



A Joint Submission by Americans for Democracy & Human Rights in Bahrain (ADHRB) and  
Alsalam Foundation  
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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## **1. Introduction**

This submission intends to demonstrate the pattern of widespread and systematic racial discrimination faced by the Ajam and Baharna community in Bahrain. These two ethnoreligious communities are particularly prone discrimination due to the intersectionality of their faith and religious affiliation. The Ajam is a group of Persian descent who ascribe to Shia Islam, while the Baharna is the country's Arab indigenous Shia community. This report evaluates the definition of discrimination under Bahrain law and provides an analysis of Bahrain's international obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Additionally, this paper will discuss the mandate and functioning of the National Institute for Human Rights (NIHR), as well as its lack of impartiality and independence. The report draws attention to the efficiency of the measures outlined in CERD which attempt to safeguard certain groups, and focuses on the measures put into place in Bahrain to further the awareness of the Convention's provisions and its proposed recommendations.

## **2. Constitutional and Conventional Definitions of Discrimination**

### **a. Definitions of Discrimination**

Despite a clear legal basis for the principles of equality and non-discrimination in article 18 of Bahrain's constitution, which states that "there shall be no discrimination among [citizens] on the basis of sex, origin, language, religion or creed", Bahrain still fails to uphold equality among its nationals.

Moreover, Bahrain's definition of discrimination is arguably too vague to be in complete accordance with the definition set forth under article 1 of the CERD, which determines discrimination to be based on "race, color, descent, or national or ethnic origin." Bahrain's definition fails to include some of these important elements, and instead allows the broad interpretation of "origin".

Such a broad definition results in the Bahraini government's continuous discrimination against the Ajam and Baharna communities based upon their ethnicity, which undermines their right to freedom from discrimination and right to equality.

Discrimination in Bahrain exists in numerous forms, ranging from harassment, and arrests, to targeting specific ethnic groups such as the Baharna and Ajam communities. Bahraini authorities also conduct systematic religious discrimination against the country's Shia population, by conducting smear campaigns on religious leaders and destroying Shia mosques and religious sites.

In the aftermath of the 2011 pro-democracy movement, 53 Shia mosques were damaged, of which 28 were destroyed entirely. While some mosques have been rebuilt due to a recommendation from the Bahrain Independent Commission of Inquiry (BICI), the government has only partially committed to its promise to rebuild all mosques. Several mosques remain await repair, while others

were rebuilt by the Shia community without the assistance promised by the government. Unfortunately, many of the mosques that were rebuilt under government regulation have been done so far away from their original historic location.

Additionally, the government has increased its harassment of Shia clerics. Notable harassment includes prominent Shia cleric Sheik Issa Qassim, the spiritual leader of the now-dissolved opposition group Al Wefaq, who was stripped of his citizenship.<sup>1</sup> In 2016, the Bahraini government, legislatively prohibited members of political groups from taking part in religious preaching, in direct violation of the rights to freedom of religion and association as enshrined in articles 18 and 22 of the ICCPR, as well as article 22 of the Bahraini constitution.

### **b. Absence of Indirect Discrimination in Constitutional Definition**

Indirect discrimination is not identified as part of the definition of discrimination in Bahrain's constitution. Yet, the Shia community continues to be indirectly discriminated against in everyday life. This discrimination takes part in many forms but appears most notably in the job sector. The security forces are one of the greatest examples of this. The security sector is one of the main employers in Bahrain, yet the Shia community, which accounts for the majority of Bahrain's population, makes up less than 10% of all employees within the security forces. This complete lack of representation, the Shia community is not represented within this important sector of employment.

Further, the International Labour Organization (ILO) has observed that Bahraini workers have been dismissed from their jobs or have received sanctions based upon their religious beliefs.<sup>2</sup> The ILO has also criticized the Government of Bahrain for having an inadequate definition of discrimination within its labour law, which does not include "race, color, political opinion, national extraction and social origin in the list of prohibited grounds of discrimination."

While Bahrain's constitution states that all citizens are equal before the law, the systematic discrimination of Bahrain's Shia community portrays a different story. Bahrain must ensure that national laws are implemented in order to combat all forms of discrimination, including indirect, across all sectors of public and private life.

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<sup>1</sup> There was no reference here – what is it??

