



A Joint Submission by Americans for Democracy & Human Rights in Bahrain (ADHRB) and
Iraqi Development Organization (IDO)
Both NGOs in General Consultative Status with ECOSOC

To the UN Committee on the Elimination of Racial Discrimination (CERD) concerning the State
of Bahrain's fidelity to the Convention on the Elimination of Racial Discrimination (CERD)

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Introduction

Systematic discrimination against the Baharna and Ajam communities remains widespread in Bahrain. Anti-Baharna and Ajam rhetoric, including extremist discourse, is prevalent in Bahraini legislation, policy, and the official narrative. Since its violent suppression of the cross-sectarian pro-democracy movement in 2011, the government has further intensified its targeting of Baharna activists, political leaders, and religious figures for reprisal, often with the specific purpose of inflaming sectarian divisions and undermining cross-sectarian civil society organizations.

This submission demonstrates these trends in the context of systematic violations of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The structure of this submission is as follows; a brief history on the background to this discrimination; next, a review of this prejudice in the context of specific themes and issues; and finally, concluding remarks and recommendations to be included in Bahrain's upcoming CERD review.

Historical Background

The Baharna ethnoreligious group is not only the largest Shia community but has also occupied this part of Eastern Arabia for the longest period. It is believed that the Baharna are direct descendants of the pre-Islamic East Arabian community and Muslim migrants who were persecuted during the Umayyad and the Abbasid caliphates. The Ajam, also known as Persian or Iranian Bahrainis, is the second biggest ethnic group of non-Arab Iranian (Persian) national background making up the Shia population in Bahrain. They are mostly bilingual in Persian and Arabic.

Bahrain's population consists of approximately 70% Baharna and Ajam Shia Muslims, and 30% Sunni and other minority religions.¹ This number, however, can only be estimated due to the fact that the Bahraini government has not published any population statistics since 1941.

Demographic Engineering and Political Disenfranchisement

Several reports indicate that the government is carrying out a deliberate policy of demographic manipulation and "sectarian engineering", in turn significantly altering the country's ethnoreligious makeup. This has resulted in the gradual displacement of "what was clearly a Shiite citizen majority more than thirty years ago" by a growing Sunni population increasingly made up of immigrants.²

A survey undertaken by Justin Gengler indicates that the country's sectarian distribution had already marked a change as of 2009. The percentage of the Baharna and Ajam indigenous population has dropped from as high as 70 to as low as 58, and reciprocal rise in the percentage of Sunni from as low as 30 to as high as 42.³ This process has been expedited by the government's systematic naturalization of foreign security personnel from Sunni majority countries such as Pakistan, Yemen, and Jordan (see Section on Discrimination in Education, Media and Employment).⁴ In 2014, former advisor to the Cabinet Affairs Ministry Salah al-Bandar, who initially revealed the government's efforts to manipulate the country's

¹ "Countries – Bahrain", worldpopulationreview.com, February 02, 2020. Retrieved on March 05, 2020: <http://worldpopulationreview.com/countries/bahrain-population/>.

² Simon Henderson, "Beyond Islamists & Autocrats: Bahrain's Stalled Reforms and the Future US Role," The Washington Institute for Near East Policy, January 2016, <http://www.washingtoninstitute.org/policy-analysis/view/beyond-islamists-and-autocrats-prospects-for-political-reform-post-arab-spr>

³ Justin Gengler, "Facts on the Ground: A Reliable Estimate of Bahrain's Sunni-Shi'i Balance, and Evidence of Demographic Engineering," Religion and Politics in Bahrain, 5 April 2011, <http://bahrainipolitics.blogspot.com/2011/04/facts-on-ground-reliable-estimate-of.html>

⁴ Simon Henderson, "Beyond Islamists & Autocrats: Bahrain's Stalled Reforms and the Future US Role," The Washington Institute for Near East Policy, January 2016, <http://www.washingtoninstitute.org/policy-analysis/view/beyond-islamists-and-autocrats-prospects-for-political-reform-post-arab-spr>

demographic almost ten years ago, stated that the royal family may have authorized the naturalization of approximately 50,000 foreign Sunnis per year since 2006.⁵ In 2015, Marc Owen Jones found that the government had likely engaged in such practices for decades.⁶ Ian Henderson, the former leader of Bahrain's Security Intelligence Services, noted as early as 1982 that Prime Minister Khalifa bin Salman al-Khalifa and then Crown Prince Hamad "were illegally deporting (...) [Baharna and Ajam individuals] (...) for no legal reason."⁷

Furthermore, there are reports that the government has granted dual citizenship to as many as 20,000 al-Dawasir tribe people of Saudi Arabia's Eastern Province in order to influence the vote of Bahrain's 2002 parliamentary elections.⁸ There have also been suggestions this was the case in the 2018 General Election.⁹ A report issued by the Bertelsmann Foundation in 2016 found that the government had created at least 13 new polling stations primarily along the country's borders.¹⁰ It concluded that "although an international election observation team was allowed into [Bahrain], such remote stations could hardly be monitored, raising suspicions that pro-government dual-citizenship holders of Saudi origin, as well as military and police personnel, were being bussed into voting stations".¹¹ Often, several polling stations are not directly connected to specific districts or constituencies, increasing the risk of electoral manipulation and interference.¹²

Suppression of Religious Practices, Gatherings and Associations

The government uses a variety of methods, including outright violence, to interfere in traditional Shia religious practices and infringe on the community's rights to free belief, assembly, and association.¹³

