



European Center for Democracy and Human Rights

Contribution to the 71st session of the Committee of the Economic, Social, and Cultural Rights

Deep Rooted Cultural Rights Violations in Bahrain

Submitting Organization

The European Center for Democracy and Human Rights (ECDHR) is a Brussels based NGO seeking to promote human rights and democracy in the Gulf Cooperation Council Countries. Our reporting is based primarily on its United Nations (UN) complaint program, by which it works with victims of human rights violations on the ground to document abuses and submit this evidence to the UN Special Procedures. We have repeatedly requested permission to formally visit Bahrain to consult with official human rights bodies, such as the National Institute for Human Rights (NIHR), but has been so far denied access. Yet, the Government of Bahrain has declined to cooperate with us on any level.

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1. Introduction

We write in advance of the 70th session of the Committee on Economic, Social and Cultural Rights (CESCR) and its review of Bahrain's compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR). This submission addresses issues related to articles 2.2 and 15.1 (a) of the Covenant and proposes recommendations to issue to the Bahraini government.

This submission focuses on the rights of the Shia population in Bahrain to take part in cultural life, specifically to profess and practice their religion in private and public. This is in consideration of General Comment 21 in which the Committee states that Article 15.1 (a) of the ICESCR encompasses religion or belief systems and rites and ceremonies. This provision will be applied to the case of the Bahraini Shia population in conjunction with Article 2.2 of the Covenant which prohibits discrimination based on religion, amongst other grounds. This report highlights the ways in which the Bahraini government continues to violate the rights of the Shia population in Bahrain to take part in cultural life with respect to the Shia religious practices in the Kingdom.

The Kingdom of Bahrain officially joined the ICESCR on 27 September 2007 and the legislation entered into force on 27 December of the same year. Despite this, the Bahraini authorities have continued to discriminate against Bahrain's Shia majority – including the Baharna and Ajam ethnoreligious groups – in most aspects of daily life. While as much as 70% of Bahrain's population is Shia,¹ nearly all political power is concentrated within the Sunni Al-Khalifa ruling family, and most key government posts are held by Al-Khalifa or Sunni supporters.² As repeatedly documented by scholars,³ UN, Special Procedures,⁴ and independent NGOs,⁵ the authorities have specifically targeted the Shia community for reprisal and have intensified restrictions on Shia religious and cultural rights since 2011.

2. Non-discrimination in Cultural Rights (Articles 2, 15.1 (a) and General Comment 21)

The Shia Muslim community in Bahrain is continuously facing systematic and widespread discrimination. Despite a number of laws that have been adopted by the Kingdom to promote and protect the principles of non-discrimination and equality, discrimination is prevalent in every aspect of the Shia's lives.

The religious discrimination against the Shia population in Bahrain is deeply concerning. After the 2011 peaceful demonstrations, there has been an intensified wave of

¹ The Future of the Global Muslim Population: Sunni and Shia Muslims," Pew Research Center, 27 January 2011, <http://www.pewforum.org/2011/01/27/future-of-the-global-muslim-population-sunni-and-shia/>

² Justin Gengler, *Group Conflict and Political Mobilization in Bahrain and the Arab Gulf: Rethinking the Rentier State*, Indiana University Press: 2015, print.

³ Marc Owen Jones, "Saudi Intervention, Sectarianism, and De-Democratization in Bahrain's Uprising," in *Protest, Social Movements and Global Democracy Since 2011: New Perspectives*, 9 June 2016, <http://www.emeraldinsight.com/doi/abs/10.1108/S0163-786X20160000039011>.

⁴ BHR 6/2015 Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on extreme poverty and human rights; and the Special Rapporteur on freedom of religion or belief, OHCHR, 30 October 2015, [https://spdb.ohchr.org/hrdb/31st/public - AL Bahrain 30.10.15 \(6.2015\).pdf](https://spdb.ohchr.org/hrdb/31st/public - AL Bahrain 30.10.15 (6.2015).pdf).

⁵ *Freedom in World 2016: Bahrain*, Freedom House, 2016, <https://freedomhouse.org/report/freedom-world/2016/Bahrain>.

arrests, detentions, and charges brought against many Shia clerics and human rights defenders. Indeed, numerous actions undertaken by the government confirm that there is a clear targeting of the Shia population based on religion. Since 2014, the OHCHR and the Special Procedures Office have denounced the government's discrimination and persecution of the Shia community. The Working Group on Arbitrary Detention and the Special Rapporteur on Freedom of Expression, Freedom of Religion or Belief, and the Special Rapporteur on the Situation of Human Rights Defenders issued a joint statement calling for the end of the persecution of the Shia people after the government revoked the citizenship of nearly 300 Shia citizens.⁶

The government have further worsened the position of Shia Muslims in Bahraini society through targeted attacks on their freedoms. For example, in June 2016, the government amended Article 5 of the Political Society Law⁷ to specifically prohibit religious figures from being part of political groups. This explicitly goes against the principle of freedom of religion, enshrined in Article 8 of the Bahraini Constitution, which promulgates the principles of equality and non-discrimination.⁸ Most importantly, this systematic discrimination against the Shia majority has negatively and severely impacted their cultural rights which are protected by the ICESCR. The Kingdom has breached Article 2.2 of the ICESCR which requires Member States to guarantee the rights protected by the Covenant without discrimination based on religion, or other grounds. However, the Bahraini government has failed to fulfill its obligations in this regard and has chosen to deprive the Shia population of their cultural rights by destroying their religious sites, suppressing their religious practices, and harassing Shia religious figures.

A. Damaging Religious Sites

In the aftermath of the 2011 unrest, Bahraini authorities damaged over 53 Shia mosques and religious institutions; of these, at least 28 were entirely demolished.⁹ The government stated that it only demolished mosques that were constructed without permits, although a number of the structures had been built years – and in some cases centuries – before the modern construction permit process was established. Nonetheless, in June 2012, Bahrain's Court of Cassation ruled that the government could only authorize the repair or reconstruction of mosques that possessed proper documentation.¹⁰ The court's decision has forced subsequent efforts to reconstruct Shia places of worship to navigate this burdensome and often retroactive permit process.