<sup>2</sup> Ibid

### **3. The National Institute for Human Rights and the Status of Groups Protected Under the Convention**

#### **a. Policies to Eliminate Racial Discrimination**

The Kingdom of Bahrain states that they have amended several of its national laws to eliminate discrimination in the country,<sup>3</sup> yet anti-Baharna and Ajam prejudice and extremist discourse persevere in the country's legislation, policy, and official narrative. The King has wide authority, and the parliament, of which only half is elected, is largely constrained. Key positions are held only by members of the Sunni Royal Family, who represent only a small portion of Bahrain's ethnic and religious demographic. Combined with the inability of the Baharna and Ajam to vote and organize political opposition, Bahraini policies continue to disregard the protection of these two groups.

Moreover, the Baharna and Ajam are frequently arbitrarily denaturalized. In 2018, Amnesty International reported the total number of those stripped of their nationality to be over 240, the highest annual total recorded since 2011. The UN Special Rapporteurs on cultural rights, extreme poverty and human rights, and freedom of religion or belief, issued a joint communication exposing the government's regular use of citizenship revocation as a means of suppressing and/or punishing dissent. Further, Bahraini authorities have exploited both the anti-terrorism law and recently expanded the 1963 Citizenship Act, to issue unilateral and often unappealable denaturalization orders with regards to government critics.<sup>4</sup> The vast majority of these denaturalized individuals are from the Ajam Shia community. This was most notably seen in the controversial case of Sheikh Isa Qassim (referred to above) whose citizenship was arbitrary revoked, resulting in mass protests amongst the Shia community.

Additionally, others discriminatory measures have also been reported in the country, including the government's manipulation of the electoral system, the dissolution of the two largest political opposition groups in the country (Al Wefaq and Wa'ad), and amendments made to the Political Society Law prohibiting religious figures from political participation.<sup>5</sup>

Put together, these factors entail a failure on the part of the Bahraini government, to establish legal frameworks and policies which adhere to international standards and ensure equality amongst the

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<sup>3</sup> "Combined eighth to fourteenth periodic reports submitted by Bahrain under article 9 of the Convention, due in 2007\* issued to the UN, International Convention on the Elimination of All Forms of Racial Discrimination [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fBHR%2f8-14&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fBHR%2f8-14&Lang=en)

<sup>4</sup> "Submission for Bahrain's List of Issues Prior to Reporting (LOIPR) under the Convention on the Elimination of All Forms of Racial Discrimination" prepared by ADHRB [https://www.adhrb.org/wp-content/uploads/2018/03/ADHRB-CERD-LOIPR\\_July-2017.pdf](https://www.adhrb.org/wp-content/uploads/2018/03/ADHRB-CERD-LOIPR_July-2017.pdf)

<sup>5</sup> "Submission for Bahrain's List of Issues Prior to Reporting (LOIPR) under the Convention on the Elimination of All Forms of Racial Discrimination" prepared by ADHRB [https://www.adhrb.org/wp-content/uploads/2018/03/ADHRB-CERD-LOIPR\\_July-2017.pdf](https://www.adhrb.org/wp-content/uploads/2018/03/ADHRB-CERD-LOIPR_July-2017.pdf)

country's diverse demographic. The continued discrimination against the Baharna and Ajam communities violates article 2 of the CERD, which explicitly encourages States Parties to establish "a policy of eliminating racial discrimination" and to guarantee racial groups "full and equal enjoyment of human rights and fundamental freedoms." Moreover, the political ostracization of the Shia community represents a violation of article 5(d)(iii) and article 5(c), which delineates the rights to nationality and the right to electoral participation respectively.

### **b. National Institute for Human Rights**

As a result of international pressure, the Bahraini government established the National Institute for Human Rights (NIHR) as "an independent body tasked with monitoring human rights conditions in the country." However, the institution has consistently failed to adhere to the minimum standards for effective and credible international human rights institutions outlined in the Paris Principles,<sup>6</sup> in order to receive international recognition and acceptance.

In the analysis of the NIHR in 2015, several NGOs demonstrated the institution's lack of transparency (its 11 members are appointed by the King), unclear inspections programs, and a large number of rejected complaints. Consequently, a feeling of mistrust for the organization overwhelms the Bahraini population.<sup>7</sup> The international community has also raised awareness as to the failure of the NIHR to address religious discrimination against the Baharna and Ajam. Between 2011-2016, UN Special Procedures have issued over 60 joint communications regarding these issues. ADHRB reported in 2016 that these communications "detail the Government of Bahrain's systematic efforts to discriminate against its Shia (Baharna and Ajam) populations and suppress opposition to its rule."<sup>8</sup>