After the 2011 pro-democracy protests, 53 Shia mosques were damaged, and 23 demolished. This was a direct attack on the Baharna indigenous population. The government of Bahrain has explicitly stated that they will only rebuild sites that have the proper permits. However, some of the older mosques and religious sites were built long before construction permit processes were enshrined in Bahraini law. Meanwhile, progress on the remaining reconstruction sites is stagnant. In many parts of Bahrain, Baharna indigenous communities continue to hold religious services in damaged mosques, makeshift structures or other low-quality conditions. Even then, these makeshift sites are usually also targeted for attacks by Bahraini security forces. The Bahraini government has further avoided to reconstruct Shia sites by initiating publicly funded construction projects on the religious site. For example, in the case of a 70-year-old Abu Dharr al-Ghifari mosque, it was announced that the site will be converted into a park. Another case is the Al Khamis Mosque, which is the oldest mosque and an important Shia center of culture. It has since been sequestered and turned into a museum. Even when the Baharna takes matters into their own hands and begin to rebuild mosques

⁵ "Dr. Salah al-Bandar: 'The Bahrain regime has been creating sectarian apartheid since 2005,'" YouTube, 2014, <https://www.youtube.com/watch?v=15-e9bDBMFw>; and 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>

⁶ 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>

⁷ 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>; and Marc Owen Jones, "Rotten apples or rotten orchards: Police deviance, brutality, and unaccountability in Bahrain," in Ala'a Shehabi & Marc Owen Jones (Eds.), *Bahrain's uprising: Resistance and repression in the Gulf* (pp. 207-238). London: Zed Books Ltd.

⁸ Justin Gengler, *Group Conflict and Political Mobilization in Bahrain and the Arab Gulf: Rethinking the Rentier State*, Indiana University Press: 2015, Print.

⁹ Ibid.

¹⁰ Bertelsmann Stiftung, *BTI 2016 — Bahrain Country Report*, Gütersloh: Bertelsmann Stiftung, 2016, https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Bahrain.pdf

¹¹ Ibid.

¹² Justin Gengler, *Group Conflict and Political Mobilization in Bahrain and the Arab Gulf: Rethinking the Rentier State*, Indiana University Press: 2015, Print.

¹³ "Updates: Bahrain: Authorities Promoting Sectarian Tensions by Targeting Shia Muslims During Ashoura," BCHR, 15 November 2013, <http://www.bahrainrights.org/en/node/6565>

themselves, there have been instances of mosques being vandalized and destroyed by Bahraini security forces. In December 2012, authorities destroyed 4 mosques that the Baharna community had begun to rebuild. In January 2014, Bahraini security forces significantly damaged the Sa'sa'a bin Suhan Mosque in Askar, one of the oldest mosques in the country, leaving graffiti and hate messages on the walls, discriminating against Baharna.¹⁴

These actions taken by the Bahraini government directly contradict official statements that claim that “the Constitution of Bahrain guarantees all freedoms, providing (...) freedom of belief, freedom of movement and freedom to voice”.¹⁵ Aside from the above-mentioned destruction of numerous Shia mosques, it is worth mentioning the destruction of the Pearl Roundabout. This site became a symbol of the pro-democracy uprisings of February 2011, with protesters specifically gathering peacefully in this place. However, sensing that this place might be the site of a future uprising, it has been destroyed, closed to public access and actively erased from both the public space and memory. Instead, the regime has changed the name of the site to Al-Farooq Junction, which, in itself, is a symbolic gesture. Al-Farooq is an early Sunni figure, who is considered to have played an essential role in the schism between Sunni and Shia communities. The destruction of Pearl Roundabout sends a message to citizens that there is no public space for freedom of expression or assembly.

ADHRB also has received information on peaceful protestors and other Baharna citizens who have experienced excessive use of force during and after the protests of 2011, with Baharna and Ajam religious clergy being specifically targeted for their beliefs.

Judicial Harassment of Shia Religious and Opposition Figures

The Bahraini government has methodically targeted and harassed Shia religious leaders and opposition figures.¹⁶ This systematic discrimination is encapsulated in the following cases:

The trial of Ayatollah Sheikh Isa Qassim:

Ayatollah Sheikh Isa Qassim is the founder of the Islamic Enlightenment Institution and Bahrain's leading Baharna cleric. In 1996, Qassim was targeted by the Bahraini government for his alleged role in a Hizbullah plot, which was said to be behind a conspiracy to overthrow the government. Since the 2011 pro-democracy protests, Qassim has been a critical voice of the government and has led opposition groups fighting for Baharna rights.

One week after the dissolution of Al Wefaq, in June 2016, Qassim was stripped of his citizenship on the grounds of using his position to “serve foreign interests” and being in contact with “organizations and parties that are enemies of the kingdom”.¹⁷ Following this decision by the Ministry of Interior (MoI), security forces reportedly raided a religious consultation office associated with the cleric and removed the building's doors.¹⁸ They also searched nearby apartments occupied by religious students and other citizens. On 16 July 2016, the government announced that, in addition to the denaturalization and 72-hour deportation order, it was initiating legal proceedings against Qassim and two other individuals on charges of illicit fund-raising and money-laundering.¹⁹ The charges against Qassim are related to the traditional

¹⁴ Bahrain Cerd Submission, Page 24 point 71

¹⁵ Bahrain Cerd Submission, Page 24 point 71

¹⁶ Point 47, pp. 18-19. Combined eight to fourteen periodic reports submitted by Bahrain under article 9 of the Convention, due in 2007, International Convention on the Elimination of Racial Discrimination, June 11, 2019.

¹⁷ BBC News, ‘Bahrain revokes top Shia cleric Isa Qassim’s citizenship’, 20 June 2016. <https://www.bbc.com/news/world-middle-east-36578000>.

¹⁸ ‘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>.

¹⁹ ‘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>.