The government has also halted work on numerous mosques and authorized the re-demolition of others.¹¹ By December 2012, the authorities had demolished—for the second

⁶ ADHRB, BIRD, and BCHR, 2016, *Collective efforts - International calls for accountability and reform in Bahrain*, 2016, <http://birdbh.org/wp-content/uploads/2016/09/Collective-Efforts.pdf>

⁷ TOUMI H., *Bahrain MPs ban mixing of politics and religion*, World Gulf, 18 May 2016, <https://gulfnews.com/world/gulf/bahrain/bahrain-mps-ban-mixing-of-politics-and-religion-1.1830097>

⁸ Constitution of the Kingdom of Bahrain, 14 February 2002, <https://www.wipo.int/edocs/lexdocs/laws/en/bh/bh020en.pdf>

⁹ "Sectarian Tensions Rise in Bahrain Amid Mosque Attacks." *Al-Monitor*. 23 July 2013. <http://www.al-monitor.com/pulse/security/2013/07/bahrain-sectarian-crisis-mosque-attacks.html> ; see also US Department of State, US Embassy in Bahrain, 2012 International Religious Freedom Report - Country Chapter for Bahrain, <http://bahrain.usembassy.gov/policy/religious-freedom-report.html> ; "Bahrain Press Review." *Bahrain News Agency*. 21 September 2013. <http://www.bna.bh/portal/en/news/580510> .

¹⁰ "Top court halts mosque rebuilding in Bahrain." *Trade Arabia*. 21 June 2012. http://www.tradearabia.com/news/law_219340.html

¹¹ "Mosques Under Construction Re-Demolished by Authorities in Bahrain." *Bahrain Center for Human Rights*. 9

time—four Shia mosques without providing prior notification.¹² The US State Department’s 2012 Report on International Religious Freedom noted that these demolitions continued throughout the year.¹³ It also found that the government halted work on the construction of new mosques and deprived many Shia communities of temporary places of worship, instead having to be content with “simple structures”; yet, even these sites were usually still destroyed by Bahraini security forces in further attempts to suppress the rights of Shia’s to practice their religion freely.¹⁴ In other instances, the government precluded reconstruction by assuming control of the demolition sites and initiating new public construction projects, such as parks or housing complexes. The authorities have demolished the 70-year-old Abu Dharr al-Ghifari mosque, for example, and instead announced that the site will be converted into another park.¹⁵ The Al Khamis Mosque, an important Baharna cultural center and the earliest surviving mosque in Bahrain, is set to become a museum under the auspices of the Ministry of Culture.¹⁶ According to the UN Special Procedures, authorities are reportedly removing “engravings linking the mosque to Baharna population and Shia Islam.”¹⁷

By July 2013, the Bahraini government had rebuilt five mosques, completed repairs on four, and tendered reconstruction permits for another eleven.¹⁸ The next year, the government reported that it had allocated 7,948,790 USD for the reconstruction of 30 sites specifically identified in the BICI. As of February 2014, it claimed that twelve of these mosques had been fully rebuilt and that the rest were under construction.¹⁹ The government’s 2014 Interim Report on the implementation of its UPR recommendations additionally noted that the Jaafari Endowment Directorate,²⁰ an affiliate institution of the Ministry of Justice and Islamic Affairs tasked with regulating Shia religious property, would oversee the reconstruction projects going forward.²¹ However, the government has been unable to meet its deadlines for reconstruction so far.

In 2015, the Bahrain Human Rights Observatory (BHRO) found that a total of 24 mosques had been rebuilt at their original sites.²² However, only 16 of these were explicitly

December 2012. <http://www.bahrainrights.org/en/node/5550>

¹² Ibid.

¹³ “Bahrain: 2012 Report on International Religious Freedom.” U.S. Department of State – Bureau of Democracy, Human Rights, and Labor. 20 May 2013. <http://www.state.gov/j/drl/rls/irf/2012/nea/208384.html>.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ BHR 6/2015 Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on extreme poverty and human rights; and the Special Rapporteur on freedom of religion or belief, OHCHR, 30 October 2015, [https://spdb.ohchr.org/hrdb/31st/public - AL Bahrain 30.10.15 \(6.2015\).pdf](https://spdb.ohchr.org/hrdb/31st/public - AL Bahrain 30.10.15 (6.2015).pdf).

¹⁷ Ibid.

¹⁸ “Sectarian Tensions Rise in Bahrain Amid Mosque Attacks.” *Al-Monitor*. 23 July 2013. <http://www.al-monitor.com/pulse/security/2013/07/bahrain-sectarian-crisis-mosque-attacks.html>; see also US Department of State, US Embassy in Bahrain, 2012 International Religious Freedom Report - Country Chapter for Bahrain, <http://bahrain.usembassy.gov/policy/religious-freedom-report.html>;

“Bahrain Press Review.” *Bahrain News Agency*. 21 September 2013. <http://www.bna.bh/portal/en/news/580510>.

¹⁹ *Kingdom of Bahrain: Universal Periodic Review Interim Report*, Kingdom of Bahrain, September 2014, <http://www.upr.bh/index.php/progress-report-2014/>

²⁰ The Jaafari Endowment Directorate is also known as the Jaffaria Waqf Directorate, or simply Jaafari Endowments.