In 2017, Bahrain submitted the Fifth Annual Report of the NIHR, despite 2017 representing one of the worst years for human rights in the country. The report focused solely on the supposed "theoretical commitments to human rights and positive legislation," while simultaneously neglecting to prove the practical implementation of these commitments. ADHRB dedicated an entire report to analyzing such "developments," and concluded that no meaningful change had arisen from such promises. Moreover, reported cases of torture, arbitrary detention, religious discrimination, and political repression continue to be widely ignored by the NIHR. One of the NIHR's tasks is to "study the legislations and regulations in force in the Kingdom relating to human rights, and to recommend the amendments it deems suitable." This is particularly important insofar as the country's adherence to international human rights standards. The Institute also has the power to recommend the enactment of new legislation related to human rights, but it has thus

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<sup>6</sup> "An Analysis of the Fifth Annual Report of the National Institute for Human Rights in Bahrain" prepared by ADHRB <https://www.adhrb.org/2018/04/bahrain-nihr-ignores-government-violations-endorses-abuses-in-2017-report/>

<sup>7</sup> "NIHR Report Fails to Address Root Causes of Human Rights Violations" report issued by Bahrain Center for Human Rights" prepared by BCHR, BIRD, and ADHRB <http://bahrainrights.net/?p=7287>

<sup>8</sup> "Analysis of the UN Special Procedures Communications to the Kingdom of Bahrain 2011-2016" prepared by ADHRB <https://www.adhrb.org/2016/06/9921/>

far failed to make any tangible suggestions. In 2017, the NIHR officially drafted minor comments on eight different policy proposals, but refused to use any explicit and negative language in its supposed criticisms. The NIHR strikingly portrayed its failure to promote human rights in January 2017, when it commended the government's conclusion of a *de facto* moratorium on the death penalty with the executions of three victims of torture.

A combination of these failures, alongside the NIHR's inadequate complaint system, and the government's refusal to allow UN Special Procedures mandate-holders to visit the country, represent Bahrain's intrinsic failure to promote the enjoyment of human rights in the country. Systematic abuse and the annihilation of free speech persevere in Bahrain, with various cases of human rights abuses against activists such as Nabeel Rajab, Sheikh Isa Qassim, and Ebtisam al-Saegh, ignored by the Institute.<sup>9</sup>

This lack of adequate protection seriously violates article 2 of the CERD and displays the NIHR's total disregard to its mandate in protecting the human rights of the Bahraini population. These actions fail to adhere to the **2005 CERD recommendation**, which urged State Parties to:

*“...consider the establishment of a national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex).”*

### **c. Measures to Secure the Advancement of Protected Groups Under the Convention**

ADHRB has reported that the Bahraini judicial system has been complicit in the discrimination faced by the Shia community and the Baharna and Ajam groups. Judges have stripped a larger number of Baharna and Ajam of their nationality, and further failed to address their allegations of discrimination and maltreatment in detention. The courts have also perpetuated the broader problems of mass incarceration and torture, which disproportionately impact the Baharna and Ajam communities, and refuse to hold officials who have committed human rights violations accountable.<sup>10</sup>

The Ombudsman's Office, which was specifically established in Bahrain to combat the culture of impunity for police crimes, consistently fails to expose and address cases of detention, torture, and mistreatment committed by MOI personnel.<sup>11</sup> As a result, security officials responsible for targeting, imprisoning, torturing, and killing predominantly Baharna and Ajam individuals have

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<sup>9</sup> “An Analysis of the Fifth Annual Report of the Bahraini National Institution for Human Rights” prepared by ADHRB [https://www.adhrb.org/wp-content/uploads/2018/04/2018\\_ADHRB-NIHR-2017-report-analysis\\_final-1.pdf](https://www.adhrb.org/wp-content/uploads/2018/04/2018_ADHRB-NIHR-2017-report-analysis_final-1.pdf)

<sup>10</sup> “Submission for Bahrain's List of Issues Prior to Reporting (LOIPR) under the Convention on the Elimination of All Forms of Racial Discrimination” prepared by ADHRB [https://www.adhrb.org/wp-content/uploads/2018/03/ADHRB-CERD-LOIPR\\_July-2017.pdf](https://www.adhrb.org/wp-content/uploads/2018/03/ADHRB-CERD-LOIPR_July-2017.pdf)

<sup>11</sup> “Mid-term Assessment of the UPR- Bahrain” prepared by ADHRB <https://www.adhrb.org/wp-content/uploads/2019/11/Mid-Term-Report-2019-Bahrain.pdf>

not been held accountable. Whilst Bahraini courts have prosecuted a small number of them, the lack of transparency in the trials, and the disparity between convictions and length of prison terms displays a lack of tangible accountability for such crimes. Moreover, a large number have been acquitted despite overwhelming evidence as to their guilt.<sup>12</sup>