Shia practice of *khums*, whereby religious leaders solicit donations from the community and can warrant up to seven years in jail and a fine of 2.6 million US dollars. The government has accused Qassim of “misappropriating” these funds to support political prisoners.²⁰ On 21 May 2017, Qassim was sentenced to one year in jail, suspended for three years and a handed down a fine of 100,000 Bahraini dinars.²¹ In November 2017, it was reported that Qassim suffered from deteriorating health conditions, including, amongst others, diabetes and groin hernia, which requires an emergency operation.²² Despite these serious conditions, he continues to be denied adequate medical care. On 29 January 2018, Bahrain’s highest court, the Court of Cassation, upheld his one-year sentence and confirmed his denaturalization. Having exhausted all domestic remedies, Qassim is still under *de facto* house arrest. Even after his one-year sentence is served, he will remain under *de facto* house arrest due to his denaturalization. On 31 January 2018, Qassim was transferred to the hospital to undergo surgery for his hernia, remaining in hospital until 4 February 2018, when he returned home.

Qassim’s case is internationally recognized with his case being cited as part of a campaign of increased judicial harassment targeting Shia clerics, “mostly on unfounded or unsubstantiated charges” by the US Commission on International Religious Freedom (USCIRF) in its Annual Report for 2016.²³

The trial of Nabeel Rajab:

Nabeel Rajab is the president of the Bahrain Center for Human Rights (BCHR), the founding director of the Gulf Centre for Human Rights (GCHR), Deputy Secretary-General of the International Federation for Human Rights (FIDH), and a member of the Middle East advisory committee at Human Rights Watch.

Since his active role in the 2011 protests he has been targeted, harassed and imprisoned by Bahraini authorities. On 2nd April 2015, Rajab was arrested and charged with deliberately announcing “wartime false or malicious news, statements or rumors...to cause damage to military preparations for defending the State of Bahrain”, which refers to his comments on the humanitarian crisis in Yemen. He was also charged with “insulting a neighboring country”, referring to his statements criticizing Saudi Arabia, and with “Insulting national institutions”, which refers to his comments criticizing the MoI based on the unrest in Jau Prison in March 2015.²⁴ He was released three months later in July 2015 on humanitarian grounds. Rajab was arrested again on 13 July 2016 for an unrelated charge, for which he was eventually sentenced to two years in prison in July 2017.²⁵ Earlier in July 2017, his trial for his social media activity commenced. After being postponed twenty times, a decision was made in the 21st court hearing on 21st February 2018 and Rajab was sentenced to five years imprisonment.²⁶ Although he appealed the verdict, a court upheld his sentence on 5th June 2018. His sentences will run consecutively so that Rajab will remain in prison until 2023. Bahraini authorities are currently holding him in Jau Prison, the kingdom’s primary long-term male detention center, known for the abuse suffered by the inmates and the poor living standards. Ahead of the most recent appeal hearing, Rajab’s family reported that, for the last two weeks, the authorities denied him and other inmates’ access to water for more than a day and a half, and that they only relented after a detainee fainted from dehydration. The BCHR, the IFIDH, and the GCHR reported in January 2018 that the prison administration appeared to be purposefully interfering with Rajab’s ongoing medical treatment. Likewise, for much of the

²⁰ Americans for Democracy and Human Rights in Bahrain (ADHRB), Bahrain Institute for Rights and Democracy (BIRD), Bahrain Center for Human Rights (BCHR). (2017). Bahrain’s Third Cycle UPR: A Record of Repression.

²¹ Bahrain Mirror, 21 May 2017, Reuters: Bahrain’s Top Shiite Cleric Gets One Year Suspended Jail Sentence, <http://www.bahrainmirror.com/en/news/38777.html>.

²² Bahrain Institute for Rights and Democracy (BIRD), 27 November 2017, BAHRAIN: Sheikh Isa Qassim’s Health in Danger After 6-Month House Arrest, <http://birdbh.org/2017/11/bahrain-sheikh-isa-qassims-health-in-danger-after-6-month-house-arrest/>.

²³ Americans for Democracy and Human Rights in Bahrain (ADHRB), 26 April 2017, USCIRF Categorizes Bahrain as a Tier 2 Violator of Religious Freedom, <https://www.adhrb.org/2017/04/uscirf-designates-bahrain-tier-2-violator-religious-freedom/>.

²⁴ Bahrain Institute for Rights and Democracy (BIRD), 31 December 2018, BAHRAIN: Unfair Conviction of Human Rights Defender Nabeel Rajab Upheld, <http://birdbh.org/2018/12/bahrain-unfair-conviction-of-leading-rights-defender-nabeel-rajab-upheld/>.

²⁵ Ibid.

²⁶ Ibid.

pre-trial detention period, Bahraini authorities held him in solitary confinement for months at a time in an unhygienic cell in East Riffa police station, violating Bahraini legal provisions meant to limit the use of isolation. Rajab has suffered from severe skin infections and chronic gallstones, among other ailments, and the authorities denied him proper medical care. As a result, Rajab's health has deteriorated, and he has been repeatedly hospitalized. Bahrain's arrest and conviction of Mr. Rajab for exercising his right to freedom of opinion and expression violates Article 19 of the International Covenant on Civil and Political Rights (ICCPR)²⁷ and Article 19 of the Universal Declaration on Human Rights (UDHR)²⁸, and his detention for such crime constitutes as a Category II deprivation of liberty.²⁹ The United States Department of State has called for his release, as has the United Nations High Commissioner for Human Rights, Assistant Secretary-General for Human Rights, and the Committee Against Torture, who have noted the baseless nature of the charges.