²¹ “Jaffaria Waqf Directorate: History,” Jaffaria Waqf Directorate, Ministry of Justice and Islamic Affairs, Kingdom of Bahrain, 2009, http://www.jafwaqf.com/view.php?page=home_en

²² *Apart in Their Own Land: Government Discrimination Against Shia in Bahrain, Vol. I*, ADHRB, BCHR, and BIRD, April 2015, <http://www.adhrb.org/2015/03/adhrb-bird-and-bchr-publish-new-report-on-shia-discrimination/>

funded and reconstructed by the government, as around 8 mosques have been funded for and repaired by the local Shia communities.²³ Bahraini authorities rebuilt an additional three mosques at new locations, away from their original sites.²⁴ The US State Department reported in 2016 that the government had “completely reconstructed” 22 of the 30 mosques specifically identified by the BICI.²⁵ Of the remaining eight, it found that four “appeared to have complete structures with utilities, but were not open” and one “had a nearly complete structure, but a wall around the site implying construction was ongoing.”²⁶ Still, the government has only partially fulfilled its commitment to restore Shia places of worship damaged or destroyed since 2011. The BHRO report found that a total of 11 mosques have not been rebuilt²⁷.

The government has additionally restricted access to many of the sites where Al-Barbaghi and other relocated mosques originally stood.²⁸ The Al-Barbaghi mosque is particularly significant as it is centuries old and is symbolic both culturally and religiously to the Shia. BCHR found in 2015 that the government continued to forbid Shia worshippers from visiting holy sites such as the mausoleum of Sheik Ibrahim bin Malik al-Ashtar and the Saassa bin Souhan Mosque, both of which have been the target of sabotage attempts or have been otherwise defaced by security forces.²⁹

According to Article 15.1 (a) of the ICESCR, every person has the right to a cultural life. The Committee has interpreted this Article in its General Comment 21 to include religion or belief systems and rites and ceremonies. This means that when the State party to the Covenant pursues the destruction of any religious sites, it automatically violates the rights protected under Article 15.1 (a) of the Covenant. The Bahraini government has systematically targeted the Shia religious sites and not those of other sects or religions. Consequently, it has failed to fulfill its obligations to protect the cultural rights of the Shia population to fully enjoy access to religious sites that allow them to practice their beliefs without interference from state authorities. Because this incessant interference, the State of Bahrain has also failed to show how the destruction of Shia religious sites is necessary for the well-being of the Bahraini society or important to its national interests. In fact, destroying religious sites under international human rights law has never been considered proportionate with regards to pursuing a legitimate aim of protecting the national interests of a State. As such, and according to the abuses mentioned above, the Bahraini government is in violation of Article 15.1 (a) of the ESCR, in conjunction with Article 2.2 and General Comment 21. Bahrain is also in violation of Article 2.1 of the IESCR which requires State parties to achieve the full realization of the rights under the Covenant. Abstaining from the destruction of Shia religious sites does not require any economic capabilities; the Bahraini authorities merely had to refrain from interfering from in the enjoyment of the Shia population of having religious sites to practice

²³ *Apart in Their Own Land: Government Discrimination Against Shia in Bahrain, Vol. I*, ADHRB, BCHR, and BIRD, April 2015, <http://www.adhrb.org/2015/03/adhrb-bird-and-bchr-publish-new-report-on-shia-discrimination/>

²⁴ Ibid.

²⁵ *Steps taken by the Government of Bahrain to Implement the Recommendations in the 2011 Report of the Bahrain Independent Commission of Inquiry*, US Department of State, 21 June 2016, <http://pomed.org/wp-content/uploads/2016/06/State-BICI-Report.pdf>

²⁶ Ibid.

²⁷ *Apart in Their Own Land: Government Discrimination Against Shia in Bahrain, Vol. I*, ADHRB, BCHR, and BIRD, April 2015, <http://www.adhrb.org/2015/03/adhrb-bird-and-bchr-publish-new-report-on-shia-discrimination/>

²⁸ Ibid

²⁹ *Bahrain: 2015 Human Rights Violations from Practice to Policy*, BCHR, 10 April 2016, <http://www.bahrainrights.org/en/node/7786>; and BHR 6/2015 Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on extreme poverty and human rights; and the Special Rapporteur on freedom of religion or belief, OHCHR, 30 October 2015, [https://spdb.ohchr.org/hrdb/31st/public_-_AL_Bahrain_30.10.15_\(6.2015\).pdf](https://spdb.ohchr.org/hrdb/31st/public_-_AL_Bahrain_30.10.15_(6.2015).pdf)

their beliefs and take part in cultural life, the Bahraini authorities themselves destroyed these sites and are thus obligated to provide compensation.

B. Suppression of Religious Practices, Gatherings and Associations

In addition to its destruction and neglect of Shia religious sites, the government has also escalated its interference in traditional Shia religious practices.³⁰ Authorities frequently disturb public Shia religious ceremonies during the Islamic calendar month of Muharram. In 2015, ADHRB, BCHR, BIRD, and ECDHR documented numerous cases of security forces arresting Shia clerics, tearing down religious placards marking Ashura (or the Day of Remembrance), and suppressing peaceful public demonstrations with shotguns and teargas.³¹ The authorities removed flags and banners from more than 30 villages in the first two weeks of Muharram, and they raided a Shia religious hall, a *matam*, in Karzkan village.³² The MOI justified its decision to violently disperse worshippers – resulting in several cases of near-suffocation, bodily injury, and private property damage – as necessary to “ensure traffic safety.”³³

Similar forms of harassment were reported in 2016,³⁴ when ADHRB, BCHR, BIRD, and ECDHR documented numerous cases of government interference with worshippers and clerics during the month of Muharram, particularly in the town of Diraz.³⁵ The authorities also denied at least two preachers, SA (Bahraini citizen) and SMA (Bahraini citizen), from entering Diraz to participate in a religious event.³⁶ These restrictions have only worsened in 2020, against the backdrop of the COVID-19 pandemic.

