

# Women in Bahrain: Silence Allows Violence

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## **I. Introduction**

Human dignity cannot be founded on violations of collective and individual rights and freedoms. Women and children are the most vulnerable in societies. It is therefore that their rights and freedoms need greater protection, guaranteed by laws and their implementation. Women reflect the progress and the development of society, and the extent to which society respects their rights, supports and cares for their education. Women's rights are not just a humanitarian issue, but rather a national issue linked in various intellectual, political, and economic areas.

As stated by the former UN Secretary General, Ban KI-Moon: "violence against women continues to persist as one of the most heinous, systematic and prevalent human rights abuses in the world. It is a threat to all women and an obstacle to all efforts for development, peace and gender equality in all societies".

Although a woman's right to live free from violence is upheld by international agreements, violence against women, especially domestic violence, intensified as countries implemented lockdown measures to stop the spread of the COVID-19.

In the past, Bahraini women relied on the roles or jobs of their husbands. Since the 1960s, women were supposed to help their husbands in their occupations such as hunting and farming in villages or traditionally, committing to housework and raising their children if the husband worked in the city. Over the past 30 years or so, Bahraini women have begun to work outside traditional roles imposed by society, such as in jobs in the fields of education, medicine, nursing practice and other jobs related to health, finance, publication, industries, banking and other professions.

The history of women's rights in Bahrain began with the amendment of the Constitution in 2002, obtaining an important political right i.e. the right to vote and to be a candidate at the parliamentary and municipal elections, after an amendment to the Constitution. This marked the beginning of a struggle for the attainment of their legitimate rights, which are declared in international legislation and conventions.

## **II. International agreements and conventions guaranteeing women's rights**

There are many international covenants that guarantee the rights of women in all societies, among them are:

### **○ The Universal Declaration of Human Rights**

The Universal Declaration of Human Rights considers individuals to be without distinction as males or females, through the first article: "All human beings are born free and equal in dignity and rights." The term "all human beings" carries the meaning of non-discrimination and thus includes all genders. Article 16 states: "Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. Marriage shall be entered into only with the free and full consent of the intending spouses"; thus guaranteeing women's right to self-determination from marriage and divorce.

### **○ The Charter of the United Nations**

All that women want is a summary of their rights as a human being without discrimination from men. This is also declared in the Charter of the United Nations in Article 1: "To maintain international peace and security in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."

### **○ The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)**

It was adopted by the United Nations General Assembly in 1979 as an international bill on women's rights. CEDAW is composed of five parts with a total of 30 Articles. It called upon the ratifying States to enshrine the concept of gender equality in their domestic legislation, to abolish all discriminatory provisions in their laws and to enact new provisions to protect women that are subject to discrimination as well as the establishment of courts and public institutions to ensure that women have effective protection against discrimination and to take steps to eliminate all forms of discrimination against women by individuals, organizations and institutions.

Bahrain, by Decree-Law No. 70 of 2014, amended some of the provisions of Decree-Law No. 5 of 2002 to join the CEDAW. However, Bahrain has reservations about articles of this convention, the most obvious being that it does not grant women equal rights to men with regard to passing their nationality to their children, not committing to CEDAW's article 9, paragraph 2, which mandates member states "to grant

women equal rights to men to acquire, change or retain their nationality and equal rights with respect to the nationality of their children”.

Bahrain unblocked its previous reservations, in violation of the provisions of the Islamic Sharia, in article 2, which provides that “Member States condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation.”

Bahrain also unblocked its reservation under Decree No. 70 on Article 15, paragraph 4, which provides that “Member States shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.”

The Convention guarantees women’s rights in the areas of employment, health care, education, politics and other areas of economic and social life. Article 7 of the Convention provides “to eliminate discrimination against women in the political and public life of the country”, in the right to vote in all elections and to be eligible for election and to participate in the formulation of government policy. Additionally, article 7 provides “the participation in non-governmental organizations and associations concerned with the public and political life of the country.” The government bans and resolves these associations in general and thus, prevent women from their right to engage in civil society and express their political opinion.

### **III. Laws and Decisions in Bahrain Violating Women's Rights**

The Government of Bahrain has issued several laws, which, per their content, constitute a violation of women's rights with an explicit disregard of their rights declared in international covenants. Among these laws are:

- **Law No. 19 of 2009 (Family Law: Section I and II)**

The international community calls for openness, tolerance, consultation and democracy led the society to issue a law on the provisions of the Bahraini family. The Family Law Section I (Sunni jurisprudence) was enacted in Law No. 19 of 2009, after which the Unified Family Law No. 19 of 2017 was issued. For many years, researchers have been concerned about the importance and necessity of the legislation of the provisions of family "personal status".