The trial of Abdulhadi Al-Khawaja:

Al-Khawaja, dual national of Bahrain and Denmark, is an imprisoned human rights defender, the founder and former president of the BCHR, and a founding director of the GCHR. Furthermore, he was the Middle East and North Africa Protection Coordinator for Front Line Defenders until February 2011, when he resigned his post during the popular pro-democracy movement in Bahrain. Al-Khawaja is one of the Bahrain 13, which were sentenced to lengthy prison terms solely for exercising their right to freedom of expression, association and peaceful assembly in the aftermath of the 2011 movement.

On 9 April 2011, Al-Khawaja was violently arrested and charged in connection with his human rights activities under Articles 122 (working with a foreign terrorist group), 148 (treason), 160 (soliciting treason), 161 (obtaining publications that incite treason), 168 (libel affecting public security), 172 (inciting sectarian hatred), 173 (inciting criminal acts) and 216 (insulting the army) of the 1976 Bahraini Penal Code. He was also charged under Articles 1 and 6 of Law No. 58 of 2006, the 2001 Terrorism Statute (funding terrorism) and under Articles 1, 2, 3, 9, and 13 of the 2006 Statute relating to Meetings and Processions. Al-Khawaja was tried *in absentia* and convicted of “organizing and managing a terrorist organization”, “attempt to overthrow the Government by force and in liaison with a terrorist organization working for a foreign country” and the “collection of money for a terrorist group”.³⁰ On 22 June 2011, Mr Al-Khawaja was sentenced to life imprisonment by the National Safety Court. In prison, he has been placed in solitary confinement, further denied any access to legal counsel and to see his family and subjected to torture, which resulted in a broken jaw.³¹ Yet, he is denied access to medical treatment for the injuries he incurred during this torture, and the Bahraini government continuously refuses to accept a UPR recommendation set out to release Al-Khawaja or to transfer him to the Danish authorities for medical treatment.³² In prison, Al-Khawaja has undertaken a number of hunger strikes to protest torture and poor prison conditions.³³ In late November 2017, Al-Khawaja sent a letter to the MoI, detailing these abuses and stating that these actions have been made in retaliation and retribution for events happening outside of the prison. After the letter was sent, the prison administration blocked him from making or receiving all phone calls until 17th

²⁷ International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. Doc. A/6316 (16 Dec. 1966), Art. 19.

²⁸ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), Art. 19.

²⁹ Working Group on Arbitrary Detention, Fact Sheet No. 26, (May 2000).

³⁰ *Ibid.*

³¹ Bahrain Institute for Rights and Democracy (BIRD), 05 April 2018, BAHRAIN: NGOs Call for Release of Human Rights Defender Abdulhadi Al-Khawaja on 7th Anniversary of His Arrest, <http://birdbh.org/2018/04/bahrain-ngos-call-for-release-of-human-rights-defender-abdulhadi-al-khawaja-on-7th-anniversary-of-his-arrest/>.

³² Americans for Democracy and Human Rights in Bahrain (ADHRB), Bahrain Institute for Rights and Democracy (BIRD), Bahrain Center for Human Rights (BCHR). (2017). Bahrain's Third Cycle UPR: A Record of Repression.

³³ Bahrain Institute for Rights and Democracy (BIRD), 05 April 2018, BAHRAIN: NGOs Call for Release of Human Rights Defender Abdulhadi Al-Khawaja on 7th Anniversary of His Arrest, <http://birdbh.org/2018/04/bahrain-ngos-call-for-release-of-human-rights-defender-abdulhadi-al-khawaja-on-7th-anniversary-of-his-arrest/>.

December.³⁴ Al-Khawaja considers his restricted access to be an act of reprisal against him in retaliation for sending his letter to the Ministry of Interior.

The trial of Hasan Mushaima:

Hasan Mushaima is a political activist, teacher and Secretary0General of the al-Haq Movement. On 7th March 2011, Mushaima, along with Abdulwahab Hussain, the leader of Wafa movement, and Saeed Alshehabi, the leader of the Bahrain Freedom Movement, formed the ‘Alliance for the Republic’ due to their belief that the Bahraini regime lost legitimacy after the harsh crackdown on protesters using heavy weapons. On 22nd June 2011, he was arrested and sentenced to life in prison for his participation in peaceful protests on the charges of “attempting to overthrow the monarchy”.³⁵ He is currently detained in building 7 of Jau Prison, which is known for the alarming treatment of its inmates. The majority of the building’s inmates are political figures who participated in the 2011 pro-democracy movement. All of the inmates of building 7 have been segregated from the general population for over two years and are unable to access the prison commissary to obtain hygiene products.

Mushaima suffers from a range of complex medical needs which require regular attention and treatment. Having previously overcome lymphoma, he requires check-ups every six months to monitor for the resurgence of tumors. Nevertheless, prison officials continue to deny him access to appropriate medical care and cancer screenings.³⁶ These concerns have been presented to the government and its accountability mechanisms, including the Bahraini Ministry of Interior Ombudsman and National Institution for Human Rights, by both Mr Mushaima and ADHRB. Bahrain’s treatment of Mr Mushaima violates the Kingdom’s obligations under international law, including the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (CAT). By convicting Mr Mushaima based on his political activities, Bahrain has violated the ICCPR Article 9 right to freedom from arbitrary detention, including detention on the basis of freedom of assembly, as the result of an unfair trial, or based on political status. Bahrain’s failure to provide necessary cancer screenings and medication is also in violation of the ICESCR Article 12 right to health. Furthermore, as this deprivation of healthcare serves no purpose other than as a punitive measure against Mr Mushaima, it may also amount to torture, violating the CAT and ICCPR. If these violations go unchecked, they could result in Mr Mushaima’s death, which would amount to an extrajudicial killing in violation of the right to life in Article 6 of the ICCPR.