The first official decision this year regarding the commencement of Ashura took place on 12 August,³⁷ when the Supreme Council for Islamic Affairs³⁸ issued a statement that collective prayer and religious ceremonies would remain suspended due to the risk of spread of COVID-19. However, these restrictions were inconsistent with the easing of lockdown regulations for entertainment facilities, gyms, malls, and swimming pools, which were reopened on 6 August.³⁹ The government were clearly using the COVID-19 pandemic as an excuse to extend its control over Shia places of worship and continue its systematic

³⁰ “Updates: Bahrain: Authorities Promoting Sectarian Tensions by Targeting Shia Muslims During Ashura,” BCHR, 15 November 2013, <http://www.bahrainrights.org/en/node/6565>

³¹ “Attacks on Muharram Ceremonies in Bahrain.” ADHRB, BCHR, and BIRD, 29 October 2015, <http://www.adhrb.org/2015/10/attacks-on-muharram-ceremonies-in-bahrain/>

³² Ibid.

³³ “الداخلية «: مخالفات» عاشوراء « العامة والسلامة والمضمون بالأماكن تتعلق الأمن أزالها التي» Al Wasat, 23 October 2015, <http://www.alwasatnews.com/news/1038173.html>

³⁴ Habib Toumi, “Bahrain security chief vows zero tolerance towards Ashura abuses: Flags, cutouts removed from non designated locations,” Gulf News, 4 October 2016, <http://gulfnews.com/news/gulf/bahrain/bahrain-security-chief-vows-zero-tolerance-towards-ashura-abuses-1.1906562>

³⁵ “As the Religious Season of the Month of Muharram Begins, Bahrain Increases Restrictions and Attacks on Religious Freedom,” BCHR, 10 October 2016, <http://www.bahrainrights.org/en/node/8233>

³⁶ “As the Religious Season of the Month of Muharram Begins, Bahrain Increases Restrictions and Attacks on Religious Freedom,” BCHR, 10 October 2016, <http://www.bahrainrights.org/en/node/8233>

³⁷ Prayer in Mosques, Collective Worship, Religious Gatherings to Remain Suspended, *Bahrain News Agency*, 12 August 2020, <https://www.bna.bh/en/Prayersinmosquescollectiveworshipreligiousgatheringstoremainsuspended.aspx?cms=q8FmFJgiscL2fwizON1%2bDnoYUobxtfURrhixDMDiaOU%3d>

³⁸ The most prominent governmental entity with regards to Islamic affairs - it has consultative and monitoring roles.

³⁹ COVID-19: Bahrain to reopen gyms, pools from August 6, *Gulf News*, 24 July 2020, <https://bit.ly/32PObTI>

discrimination against Shia communities during Muharram. Moreover, the fact that collective worship is possible while maintaining safety precautions was proven by the decision of the Supreme Council of Islamic Affairs and Ministry of Justice on 26 August,⁴⁰ the sixth day of Muharram, as they issued the gradual reopening of mosques starting the following Friday prayer on 28 August. The decision regarding the closure of Ma'tams and Husainiyas for Ashura remained unchanged. As further proof of the authority's inconsistency, on September 1, immediately following Ashura, a representative of the King, participated in a Hindu celebration as a show of religious tolerance and celebration of diversity.⁴¹ Those attending the event were seen violating safety measures with no one wearing masks or practicing social distancing. Moreover, festivals,⁴² weddings, sports clubs, restaurants, gyms, shops, swimming pools, cinemas, restaurants, and other events, facilities, and sectors remained open without taking the necessary precautions against COVID-19.

(i) Religious suppression in prisons

In prison, Shia inmates consistently experience religious discrimination and hate speech, adding to the already universally poor living conditions within Bahrain's detention facilities. Since 2013, we have submitted 88 complaints to the UN Special Procedures that included evidence of Bahraini prison guards preventing detainees from engaging in prayer, and another 74 complaints included cases that involved sectarian insults or hate speech.⁴³ BCHR and BYSHR have found that NSA agents and other security forces routinely conduct room searches at the Dry Dock Detention Center during which "they empty the contents of the prisoners' lockers, throw holy books like the Qur'an and ... sacred Shia texts on the floor, and confiscate money."⁴⁴ Inmates generally report that guards treat Shia detainees worse than their Sunni counterparts and that all Shia religious texts are banned within the prison.⁴⁵ In December 2016, ECDHR received reports that detainees at Jau Prison had announced a hunger strike after guards assaulted inmates for participating in a mass prayer. The reports indicated that the guards had specifically beaten SMA (Bahraini citizen and religious scholar) for leading prayers.

On 8 August 2020, NF (Bahraini HRD in prison) stated that he, along with around 500 political prisoners in Buildings 13 and 14 of Jau Prison, would start a hunger strike the next day to protest against the administration's negligence, mistreatment, and ban on religious rituals, especially as Ashura was drawing closer. Prison authorities responded by sending NF (Bahraini HRD in prison) and 5 other detainees — SA (Bahraini citizen), MF (Bahraini citizen), SZA (Bahraini religious scholar and political prisoner), MS (Bahraini citizen), and AAA (Bahraini citizen) — to Building 15 (used by the prison administration and the Criminal Investigation Directorate to torture and punish prisoners) for mobilizing other inmates. As a further form of reprisal, they were each placed in a cell with Asian migrant workers who do not share their language, culture, or religion. They are in *de facto* isolation and they haven't been able to call or contact their families since July. Due to this, they were unable to perform religious rites, a violation of their human rights. They sometimes resorted to saying Ashura

⁴⁰ Bahrain News Agency, Mosques reopen for "Fair" prayers, amid strict precautionary measures, 28 August 2020, <https://bit.ly/2YQHak6>

⁴¹ Nasser Bin Hamad Participates in a Hindu Religious Celebration. *Al-Ayam*, 1 September 2020, <https://www.alayam.com/alayam/local/870369/News.html>

⁴² Tweet by Ghassan Naseef, 10 September 2020, <https://twitter.com/NaseefG/status/1303951573589073923>

⁴³ "From the Ground: Systematic Torture in Bahrain," ADHRB, BCHR, and BIRD, 9 February 2016, <http://www.adhrb.org/2016/02/analysis-adhrb-un-complaint-documentation-database/>

⁴⁴ *Locked Inside a Nightmare: Voices from Bahraini Prisons*, BCHR and BYSHR, 9 June 2014, <http://www.bahrainrights.org/sites/default/files/Prison%20Report%20-%20FINAL%20II.pdf>

⁴⁵ *Ibid.*

rites or prayers through the opening of the cell door so that other individuals can hear them. As a means of reprisals, SAA(Bahraini citizen and religious scholar) and AAA (Bahraini citizen and political prisoner) were transferred in solitary confinement and, alongside MS (Bahraini citizen and political prisoner), were completely unable to perform Ashura rites⁴⁶.