Such practices demonstrate violations of article 6 of the CERD, which encourages State Parties to ensure everyone's right to a remedy. This article specifically promotes the right to effective protection and remedies against "any acts of racial discrimination which violates his human rights and fundamental freedoms," through a "competent national tribunal." In 2005 the CERD recommended that:

*"the State party consider whether the lack of formal complaints may be the result of the victims' lack of awareness of their rights, lack of confidence in the police and judicial authorities, or the authorities' lack of attention, sensitivity, or commitment to cases of racial discrimination. The Committee requests that the State party include in its next periodic report statistical information on complaints lodged, prosecutions initiated and the outcome of cases involving racial or ethnic discrimination, as well as specific examples of such cases".*

#### **d. Amendments to the Laws on Non-Governmental Organizations**

Article 5(ix) of the CERD provides for the right of association, while article 2(e) calls on the state parties to create an enabling environment for integrationist multiracial organizations. Despite superficial national legislation on the matter, Bahrain fails to adhere to these obligations by annihilating civil society freedom.

Article 27 of the Bahraini Constitution allows for the exercise of peaceful association under the rules laid down by the law, provided that the fundamentals of the religion and the public order are not infringed.<sup>13</sup> Despite this explicit legal basis, Bahrain continues to deny and restrict the right to association and tightly controls the activity of non-governmental and civil society organizations. Amendments made to the 1989 Law of Associations outline tight restrictions on these organizations, prescribing that they must be non-political, and allowing the Ministry of Labor and Social Development (MLSD) to be deeply involved in all aspects of the civil society organizations existence.<sup>14</sup>

The Law of Associations requires all civil society organizations to register with the MLSD. The MLSD is then granted the power to adjudicate on the legality of the establishment of the organization, by either explicitly allowing or denying them the right to register, or rejecting them by simply not answering for 60 days. If a non-governmental organization successfully undergoes the registration procedure, the government does not cease its supervision of its operations. This is

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<sup>12</sup> "U.S Commission on International Religious Freedom" 2017 Annual Report <https://www.uscirf.gov/sites/default/files/Bahrain.2017.pdf>

<sup>13</sup> Bahraini Constitution Article 27

<sup>14</sup> ADHRB: Crushing Civil Society: Bahraini government reprisals for international engagement



highlighted by the requirement for civil society organizations to disclose their funding information to the government. The organizations must notify the authorities before holding general meetings, inform them of novel decisions taken by the board, and must receive permission for foreign funding or for fundraising events.

Moreover, if a board decision, such as an election of new officers or a new governance measure, “violates bylaws or public order and norms” the authorities can overturn it. This supervision effectively means that the MLSD can negate the freedom of association by controlling the operation, content and work of every civil society organization. Lastly, if authorities deem it necessary for the achievement public order and norms, the non-government organization can be dissolved or closed entirely.

In 2011, the MLSD announced that it was preparing a draft law concerning associations in Bahrain. In 2012, the Council of Ministers adopted the draft law which rendered the establishment and operation of non-governmental organizations to be even more tightly controlled.<sup>15</sup> The new law introduced a novel provision that prohibited non-governmental organizations from working on a “factional or sectarian basis,” restricting the work of human rights defenders to combat ethno-religious issues in the country. Moreover, the MLSD gained additional powers with the novel draft law, including the power to dismiss officers and dissolve the board of directors unilaterally.

#### **4. Discriminatory Statements by Public Officials**

##### **a. Measures Implemented to Prevent Discriminatory Statements by Public Officials and Media**

Article 4 of the CERD prohibits all propaganda based on the ideas of superiority. Despite the prohibition of discriminatory statements by public officials, media, and politicians, the practice of public shaming and hate incitement is still prevalent. Various national policies, including the 2015-2018 Government Programme of Action, press regulations, as well as codes of conduct of the security forces and police, imply the prohibition and elimination of hate speech. Moreover, the National Criminal Code provides for a fine or imprisonment for anyone found to publicly incite hatred or engage in hate speech.