The handling of these trials by the Bahraini authorities constitutes a clear and blatant breach of the conditions set out in several ICERD articles such as Article 5, which outlines that state parties need to “prohibit and (...) eliminate racial discrimination in all its from and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (a) The right to equal treatment before the tribunals and all other organs administering justice; (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service; (d) Other civil rights, in particular: (...) (iii) The right to nationality; (...); (vii) The right to freedom of thought, conscience and religion; (viii) The right to freedom of opinion and expression, (ix) The right to freedom of peaceful assembly and association”³⁷ and

³⁴ Ibid.

³⁵ Bahrain Institute for Rights and Democracy (BIRD), 03 April 2019, Political Prisoners Denied Access to Medical Care and Treatment, <http://birdbh.org/2019/04/political-prisoners-denied-access-to-medical-care-and-treatment/>.

³⁶ Ibid.

³⁷ Convention on the Eradication of All Forms of Racial Discrimination, UN, 1969, <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>.

Article 6, which states that “States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination”.³⁸

Excessive Force, Arbitrary Detention and Torture

Bahrain’s Baharna population disproportionately faces extrajudicial violence such as the use of excessive force and torture. Security forces misuse crowd control equipment such as birdshot and tear gas to target Baharna protesters, and even fire this equipment into mosques at times of worship or funerals.³⁹ Baharna individuals are commonly targeted for arbitrary imprisonment during which they face severe abuses and ill-treatment.

Bahraini authorities have inappropriately used tear gas, causing respiratory failure and trauma, to intimidate protestors. On 25 March 2011, Bahraini security forces fired tear gas into the home of the 71-year-old Bahraini national Isa Mohammed Ali Abdullah. Abdullah suffered from respiratory issues before the attack and, as a result of the firing, Abdullah’s condition worsened and led to his death.⁴⁰ In November 2011, Bahraini security forces blanketed the Baharna village of Bilad al-Qadeem with tear gas, endangering the lives of any persons with compromised respiratory systems in the village, including children and the elderly.⁴¹ BCHR estimates that the government’s abuse of tear gas is responsible for nearly one-third of all deaths since 2011, including the deaths of an infant and three-year-old girl.^{42,43} Furthermore, security forces often employ non-lethal shotguns loaded with birdshot during protests. These shotguns often cause permanent injury and, when misused, can be lethal as seen in the example of extrajudicial killing of 14-year-old Sayed Mahmood Sayed Mohsen Sayed Ahmed.⁴⁴

In addition to facing police brutality in public spaces, the Baharna population are also routinely subjected to systematic arbitrary detention and torture.⁴⁵ The use of torture is not uncommon in Bahrain and affects individuals regardless of their ethnoreligious background. However, the Baharna are systematically targeted, as discussed above and therefore are disproportionately victimized.

On 15 March 2011, shortly after King Hamad declared a state of emergency, security forces effectively seized control of Salmaniya Medical Complex, the largest public healthcare facility in the country. During the early hours of 2 April 2011, officers woke up four physicians sleeping in a break room at the hospital. After requesting to know the names and ethnicity of each physician, they ordered one Sunni Muslim to leave the room while the remaining Baharna doctors stayed behind. The officers then began interrogating the physicians and even beat and called them “traitor physicians”.⁴⁶ When the officers realized that more

³⁸ Ibid.

³⁹ Alan Williams, “Videos of recent attacks on unarmed Shia by Bahraini security forces.” Communities Digital News, November 13, 2014, <http://www.commdiginews.com/world-news/middle-east/videos-of-recent-attacks-on-unarmed-shia-by-bahraini-security-forces-29320/>.

⁴⁰ *Weaponizing Tear Gas: Bahrain’s Unprecedented Use of Toxic Chemical Agents Against Civilians*, Physicians for Human Rights, August 2012, <http://physiciansforhumanrights.org/library/reports/weaponizing-tear-gas.html?referrer=https://www.google.com/>

⁴¹ “First Trial Hearing of Al-Tawiya Society to Start Today,” <https://tbinternet.ohchr.org>

/Treaties/CERD/Shared Documents/BHR/INT_CERD_ICS_BHR_28077_E.docx

⁴² S. Kerr, “Baby’s Death Threatens Bahrain Reform Agenda.” Financial Times, 12 December 2012, <http://www.ft.com/cms/s/0/8969c42a-24b2-11e1-ac4b-00144feabdc0.html#axzz3wPEdbtra>

⁴³ “Bahrain’s Abuse of Tear Gas,” ADHRB, 26 January 2015, <http://www.adhrb.org/2015/01/bahrain-abuse-of-tear-gas/>

⁴⁴ “Two Years of Deaths and Detentions: Documenting Human Rights Abuses During the Pro-Democracy Movement in Bahrain,” BCHR, February 2013, http://www.shiapac.org/wp-content/uploads/2013/03/bahrain_report2013.pdf

⁴⁵ Bahrain Independent Commission of Inquiry, Report of the Bahrain Independent Commission of Inquiry. By Mahmoud Cherif Bassiouni, Nigel Rodley, Badria al-Awady, et al. Manama, Bahrain. 2011. Pp. 299-300.

⁴⁶ “First Trial Hearing of Al-Tawiya Society to Start Today,”

<https://tbinternet.ohchr.org>

/Treaties/CERD/Shared Documents/BHR/INT_CERD_ICS_BHR_28077_E.docx

physicians were passing by in the hallway, they brought them into the room and requested to know their religious affiliation. For the next hour, the officers lectured Baharna physicians on why the Sunni physicians were more respectable medical workers. The officers threatened the lives of the Baharna physicians and their families.⁴⁷

Discrimination in Education, Media and Employment

The government has done little to address the systemic socioeconomic inequalities experienced by Bahrain's Baharna indigenous community.