At the Isa Town Women's Prison, guards have also punished women for celebrating religious occasions and have reportedly harassed and separated Sunni and Shia inmates that attempt to pray together. ZA (Bahraini citizen and political prisoner), activist, and daughter of BCHR cofounder, observed naturalized security forces subject Shia women to hate speech at Isa Town.

The suppression of religious practices and gatherings, whether in private or public, is also prohibited under the meaning of Article 15.1 (a) of the ICESCR as per the Committee's interpretation offered in its General Comment 21. The Committee states that there should not be any limitations imposed on rights that are "intrinsicly linked to the right to take part in cultural life, such as the rights [...] to freedom of thought, conscience and religion, to freedom of opinion and expression, to peaceful assembly and to freedom of association".⁴⁷ As such, when the Bahraini authority interferes with the Shia religious practices, even in prisons, and limits the rights to freedom of thought and religion, it directly restricts the Shia's right to participate in cultural life and, consequently, violates Article 15.1 (a) of the ICESCR. Not to mention that Bahrain is exploiting the pandemic as an opportunity to double down on its restriction of religious and cultural expression within the Shia community. Because this is only done against the Shia, the Bahraini government, in turn, is violating Article 2.2 of the ICESCR that prohibits discrimination on the basis of religion. Not only that, but because allowing the Shia to participate in religious practices and gathering does not require any economic capabilities – which is an excuse usually used by Member States by referring to Article 2.1 of the Covenant – the Bahraini government's interference is not justified by such grounds meaning that fails to fulfill its obligations required under 2.1 of the Covenant. The Bahraini authorities should merely refrain from interfering in the Shia religious practices but instead, continuously targets them with no legitimate aim. Therefore, and based on the above facts, the Bahraini government is in violation of Article 15.1 (a) in conjunction with Article 2.2 and General Comment 21, and Article 2.1 of the ICESCR.

C. Judicial Harassment of Shia Religious Figures

Ever since the peaceful protests of 2011, demonstrators have been demanding equal rights and an end to discrimination against the Shia community. Although the majority of Bahrain's citizen population is Shia, the community faces institutionalized discrimination, and the Sunni ruling family routinely suppresses their right to free belief. The Bahraini government has taken direct measures to obstruct the political participation of Shia clerics and other religious leaders since the beginning of its second UPR cycle. In 2015, the authorities arrested a number of prominent Shia religious and opposition figures, including SHA (Bahraini citizen and political prisoner), SAA (Bahraini citizen and political prisoner), SIA (Bahraini citizen and

⁴⁶ Tweet by Sayed Ahmed AlWadaei, 1 September 2020, <https://twitter.com/salwadaei/status/1300820978172334080?s=21>

⁴⁷ Committee on ESCR (2009), General Comment 21: Right of everyone to take part in cultural life, E/C.12/GC/21.

political prisoner), SSA((Bahraini citizen and religious scholar), MM (Bahraini citizen), and SAS, the Secretary-General of Al-Wefaq, among others.⁴⁸

In 2016 the government launched a massive campaign that led to the interrogation, detention, and arrest of no less than 70 Shia clerics. SMM was sentenced to one year in prison for delivering an “unauthorized sermon”⁴⁹. SMA, the leader of the largest Friday prayer gathering in Bahrain, was prohibited from delivering sermons and directing prayers.⁵⁰ On 16 August 2016, the UN Special Rapporteurs on free expression, free assembly and association, freedom of religion and belief, and human rights defenders, as well as the Chair-Rapporteur of the UN Working Group on Arbitrary Detention, issued a joint statement expressing concern that “Shias are clearly being targeted on the basis of their religion [in Bahrain].”⁵¹

However, the judicial harassment of Shia religious figures has only worsened in recent times. After the end of Muharram in October 2019, no less than 11 religious figures were summoned for questioning, arrested, detained, or imprisoned. This year, during the holy month of Ramadan, which spanned from April until May, clergymen were targeted in an attack on religious freedoms. Around the 40th day after Ashura, during which Shia worshippers commemorate the death of Imam Husain by practicing similar rituals to those of Ashura, more than 39 individuals were summoned, detained, or forced to sign pledges that they would no longer take part in such rituals or assemblies. Many worshippers remain in detention. Additionally, the administrators of Ma'tam Al-Eker, Ma'tam Al-Qurayyah, and Ma'tam Sitra, among others, were summoned by the Ministry of Interior.⁵² During this meeting, Brigadier General MBD told the Ma'tam administrators that they would not open the places of worship during Muharram, or else their Ma'tam would be closed and sealed for 3 years in addition to a fine of 10,000 Bahraini dinars. He also threatened the administration as well as Ma'tam speakers with reprisal if they were to disobey these orders.

By persecuting these figures solely based on their religion and faith, Bahrain is in direct violation of the principle of non-discrimination that can be found both in the Bahraini Constitution in its article 18, as well as in the ICESCR in its article 2.2 which prohibits discrimination under the Covenant.

