record of government conduct and of events in their own country. The absence of freedom of information protections creates the kind of curtain behind which abuses like those perpetuated during the 2011 crackdown can flourish.

## **Recommendations and solutions**

25. PEN International, together with its 145 centers around the world makes the following recommendations:

- the release all journalists, writers and activists held in custody for practicing their right to freedom of expression;
- the newly established Bahrain Independent Commission of Inquiry (BICI) carries out a complete, impartial investigation of violations of the right to freedom of expression during the 2011 crackdown on public demonstrations in Bahrain leading to the prosecution of those found responsible for torture and extrajudicial killings in fair, transparent proceedings;
- the Kingdom of Bahrain gives the BICI report serious consideration and fully implements its recommendations;
- civilian courts be used in place of military tribunals for charges of free expression in order to guarantee due process;
- the government to renew its commitments to freedom of expression as articulated in the National Action Charter of Bahrain of 2001 by enacting appropriate legislation, including Article 4 of Chapter;
- to expand press freedom by repealing the Press Law of 2002 (Act No. 47) or amending it to eliminate all restrictions upon the freedom of the press, including

- criminal penalties, and by lifting its monopoly on broadcast media and removing restrictions on newspaper registration; and
- that Bahrain promote ongoing transparency and accountability by enacting a progressive, substantive Freedom of Information law.

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<sup>1</sup> See, for example, Joe Stork, testimony before The Tom Lantos Human Rights Commission, House of Representatives, 112<sup>th</sup> Congress, 13 May 2011.

<sup>2</sup> Doctors Without Borders, “Health Services Paralyzed: Bahrain’s Military Crackdown on Patients”, 7 April 2011.

<sup>3</sup> Committee to Protect Journalists, 12 April 2011. Available at <http://www.cpj.org/killed/2011/karim-fakhrawi.php> (accessed November 2011).

<sup>4</sup> International Labour Organisation, “ILO Director-General Sounds Alarm on Situation of Workers in Bahrain”. 6 April 2011.

<sup>5</sup> See, for example, Theunis Bates, “ABC's Miguel Marquez Attacked During Bahrain Protests”, AOL News. 17 February 2011. Available at <http://www.aolnews.com/2011/02/17/abcs-miguel-marquez-attacked-during-bahrain-protests/> (accessed November 2011).

<sup>6</sup> “2011 Press Freedom Index”, Freedom House. Available at <http://www.freedomhouse.org/template.cfm?page=251&year=2011> (accessed November 2011).

<sup>7</sup> “World Leading to Death”, Bahrain Press Association. July 2011.

<sup>8</sup> Id.

<sup>9</sup> Human Rights Bureau (HAQ Bahrain), “Bahrain-Impeding import and display of Shia books in official book fair”, 14 April 2010.