Education

The highly selective access to education in Bahrain is explicit discrimination supported by the Bahraini government. Bahrain's Children's Act from 2012 and Law No. 27 of 2005 supposedly ensured that education is a right guaranteed to all citizens and that basic education is compulsory and free for children from age six to fifteen.^{48,49} Yet, the Bahraini government continues to discriminate against the country's Baharna population by preventing children and adolescents from equal access to education.⁵⁰ Furthermore, Baharna students not only struggle to be awarded scholarships but the verbal expression of Baharna dialects are actively suppressed. Education curricula are becoming increasingly hostile in their narrative on Baharna in a move to exclude their culture from the country's history.⁵¹ The curriculum teaches students that Baharna followers are infidels and portrays many Baharna traditions as blasphemous.⁵²

Media

As part of the broader discriminatory treatment of the Baharna indigenous population, the Bahraini government uses its control over the media to actively defame this sect. The government manipulates how the public views both the pro-democracy movement and the Baharna population.

One example worth mentioning is that, while Sunni athletes are praised in the media, Baharna athletes are often accused of treason.⁵³ Moreover, the state media has never broadcasted any Baharna prayers services and Baharna mosques have been described as dens for harboring terrorist activities.⁵⁴ In contrast to this, Sunni mosques are regularly covered extensively in Islamic television programs.⁵⁵ There is an effective censorship of media coverage of Shia religious and cultural heritage. Similarly, in soap operas and television dramas, the Sunni are portrayed as the protagonist, while Baharna characters have minor roles.⁵⁶ In the soap opera *Sa'adoon*, one Baharna character is portrayed as a cowardly and stupid character. His

⁴⁷ Holly Atkinson and Richard Sollom, "Under the Gun: Ongoing Assaults on Bahrain's Health System." Physicians for Human Rights (2012). Accessed January 5, 2016, <http://physiciansforhumanrights.org/library/reports/under-the-gun-ongoing-assaults-on-bahrains-health-system.html?referrer=https://www.google.com/>

⁴⁸ Law No. 37 of 2012 Promulgating the Child Law, Kingdom of Bahrain, http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=92395&p_country=BHR&p_count=311.

⁴⁹ Law No. 27 of 2005 with Respect to Education, Kingdom of Bahrain, Ministry of Education, http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=73041.

⁵⁰ Americans for Democracy and Human Rights in Bahrain (ADHRB), Bahrain Institute for Rights and Democracy (BIRD), Bahrain Center for Human Rights (BCHR). (2017). Bahrain's Third Cycle UPR: A Record of Repression.

⁵¹ *Apart in Their Own Land: Government Discrimination Against Shia in Bahrain*, Vol. II, ADHRB, BCHR, and BIRD, September 2015, <http://www.adhrb.org/2015/09/adhrb-releases-part-2-of-shia-discrimination-report/>.

⁵² Ibid.

⁵³ "BTV Show on Sport Violations الرياضيين مع الحدث تجاوزات الرياضيين", YouTube, April 4, 2011, accessed August 14, 2015, <https://www.youtube.com/watch?v=HXd6UQ5MAds>.

⁵⁴ Complaint to the Special Rapporteur in the Field of Cultural Rights Regarding the Effect of Discrimination against the Baharna on the Right of the Baharna to enjoy their Cultural Heritage in the Kingdom of Bahrain.

⁵⁵ *Apart in Their Own Land: Government Discrimination Against Shia in Bahrain*, Vol. II, ADHRB, BCHR, and BIRD, September 2015, <http://www.adhrb.org/2015/09/adhrb-releases-part-2-of-shia-discrimination-report/>.

⁵⁶ Ibid.

uncle, who is also a Baharna, is portrayed as a greedy man who sold his country for money.⁵⁷ While other television programmes feature Baharna characters as terrorists, villains, and psychopaths, many programmes feature no Baharna characters at all.⁵⁸

Newspapers and other publication outlets act similarly: After two police officers were killed during an explosion in 2015, the newspaper *Al-Watan* accused the Baharna community of condoning the attack.⁵⁹ The news portrays these incidents differently depending on the religious affiliation of the terrorist. If a Baharna individual is arrested for committing a terrorist act, the picture and names are broadcasted, and the news commonly provides a list of the government benefits that the suspect has received. In return, Sunni terrorism suspects are allowed to remain anonymous.⁶⁰ The governmental control also extends to social media: Bahraini authorities actively uses social network platforms such as Twitter to support its systematic anti-Baharna narrative.

Employment

Sectarian discrimination towards Baharna individuals is most obvious in the employment practices of the police and security forces. Unequal treatment ranges from discriminatory hiring practices towards Baharna with requirements such as having to provide documents that prove their religious or ethnic background, or even often not being employed at all on the grounds of alleged ties with Iran to the distribution of radical anti-Baharna material. The state of Bahrain does not disclose accurate figures on defense sector employment and therefore, the percentage of Baharna working in the sector can only be speculated. In 2015, it was estimated that this percentage ranged between two to five percent.⁶¹ Apart from discriminatory hiring practices, the Baharna also experience difficulties when trying to ascend in their careers and are therefore often stuck in non-sensitive and administrative roles in lower rungs of the hierarchy with no supervisory power.⁶²

Nationality and Citizenship

The government of Bahrain explicitly discriminates against Baharna and Ajam peoples when it comes to revoking their citizenship. As described in its mandate, CERD seeks to ensure the right to nationality for citizens of state parties to the Convention.⁶³ With regards to non-citizens, the Committee has specified what the right to nationality entails that state parties must “recognize that deprivation of citizenship on the basis of race, color, descent or national or ethnic origin is a breach of States Parties’ obligations to ensure nondiscriminatory enjoyment of the right to nationality.”⁶⁴ Since the Committee’s work has, at times, been expanded to religious communities, this provision should logically extend to the Baharna and Ajam, who face arbitrary denaturalization based on their ethnoreligious characteristics.