Bahrain is also failing to comply with Article 15.1 (a) of the ICESCR, which recognizes the right of everyone to take part in cultural life. While it is common for Shia clerics to be interrogated, detained, arrested, or stripped of their nationality for statements made on the basis of their faith, such repression does not exist against Sunni religious figures. This discrimination is by no means justifiable, and it is exercised only because the Sunni ruling family does not tolerate citizens of another religion, despite being in the minority. Indeed, Bahrain has been

⁴⁸ *Bahrain: 2015 Human Rights Violations from Practice to Policy*, BCHR, 10 April 2016, <http://www.bahrainrights.org/en/node/7786> ; and “Opposition Leader Majeed Milad Sentenced to Prison Term,” ADHRB, BCHR, and BIRD, 18 November 2015, <http://www.adhrb.org/2015/11/opposition-leader-majeed-milad-sentenced-to-prison-term/> ; and “NGOs Condemn Arrest of Former al-Wefaq MP Sheikh Hasan Isa,” ADHRB, BCHR, and BIRD, 21 August 2015, <http://www.adhrb.org/2015/08/ngos-condemn-arrest-of-former-al-wefaq-mp-sheikh-hasan-isa/>

⁴⁹ “Bahraini cleric sentenced to prison for ‘unauthorized sermon,’” BCHR, 26 May 2016, <http://www.bahrainrights.org/en/node/7844>

⁵⁰ “Bahrain: Authorities Escalate Crackdown on Shia Clerics and Freedom of Religion,” BCHR, 17 June 2016, <http://bahrainrights.org/en/node/7914>

⁵¹ “UN rights experts urge Bahrain to end the persecution of Shias,” OHCHR, 16 August 2016, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20375&LangID=E>

⁵² Details from the “Interior” Campaign to prevent the opening of Husainiyas during Muharram. *Bahrain Mirror*. 11 August 2020, <http://bh-mirror.ufcfan.org/news/58296.html>

accusing its Shia population of promoting sectarian unrest and maintaining ties with Iran⁵³, which is the country with the largest Shia population in the Gulf countries. Indeed, Bahrain believes that Iran is behind much of the turmoil affecting the country.⁵⁴ For example, in September 2020, many prayers and rites of Sunnis, Christians, and Hindus were encouraged and broadcasted⁵⁵ while Shias were actively persecuted for practicing their rituals⁵⁶.

Bahrain is also in violation of article 22 of its own Constitution that clearly states that: “Freedom of conscience is absolute. The State guarantees the inviolability of worship, and the freedom to perform religious rites and hold religious parades and meetings in accordance with the customs observed in the country”⁵⁷. The massive campaigns that have been launched to silence Shia clerics and prevent them from delivering speeches and sermons demonstrates how Bahrain is unable to even comply with its own set of rules.

(i) *The case of Sheikh Isa Qassim*

ASIQ is a prominent Shia cleric who is widely considered as the spiritual leader of Bahrain’s Shia community.⁵⁸ In 2016, the Ministry of Interior (MOI) revoked his citizenship without presenting “any credible evidence,” as noted by the US State Department⁵⁹. The MOI based its decision on allegations that ASIQ has “served foreign interests”, promoted “sectarianism and violence,”⁶⁰ and “exploited the religious pulpit for political purposes.”⁶¹ ASIQ is unable to appeal the denaturalization order.

A day after the MOI revoked ASIQ citizenship, security forces reportedly raided a religious consultation office associated with the cleric and removed the building’s doors.⁶² They also searched the nearby apartments of religious students and other citizens. In addition to the denaturalization order, the government initiated legal proceedings against ASIQ on charges of illicit fund-raising and money-laundering.⁶³ The charges against him related to the traditional Shia practice of *khums* whereby religious leaders solicit donations from the community. These charges are intended to speed up the plans to strip the Shia imams of the right to collect a religious contributions. The government has accused Shia leaders like ASIQ

⁵³ *Iran says Bahrain has crossed line by stripping Shia cleric of citizenship*, The Guardian, 20 June 2016, <https://www.theguardian.com/world/2016/jun/20/bahrain-strips-influential-shia-cleric-isa-qassim-citizenship>

⁵⁴ *Saudi Arabia’s allies Bahrain, Sudan and UAE act against Iran*, BBC News, 4 January 2016, <https://www.bbc.com/news/world-middle-east-35222365>

⁵⁵ Tweet by activist Said Yousif Almuhafeh, 10 September 2020, <https://twitter.com/SAIDYOUSIF/status/1304071710870851584>

⁵⁶ Instagram video by @e.alsaegh, 8 September 2020, <https://www.instagram.com/p/CE2tkxyhlc0/?igshid=1np4t3ud909b3>

⁵⁷ Bahrain’s Constitution of 2002 with amendments through 2017, available at : https://www.constituteproject.org/constitution/Bahrain_2017.pdf?lang=en

⁵⁸ “Eminent Shia Cleric Stripped of Citizenship, Faces Deportation,” ADHRB, BIRD, ECDHR, and JHRO, 20 June 2016, <http://www.adhrb.org/2016/06/eminant-shia-cleric-stripped-citizenship-faces-deportation/>

⁵⁹ “Bahrain Revokes Top Shia Cleric Isa Qassim’s Citizenship,” BBC News, June 20, 2016, <http://www.bbc.com/news/world-middle-east-36578000>

⁶⁰ Ibid.

⁶¹ “Eminent Shia Cleric Stripped of Citizenship, Faces Deportation,” ADHRB, BCHR, BIRD, and JHRO, 20 June 2016, <http://www.adhrb.org/2016/06/eminant-shia-cleric-stripped-citizenship-faces-deportation/>

⁶² Bahraini Security Forces Raid Al-Bayan Office Linked to Sheikh Isa Qassim,” Bahrain Mirror, 21 June 2016, <http://mirror.no-ip.org/en/news/31981.html>

⁶³ “Bahrain’s leading Shia cleric charged with corruption,” Middle East Eye, 16 July 2016, <http://www.middleeasteye.net/news/bahrain-s-leading-shias-religious-leader-charged-corruption-1212082735>

of “misappropriating” these funds to support political prisoners and is now reportedly working to bring the practice of *khums* under the control of the state.⁶⁴ Critics, however, claim that the government both is infringing on the religious rights of the Shia community and seeking to profit off of Shia religious practices.⁶⁵

ASIQ has also been denied access to mosques in order to prevent him from leading Friday prayer sessions. The Bahraini authorities have particularly been targeting these prayers as well as the Ashura commemoration during the Holy Month of Muharram.