Researchers and activists in the field of Bahraini women's rights emphasize the challenges that women experience in achieving equality, especially in terms of approving or amending certain laws and legislations related to women's rights. The family law or the so-called "personal status law", was declared in a context international pressure on the country from international organizations, in the attempt to appear, on the international arena in a way that reflects the country as fulfilling its obligations concerning women's legislative empowerment. The family "personal status law" plays an essential role in determining social relations. It determines the rights and duties of each of the family members as well as their relations; it controls marriage, divorce, childcare and the psychological and financial matters resulting from it.

Indicators show is that women and children are the most affected among the victims of violence and poor family harmony, due to the absence of law and the lack of diversity in the judicial decision-making which is made in accordance with the culture of the judge, his diligence and what is attributed to him from the source of legitimacy and social heritage, sometimes up to the point of contradiction. It was not accompanied by constitutional guarantees.

From a human rights perspective, the unified Family Law remains a discriminatory one in terms of the legal and legislative rules that are applied. It covers both doctrines based on legitimate interpretations that have discriminatory implications when they are adopted to apply and regulate matters such as marriage, divorce and child custody. According to the judgments of the law, women have less or no rights with regard to the civil situation. Women are considered minors in matters of family jurisdiction, childcare,

education, nationality, inheritance, etc. The most important manifestations of discrimination through the law are summarized as follows:

### **1. The mandate in Marriage:**

Article "28-1" in Sunni Jurisprudence requires the attendance of the guardian and his consent in order to validate the marriage contract. When this condition is not fulfilled, the contract is null and void, meaning that women are denied from dowries, marital dues, and maintenance. In Al- Jaafari Shiite jurisprudence, the law does not address this case.

It states, in Article "15/2", that "the guardian in the marriage of the eldest is her father or her grandfather, and it is required that her marriage should enter into her consent and with no father or grandfather, women are married if they are adults and nor is there a mandate of a valid marriage." Therefore, the requirement of a guardian to validate a marriage contract is detrimental to the woman's participation in such consent in the contract, which is a discrimination against women. While the law grants women the right to run as a parliamentary candidate and to vote, they need a guardian to authorize and sign procedures of their marriage, which compromises their right to choose their spouses in a free way.

### **2. Eligibility for marriage:**

The law determines the legal age for marriage for a woman as being sixteen years old, and it is permitted to marry her if she is less than that age, with the permission of the court. In accordance with jurisprudence and international standards, and the CEDAW Convention, the age of marriage is supposed to be at least 18 years old, with any marriage of a woman who is younger than that age being illegal and subject to a fine.

### **3. Polygamy**

The law lacks any text that restricts polygamy. It also lacks other underlying conditions such as the right of the wife to choose whether to end the marriage or not, after her husband marries another woman.

### **4. The procedure of the return to the matrimonial home (bayt ta'aa)**

The law established the concept of subordination and obedience of women to men and forced women to reside in the house of choice of their husbands, which contradicts the freedom of choice and the will of the wife; it is intended to emphasize her return to the matrimonial home (bayt ta'aa) if she left him. In contradicting her husband, she becomes disobedient and is prohibited from asking for alimony i.e. even if she is going to work though her husband's refusal. Usually, this part of law is used to humiliate the wife, and in most cases of disobedience in the Sharia Courts are basically malicious cases that are intended to harm the wife, both financially and morally, which is considered a low unequal status for her that limits her participation in public life and economic and political empowerment.

## 5. Transfer of nationality and inheritance

Up to date, the mother cannot transfer her nationality to her children as the father is able to, and Muslim women are prevented from marrying non-Muslims. Concerning inheritance, the law, as in most Arab countries, is based on jurisprudence of Islamic law i.e. that men inherit twice the share of women. The husband inherits a higher share than the wife, despite her contribution to the family wealth. Such discrimination may have negative effects, such as poverty and deprivation among women.

### ○ The Citizenship Act (1963)

The Bahraini Citizenship Act provides clear evidence of discrimination against Bahraini women and their rights, most notably the right to grant citizenship to their children if they marry a foreigner.

**The Article 4 of this law states that a person shall be deemed a Bahraini national in the following cases:**

- If he/she was born in Bahrain or abroad and the father, at the time of the birth, was a Bahraini national.
- If he/she was born in Bahrain or abroad and the mother, at the time of birth, was a Bahraini national, providing that the father was either unknown or paternity was not legally proven.
- Therefore, this law deprives the Bahraini mother, who marries a foreigner, of her right to grant citizenship to her children.