The government of Bahrain must discontinue its use of citizenship revocation as a reprisal against Baharna and Ajam human rights defenders and activists. Since the international community’s initial call in 2013, which referenced 31 cases, the authorities have only increased their use of punitive denaturalization. The July 2014 amendments to the 1963 Citizenship Law now permits the MoI to revoke the citizenship of

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ هشام الزباني, "حاصرتم «داعش» حاصرتم", *Al-Watan*, 2015, accessed August 14, 2015, <http://www.alwatannews.net/ArticleViewer.aspx?ID=Pu833338phJzoF2HSz7BJN1hOYA933339933339>.

⁶⁰ Complaint to the Special Rapporteur in the Field of Cultural Rights Regarding the Effect of Discrimination against the Baharna on the Right of the Baharna to enjoy their Cultural Heritage in the Kingdom of Bahrain.

⁶¹ Ian Siperco, "Bahrain's Sectarian Challenge," Middle East Policy Council, accessed July 14, 2015. <http://www.mepc.org/articles-commentary/commentary/bahrain-s-sectarian-challenge?print>.

⁶² Justin Gengler, *Group Conflict and Political Mobilization in Bahrain and the Arab Gulf: Rethinking the Rentier State*, Indiana University Press: 2015, Print.

⁶³ Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America, 2001, UN Doc. A/56/18.

⁶⁴ Committee on the Elimination of Racial Discrimination, General Recommendation 30, Discrimination against Non-citizens (Sixty-fourth session, 2004), U.N. Doc. CERD/C/64/Misc.11/rev.3 (2004), [hereinafter General Recommendation 30], para. 14.

Bahrainis who “cause harm to the interests of the kingdom”, acting in ways that contravene their loyalty to the state or aid in the service of a hostile state.⁶⁵ Bahraini authorities have also exploited the broad discretionary authority provided under the 2014 amendments to continue utilizing denaturalization to silence dissidents. Since the pro-democracy movement of 2011, the Bahraini authorities have denaturalized over 300 Bahraini citizens.⁶⁶ The government revoked the citizenship of approximately 208 individuals in 2015 alone.⁶⁷ Many of these denaturalized Bahrainis are rendered stateless and subsequently deported to Lebanon. In February 2015, the government released a list of 72 persons whose citizenship it had revoked, including the names of numerous Baharna and Ajam human rights defenders, political activists, journalists, academics, and religious scholars.⁶⁸

By stripping Baharna and Ajam Bahrainis of their citizenship and engaging in broader demographic engineering policies, the Government is violating its obligation to ensure non-discriminatory enjoyment of the right to a nationality. The MoI’s authority to issue unappealable denaturalization orders also raises severe due process concerns in this context. Thousands of Ajam are estimated to be stateless, separate from the denaturalization campaign and the inability of Baharna and Ajam citizens to seek appropriate judicial remedies for discrimination raises concerns under Articles 5(a) and 6 of the Convention.⁶⁹

To conclude, the Bahraini government uses broad legislation to remove the citizenship of Baharna and Ajam citizens for defending their rights and combating their systemic discrimination. This must be stopped to ensure that indigenous groups are not discriminated against. In nearly every sector that concerns the daily life of Baharna and Ajam citizens, Bahraini authorities have failed to protect the political, religious and cultural rights of these groups. Instead, they have intensified the suppression of Shia religious practices, political participation, and general enjoyment of basic human rights such as freedom of expression, belief and association. The sectarianization of the country has additionally heightened the risk of anti-Shia violence and contributed to extremism, which ultimately reflects the high degree of discrimination throughout Bahrain’s public sector.

Recommendations

1. Pressure the government of Bahrain to end its discriminatory policies against its Baharna and Ajam population:

⁶⁵ Shattering the Facade: a report on Bahrain’s implementation of the Bahrain Independent Commission of Inquiry (BICI) recommendations four years on (Washington, D.C.: Americans for Democracy & Human Rights in Bahrain, 2015)

⁶⁶ “Infographic: Timeline of Citizenship Revocation,” Bahrain Institute for Rights & Democracy, 10 February 2016, <http://birdbh.org/2016/02/infographic-timeline-of-citizenship-revocation/>

⁶⁷ Ibid

⁶⁸ “HRC32: ADHRB calls attention to citizenship revocation in Bahrain,” Americans for Democracy & Human Rights in Bahrain, 14 June 2016, <http://www.adhrb.org/2016/06/hrc32-adhrc-highlights-crackdown-civil-society-bahrain/>

⁶⁹ See *infra* section V(iv).

- a. Consider passing a resolution at the United Nations Human Rights Council condemning the human rights situation in Bahrain and specifically noting the government discrimination against Baharna and Ajam.
- b. Examine in a report the consequences of government discussion on extremism and consider using Bahrain as a case study in such a report.
- c. Incorporate the subject of discrimination against the Baharna and Ajam into the next country visit by the Office of the High Commissioner for Human Rights and include an examination of the subject into any permanent mandate.

2. Facilitate the missions of the Special Procedures of the United Nations Human Rights Council:

- a. Demand that the government of Bahrain honors its commitment to allow the Special Rapporteur on torture and other cruel, unusual, or degrading treatment or punishment to visit the country to conduct an assessment on Bahrain's commitments towards the elimination of the use of torture.
- b. Request that the government of Bahrain issues a standing invitation to all Special Procedures wishing to visit the country.
- c. Encourage the Special Rapporteur on religious freedom and the Special Rapporteur on the rights of indigenous persons to request access to Bahrain.