(ii) The case of Sheikh Ali Salman

SAS is a leading figure and Secretary-General of the Bahraini opposition group “Al-Wefaq Islamic Society”, which was dissolved in 2016 by Bahraini authorities. The shutdown of Al-Wefaq is further proof that peaceful dissent in Bahrain is not tolerated.⁶⁶ SAS is also a prisoner of conscience that was jailed for exercising his right to freedom of expression. He was unfairly charged with inciting hatred, promoting disobedience, and criticizing public institutions⁶⁷.

He was first sentenced in 2015 to four years in jail because of speeches he made, including in his function as the Secretary-General during an Al-Wefaq General Assembly. SAS used his rights to freedom of expression to speak about the opposition’s determination to reach power, to push for the reforms demanded during the 2011 protests, and to hold accountable those responsible for human rights violations. None of the guarantees to a fair trial were respected and HR, his lawyer, stated that the Court had refused to listen to the defense.⁶⁸

In 2017, a second trial began for allegedly sharing intelligence with the then Prime Minister and Minister of Foreign Affairs of Qatar in 2011. It is important to highlight that Bahrain cut its diplomatic ties with Qatar in 2017 but SAS underwent a second trial on a conversation that happened six years before. He was then acquitted on 21 June 2018, but the prosecution appealed the ruling. On the 4th of November 2018, the Bahraini Appeal Court overturned his acquittal and sentenced him to life in prison. According to Amnesty International’s Middle East and North Africa Director: “This verdict is a travesty of justice that demonstrates the Bahraini authorities’ relentless and unlawful efforts to silence any form of dissent”⁶⁹.

Those two cases are prime examples of how Bahrain is judicially harassing prominent Shia religious figures. The Bahraini authorities have a duty to guarantee equal rights for its citizens, without discrimination of any kind, including the involvement of their religious

⁶⁴ Ibid.

⁶⁵ “Bahrain’s leading Shia cleric charged with corruption,” Middle East Eye, 16 July 2016, <http://www.middleeasteye.net/news/bahrain-s-leading-shias-religious-leader-charged-corruption-1212082735>

⁶⁶ *Bahrain ramps up assault on human rights by dissolving leading political group*, Amnesty International, Public Statement, 19 July 2016, <https://www.amnesty.org/download/Documents/MDE1144842016ENGLISH.pdf>

⁶⁷ *Bahrain Opposition Leaders Sentenced to Life in Qatar Spying Case*, The New-York Times, 4 November 2018, <https://www.nytimes.com/2018/11/04/world/middleeast/bahrain-sheikh-ali-salman-spying-qatar.html%204%20Nov%202018>

⁶⁸ NAAR I., *Bahrain opposition leader given four-year jail sentence*, Aljazeera, 16 June 2015, <https://www.aljazeera.com/news/2015/06/16/bahrain-opposition-leader-given-four-year-jail-sentence/>

⁶⁹ *Bahrain : Opposition leader Sheikh Ali Salman unlawfully convicted*, Amnesty International, 4 November 2018, <https://www.amnesty.org/en/latest/news/2018/11/bahrain-opposition-leader-sheikh-ali-salman-unlawfully-convicted/>

practices as part of their cultural rights. The cases of ASIQ and SAS are demonstrating how Bahrain is failing its duty of non-discrimination in cultural life, both under its national provisions and its international obligations.

D. The Cultural Rights of the Baharna

The Baharna people are one of several ethnoreligious groups in Bahrain. Some scholars have seen them as the “indigenous inhabitants of the archipelago” and argue that they were “the original owners of the soil but were dispossessed many generations ago”.⁷⁰ In more recent history, they have suffered significant discrimination under the Al-Khalifa rule.⁷¹ The Baharna people form part of the large Shia majority in the country.

The OHCHR filed a report that showed that during the 2011 pro-democracy uprising, there was an excessive use of force against the protesters and political prisoners.⁷² This matter has been mentioned in numerous Special Procedures reports since 2011, along with the fact that these repressive actions have been especially targeted against Baharna and Ajam citizens.⁷³ One of the practices that has been condemned by OHCHR is the revoking of the citizenship of many Baharna citizens, many of them remaining stateless as a cause of this. In 2013 and 2014 the Bahraini government amended the 1963 Citizenship Act in such a way that, combined with the anti-terrorism laws, the act of denaturalizing citizens became much easier. From then on, the government has used the act of denaturalization as a tool of repression against the Baharna, stripping them of basic rights that would be provided for a Bahraini nation.

Furthermore, the Baharna are a culturally and historically significant community, who have lived in the region for many centuries and have even given the Island its name. Nevertheless, state-sponsored history textbooks and other types of materials leave out this information and focus solely on recent history and the events since the start of the Al-Khalifa rule in 1783.⁷⁴ This practice undermines Bahrain’s diversity and excludes the Baharna traditions. As part of the government’s effort to exclude the Baharna from all curricula, the Shia Jaafari tradition is completely ignored in all educational material.⁷⁵ In the whole kingdom, there is only one legally functioning school that is specific for Shia, the Jaafari Institute. Consequently, all young Bahraini students receive insufficient information about the Shia heritage in Bahrain and are often even taught anti-Shia propaganda at school.