- Additionally, Article 7 states that “if a Bahraini woman marries a foreigner, she shall lose her Bahraini nationality, if and when she acquires the nationality of her husband.”
- Article 55 of this law binds the women’s career and work relations to the consent of their husbands.

- **Civil Associations Law**

Article 18 of the NGO Law prohibits civil society organizations from engaging in politics, which does not serve the active participation of women in the political process. This law has negatively affected women’s work, especially in parliamentary elections in 2006 and 2010.

- **Penal Code**

Article 16 of the Bahraini Penal Code states that “nothing is an offence if it is committed in exercise of a right justified by law or custom” and that violence against women is part of a common practice in society that gives men the right to strike or imprison women at home and to practice forms of violence and discrimination against them.

Criminal protection of women is pending in article 344 of the amended Penal Code, which provides that the perpetrator of rape is “sentenced to life imprisonment if the victim is less than sixteen years of age. The non-consent of the victim shall be presumed if she is less than fourteen years of age.” Although the crime is punishable by a maximum sentence of life imprisonment, what legally counts is the Article 353 which states that “no penalty shall be inflicted against a person who has committed one of the crimes set forth in the preceding articles 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.” When reviewing the social effects of rape on the woman (victim) and her family, it is found that many cases end with marriage, in order to escape the scandal of the victim and the punishment of the offender.

#### **IV. Violations against Bahraini women**

Bahraini women are subjected to daily violations of their rights. These violations have been occurring since the beginning of the 2011 uprising in Bahrain; women were subjected to many of the violations. Bahraini women from all levels of the society, including businesswomen, doctors, lawyers, nurses,

teachers, activists, unemployed women and housewives have been subjected to interrogation, detention, travel ban, security pursuits and other arbitrary measures taken by the authorities of Bahrain.

**Some of the violations documented by the Bahrain Center for Human Rights (BCHR) are as follows:**

- More than 380 women were dismissed from their public and private jobs during the National Security Period in 2011;
- Assault by security forces, during house raids do not respect the most basic rules of behaviour with women, as stated in the report of the Bahrain Independent Commission of Inquiry (BICI).
- The repeated use of travel bans to limit the activities of women human rights defenders in Bahrain. For instance, in August 2016, human rights defender Enas Oun was prevented from traveling from Bahrain International Airport; on June 12, 2016, security forces prevented activist Ebtisam Al-Saegh from traveling to Geneva from Bahrain International Airport, to attend the UN Human Rights Council session and participate in a side event on the human rights situation in Bahrain; the journalist Naziha Saeed was also prevented from traveling in June 2016; also human rights defender Nedal Al-Salman was prevented from traveling several times, on August 29, 2016, and on November 26, 2017.
- More than 330 women, including 11 doctors, pharmacists and nurses, were arrested following the crackdown on protestors during the 2011 protests. Among them was Nada Dhaif, a Bahraini doctor who once spoke to Al Jazeera and appeared several times on some English-speaking satellite channels, in addition to her presence on the Lualua TV. This was sufficient to arrest her after the declaration of the state of National Security in 2011. Nada and other female doctors were arrested, including Nehad Al-Shirawi, Khulood Al-Darazi, head of the obstetrics department at Salmaniya Medical Complex, Rula al-Saffar and Khatoun Al-Sayed, who were all arrested. On July 25, 2016, Massouma Al-Sayed, a human rights activist and mother of two children, an 8-year old and an 11-year old, was arbitrarily dismissed from her job at the Arabian Pearl Gulf School, where she was teaching fine arts. On May 26, 2017, the National Security Agency summoned human rights defender Ebtisam al-Saegh to the Muharraq police station in the north of the country, where investigators beat her and physically and mentally harassed her.

## V. Recommendations

The Bahrain Center for Human Rights (BCHR) calls on the Bahraini government to:

- Immediately and unconditionally release all prisoners of conscience, more specifically female detainees;
- Stop all forms of targeting, attacks and arrests (from homes, workplaces and schools) of Bahraini women, especially the activists;
- Immediately stop all practices of physical and psychological torture that female prisoners are subjected to in interrogation rooms and detention places;
- Investigate all incidents of murder and violence that claimed the lives of a number of Bahraini women, and to hold the perpetrators accountable;
- Stop the campaign of unfair dismissal practiced against Bahraini workers, especially women workers, and returning all dismissed workers to their jobs.
- Adhere to international covenants and agreements signed by the authorities in Bahrain in the field of protecting women's rights and stop discrimination and violence against them.