3. Consider amending the International Convention on the Suppression and Punishment of the Crime of Apartheid to allow it to apply to extremely discriminatory situations of a non-racial character, including situations in which persons face apartheid-like conditions on account of their religion or faith.

4. Pressure the Government of Bahrain to end its campaign of discrimination against the Baharna indigenous population by instituting measures against Bahrain similar to those that ended apartheid in South Africa.

5. Demand the release of all Baharna and Ajama political prisoners

6. Consider hosting multilateral talks between the Bahraini government and Baharna and Ajam indigenous population with the goal of creating a permanent and inclusive solution.

7. Provide assistance with training programs to the Bahraini government on best practices to ensure that the Baharna and Ajam indigenous population is included in government jobs and other areas where the groups are not fully represented.

8. Include analyses on the subject of anti-Baharna and Ajam discrimination in any human rights reports released in the future, including the United States Department of State Human Rights Report and the United Kingdom Foreign Commonwealth Office Report

9. Recommend that the Bahraini government adopts legislation that meets the requirements of articles 2,

10. Request the Bahraini government to provide information in subsequent reports on the practical implementation and monitoring of articles 4, 5 and 6 of the Convention, including on mechanisms for receiving complaints, conducting investigations and prosecutions, and implementing consequent decisions. Guarantees of non-discrimination laid down in law, without mechanisms to monitor their application does not on their own ensure the enjoyment of non-discrimination.

11. Recommend that the Bahraini government institutes training programmes on human rights and understanding among ethnic groups for law enforcement officials, including policemen, military and prison staff, and members of the judiciary.

12. Request that the Bahraini government considers the possibility of modifying its nationality law in order to conform to Article 5 (d) (iii) of the ICERD so that Bahraini women will be able to transmit her nationality to her child even when she is married to a foreign national.

13. Urge the Bahraini government to critically review its legislation with a view to abolishing the imposition of capital and corporal punishment on persons having committed crimes when under 18 years of age at the sole discretion of the judge and amend its laws with a view to prohibit any form of corporal punishment for persons under 18 deprived of their liberty. The Special Rapporteur on extrajudicial, summary or arbitrary executions transmitted communications to the Government concerning death sentences imposed on male and female child offenders as well as in cases where death sentences have been passed based on confessions obtained under torture, and in criminal proceedings falling short of international fair trial standards.

14. Urge the Bahraini government to take concern regarding the allegations that a disproportionate number of Baharna and Ajam citizens are facing the death penalty and encouraged Bahrain to cooperate fully with the Special Rapporteur on extrajudicial, summary and arbitrary executions.

15. Urge the Bahraini government to subject to full review in ordinary courts all convictions and sentences rendered by the National Security Courts, where fundamental principles of a fair trial, including prompt and full access to legal counsel and inadmissibility of coerced testimony were not

16. Urge the Bahraini government to conduct effective investigations in accordance with the principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions of all the deaths that have been attributed to the security forces. Likewise, all allegations of torture and similar treatment shall be investigated by an independent and impartial body, following the Istanbul Principles.

17. Urge the Bahraini government to implement an extensive program of public order training for the public security forces, the NSA and the Bahrain Defense Force, including their private security companies, in accordance with UN best practices.

18. Urge the Bahraini government to avoid detention without prompt access to lawyers and without access to the outside world for more than two or three days. In any event, all detention should be subject

19. Require the Bahraini government to establish urgently, and implement vigorously, a program for the integration into the security forces of personnel from all the communities in Bahrain.

20. Urge the Bahraini government to review convictions and commute sentences of all persons charged with offenses involving political expression, not consisting of advocacy of violence, or, as the case may be, to drop outstanding charges against them.

21. Urge the Bahraini government to compensate and provide remedies for all victims of torture, ill-treatment or prolonged incommunicado detention.

22. Follow up on the statement by King Hamad to the effect that the Government of Bahrain will consider rebuilding, at its expense, some of the demolished religious structures in accordance with administrative regulations.

23. Urge the Bahraini government to consider relaxing censorship and allowing the opposition greater access to television broadcasts, radio broadcasts and print media.

24. Urge the Bahraini government to establish professional standards for the media and other forms of publications that contain an ethical code and an enforcement mechanism, designed to uphold ethical code and enforcement mechanism, designed to uphold ethical and professional standards in order to avoid incitement to hatred, violence, and intolerance, without prejudice to internationally protected rights of freedom of expression.

25. Urge the Bahraini government to undertake appropriate measures, including legislative measures to prevent incitement to violence, hatred, sectarianism and other form of incitement which lead to the violation of internationally protected human rights, irrespective of whether the source is public or private.

26. Urge the Bahraini government to develop educational programs at the primary, secondary, high school and university levels to promote religious, political, and other forms of tolerance, as well as to promote human rights and the rule of law

27. Urge the Bahraini government to develop a national reconciliation program that addresses the grievances of groups which are deprived of equal political, social and economic rights, and benefits across all segments of Bahrain's population.

28. Urge the Bahraini government to review a bill passed in February 2017 that allowed National Security Courts to try civilians. In 2011, these courts, chaired by members of the military were responsible for the convictions of hundreds of civilians during the protests. King Hamad stripped the courts of their powers to try civilians when it became clear that authorities could manage the mass demonstrations. While the re-empowering of the courts does not reverse a BICI recommendation, the bill's passage rolls back one measure of progress made in 2011. In February 2018, a Bahraini military court rejected the appeals of three civilians and one soldier convicted in a mass trial, marking the first trial of civilians before a military tribunal in Bahrain since 2011. The Courts are used often when unfairly sentencing Baharna and Ajam peoples, as there is no defense present.