However, in practice, sectarian and racially discriminatory statements are increasingly common in Bahrain, especially against the Baharna and Ajam communities. A prime example of this widespread hate speech appeared amongst the national security forces, when a propaganda pamphlet called the Nur-al Sunna<sup>16</sup> was distributed denouncing Shiism and endorsing violence and discrimination against the Shia. Furthermore, the government-controlled state media have also

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<sup>15</sup> HRW: “INTERFERE, RESTRICT, CONTROL” Restraints on Freedom of Association in Bahrain: 2013

<sup>16</sup> Sectarian Discrimination and Extremism in Bahrain’s Security Forces  
Questions for US Policy

engaged in extremist rhetoric, and have attempted to delegitimize the religious practices and political issues of the Baharna and Ajam.<sup>17</sup>

Therefore, the government must implement regulations which effectively and efficiently enforce prohibitions on hate speech in accordance with Bahrain's commitments under the CERD.

## **5. Dissemination of Information to Combat Prejudices**

### **a. Encouraging Awareness of the Convention**

The Bahraini state media has been widely used to promote sectarianism in Bahrain and has shown little initiative to reduce racial discrimination in Bahrain. The lack of information and projects that foster a more egalitarian civil society in Bahrain instead exacerbate an already engrained discrimination against Shia and ethnic minorities in Bahrain. As outlined in its UPR report,<sup>18</sup> Bahrain has continuously failed to protect freedom of the press and continues to attack and suppress journalists in the country. Additionally, extensive media laws have been drafted to impose widespread censorship regarding what can and cannot be shown on state television. Moreover, censorship laws forbid sacrilegious content from being shown on state media which has prevented some religious groups from spreading their message. This has also resulted in widespread censorship of Ajam and Baharna imagery.<sup>19</sup>

The Bahrain media is split into two halves: the state-run media and the private sector. However, state-run media exerts a great deal of influence on the private sector. Oppositional media is effectively banned from the state channels,<sup>20</sup> thus the majority of media available on the television reflects the views and opinions proposed by the ruling government. This failure by the Bahrain government to implement a media framework that fairly represents all groups in Bahrain, without aspects of racial discrimination, is in violation of article 7(19) of the CERD.

## **6. Conclusion and Recommendations**

This report demonstrates how the Kingdom of Bahrain fails in the fight against racial and religious discrimination. Bahrain's Baharna and Ajam ethnoreligious groups are the two most highlighted cases of groups who suffer discrimination in the country and to which the government has not taken effective measures to put an end to. Despite all the "positive" theoretical changes that Bahrain claimed in their 2019 UN report, numerous international organizations have reported to

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<sup>17</sup> ADHRB: Apart in their own land II

<sup>18</sup> [https://www.upr-info.org/sites/default/files/document/bahrain/session\\_13\\_-\\_may\\_2012/adhrb\\_follow-up\\_report\\_bahrain\\_upr\\_second\\_cycle.pdf](https://www.upr-info.org/sites/default/files/document/bahrain/session_13_-_may_2012/adhrb_follow-up_report_bahrain_upr_second_cycle.pdf)

<sup>19</sup> [https://www.upr-info.org/sites/default/files/document/bahrain/session\\_13\\_-\\_may\\_2012/adhrb\\_follow-up\\_report\\_bahrain\\_upr\\_second\\_cycle.pdf](https://www.upr-info.org/sites/default/files/document/bahrain/session_13_-_may_2012/adhrb_follow-up_report_bahrain_upr_second_cycle.pdf)

<sup>20</sup> [https://www.upr-info.org/sites/default/files/document/bahrain/session\\_13\\_-\\_may\\_2012/adhrb\\_follow-up\\_report\\_bahrain\\_upr\\_second\\_cycle.pdf](https://www.upr-info.org/sites/default/files/document/bahrain/session_13_-_may_2012/adhrb_follow-up_report_bahrain_upr_second_cycle.pdf)

the contrary. Until Bahrain's legal framework and protective mechanisms are amended and improved, the violation of human rights will continue by this State Party to the CERD.

For the reasons explained above, and in an effort to adhere to the integral provisions of CERD, the Government of Bahrain should:

- Amend article 18 of its Bahraini Constitution in order to establish a definition of “discrimination” in accordance with article 1 of the CERD;
- Prevent both the direct and indirect discrimination of the Baharna and Ajam populations across all public and private sectors;
- Eliminate the 2016 amendment of Bahraini Political Society Law which prohibits political leaders from taking part in religious ceremonies.
- Ensure the access of the Baharna and Ajam communities to the political sphere;
- Substantially reform the existing mechanisms for the protection of human rights in the country in accordance with the Paris Principles;
- Guarantee transparency and independence of the Ombudsman Office within the MOI;
- Promote the right of association by eradicating measures which seek to excessively NGOs and civil society organizations; and
- Eliminate hate speech within public institutions and state-owned media, and ensure the transparent and efficient functioning of media organizations.