This violates General Comment 21 of the ICESCR, which refers to the right of everyone to take part in cultural life (art. 15, para. 1 (a), of the ICESCR).⁷⁶ Paragraph 54 (c) of General Comment 21 mentions the obligation of states to ensure the right to take part in cultural life when individuals or communities are unable to do so, by including cultural education at every level in school curricula (history, literature, music, and the history of other cultures, in

⁷⁰ AbdulZahra, Eman. A BRIEF HISTORY OF DISCRIMINATION AGAINST BAHARA IN BAHRAIN. Diss. University of Ottawa, 2020.

⁷¹ Ibid.

⁷² BHR 6/2015 Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on extreme poverty and human rights; and the Special Rapporteur on freedom of religion or belief, OHCHR, 30 October 2015, [https://spdb.ohchr.org/hrdb/31st/public - AL Bahrain 30.10.15 \(6.2015\).pdf](https://spdb.ohchr.org/hrdb/31st/public - AL Bahrain 30.10.15 (6.2015).pdf)

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), General comment no. 21, Right of everyone to take part in cultural life (art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights), 21 December 2009, E/C.12/GC/21, available at: <https://www.refworld.org/docid/4ed35bae2.html>

consultation with all concerned). Furthermore, in paragraph 16 (a) the Committee mentions that history is necessary for the full realization of the right of everyone to take part in cultural life on the basis of equality and non-discrimination. However, and as portrayed above, the government of Bahrain does not respect its obligations in this regard. It has intentionally targeted the indigenous group of the Baharna and deprived them of their cultural rights of having access to their religion, culture, and history. As such, the government of Bahrain is interfering with the rights of the Baharna protected under the ICESCR which is in violation of Article 15.1 (a), in conjunction with Article 2.2 and General Comment 21 of the Covenant. And by failing to fulfill its obligations to protect the cultural rights of the Baharna people, the government of Bahrain also violates Article 2.1 of the ICESCR.

3. Conclusion

The above analysis shows how the Bahraini authorities have failed to protect the religious and cultural rights of the Shia population as well as failed to reduce discrimination against them. Such actions are in direct contravention of both its national laws and the provisions it agreed to under the ICESCR. Moreover, authorities have, in fact, intensified their suppression of Shia religious practices, political participation, and general enjoyment of basic human rights such as free expression, belief, movement, assembly, and association.

As such, even though Bahrain's national laws concerning non-discrimination and the protection of all individual's cultural rights do exist and reflect the contents of Articles 2.2 and 15.1 (a) of the ICESCR, Bahrain does not implement these provisions in practice, nor does it fulfill its obligations to protect these rights as required under the ICESCR.

Since Bahrain violates the rights of the Shia population to take part in cultural life unlike other religious groups in the country, by damaging Shia religious sites, suppressing Shia religious practices, gatherings and associations, and judicially harassing Shia religious figures, We find that Bahrain is in violation of Article 15.1 (a) of the ICESCR in conjunction with Article 2.2 and General Comment 21, and Article 2.1 of the ICESCR.

Moreover, and according to General Comment 21 of the CESCO, the right of everyone to take part in cultural life is also recognized in article 27, paragraph 1, of the Universal Declaration of Human Rights, which states that "everyone has the right freely to participate in the cultural life of the community"⁷⁷

Other international instruments refer to the right to equal participation in cultural activities;⁷⁸ and the right to participate in all aspects of social and cultural life;⁷⁹ Instruments on civil and political rights,⁸⁰ on the rights of persons belonging to minorities to enjoy their own culture, to profess and practice their own religion, and to use their own language—in private and in public⁸¹—and to participate effectively in cultural life.⁸² Therefore, the Bahraini government is not only in violation of the ICESCR in terms of the right to take part in cultural life but also violates the abovementioned international human rights instruments.

⁷⁷ Universal Declaration of Human Rights (UDHR) (2015), available at https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

⁷⁸ International Convention on the Elimination of All Forms of Racial Discrimination

⁷⁹ Convention on the Elimination of All Forms of Discrimination against Women

⁸⁰ In particular the International Covenant on Civil and Political Rights, arts. 17, 18, 19, 21 and 22.

⁸¹ International Covenant on Civil and Political Rights, art. 27.

⁸² Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, art. 2, paras. 1 and 2.

4. Recommendations

ECDHR and DMI finds that Bahrain has failed to adhere to its obligations under the ICESCR provisions and therefore we propose the following recommendations to address systemic discrimination and ensure the enjoyment of cultural rights in Bahrain more broadly. The Government of Bahrain should:

- Fully cooperate with UN human rights mechanisms, including by extending standing invitations to the Special Procedures mandate holders in line with the provisions enumerated under the ICESCR, allowing, therefore, a visit from the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples.
- Ensure international obligations are upheld with regards to the right to nationality and the rights of stateless persons.
- Modify the Bahraini Nationality Act to ensure the prevention of arbitrary deprivation of nationality and restore the nationality of all citizens who may have been arbitrarily stripped of their nationality.
- Finish reconstruction on all damaged Shia religious sites and rebuild any remaining Shia religious sites in their original locations.
- Put measures in place to protect all places of worship from future vandalism or damage.
- Ensure that all communities responsible for funding reconstruction projects are fully and directly compensated.
- Guarantee the freedom of belief and right to worship for all people at all religious sites, including for the Shia community.
- Respect the right of the Shia community to publicly observe religious traditions and practices, including Ashura.
- Cease all prosecution related to religious practices like khums and codify protections for the independent administration of such practices.
- Permit the reopening of closed Shia religious associations.
- Refrain from obstructing Friday prayers and other religious gatherings.
- Reinstatement of the nationality of Shia religious leaders like Sheikh Isa Qassim and all other arbitrarily denaturalized citizens.
- Revoke the amendment to the Political Societies Law to remove legal grounds for the prosecution of religious figures for engaging in political speech or belonging to political societies.
- Halt all judicial harassment of religious figures for the content of their sermons or their participation in peaceful gatherings.
- Release all prisoners of conscience held for their religious or political beliefs.
- Hold prison guards and other security personnel accountable for discrimination and hate speech against Shia prisoners.