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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report highlights concerns relating to the situation of freedom of religion and expression in the Kingdom of Bahrain, including the criminalization of blasphemy and defamation. It also focuses on the ongoing institutionalized discrimination against Shia Muslims, including through arbitrary arrests of religious leaders as well as disproportionate restrictions on religious gatherings during the COVID-19 pandemic.

(a) Freedom of Religion and Expression

Background

3. According to its 2020 population census, Bahrain has a population of just over 1.5 million. Of these, 74%, or 1.1 million are Muslim.¹ The remainder is estimated at roughly 10% Christian and the rest other or unaffiliated.² Most non-Muslims living in Bahrain are foreigners, with only 0.3% of Bahraini nationals officially adhering to non-Muslim faiths.³ Of Bahraini Muslims, it is estimated that around 62% are Shia and 38% are Sunni.⁴ Despite representing a minority within society, Sunni Muslims are generally viewed as receiving preferential treatment in laws and policies.⁵
4. Article 2 of the Bahraini Constitution recognizes Islam as the state religion and affirms Islamic Shari'a as "a principal source for legislation".
5. Article 18 prohibits discrimination on the basis of, inter alia, religion or creed, while Article 22 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".⁶ The provision makes no reference to the right to have or adopt a religion, while subjecting religious freedom to "the customs observed in the country". The ambiguity of this formulation raises concerns over the scope of protection of this fundamental freedom at the constitutional level, particularly for persons belonging to religious or belief minorities that are not recognized by the State.
6. Freedom of expression is also enshrined, albeit with significant restrictions. Article 23 establishes that:

"Everyone has the right to express his opinion and publish it by word of mouth, in writing or otherwise under the rules and conditions laid down

¹ Bahrain Information & eGovernment Authority '2020 Census Population Tables' (28 February 2021) <<https://www.data.gov.bh/en/ResourceCenter/>>.

² Ministry of Information Affairs 'Population and Demographics' <<https://www.mia.gov.bh/kingdom-of-bahrain/population-and-demographics/?lang=en>>.

³ Bahrain Information & eGovernment Authority '2020 Census Population Tables' (28 February 2021) <<https://www.data.gov.bh/en/ResourceCenter/>>.

⁴ D. Pollock 'Sunnis and Shia in Bahrain: New Survey Shows Both Conflict and Consensus' (20 November 2017) Fikra Forum <<https://www.washingtoninstitute.org/policy-analysis/sunnis-and-shia-bahrain-new-survey-shows-both-conflict-and-consensus>>.

⁵ L. Nevola 'Religion Repression and Disorder: Bahrain, Iran, Iraq, and Yemen' (2021) ACLED <<https://acleddata.com/2021/06/04/religious-repression-and-disorder-bahrain-iran-iraq-and-yemen/>>.

⁶ 2002 Constitution of Bahrain (amended 2017), arts. 2, 18, 22.

by law, provided that the fundamental beliefs of Islamic doctrine are not infringed, the unity of the people is not prejudiced, and discord or sectarianism is not aroused.”⁷

7. The concepts of “unity of the people” or political stability may be tangentially reconcilable with the grounds of “public order”, based on which expression may be lawfully restricted insofar as it meets all other requirements found in international human rights law, including necessity and proportionality. However, the explicit provision that the “fundamental beliefs of Islamic doctrine” should not be contravened is manifestly incompatible with Bahrain’s obligation to protect and promote the full and equal enjoyment of freedom of religion or belief, as well as freedom of expression by all persons.

Recent Developments

8. Since the previous cycle of the Universal Periodic Review, Bahrain has taken steps towards further enhancing the protection and promotion of freedom of religion within its borders.
9. The King Hamad Global Center for Peaceful Co-existence is a government entity dedicated to promoting interreligious dialogue and tolerance, including through the hosting of conferences, events and other initiatives. In December 2017, it published the “Kingdom of Bahrain Statement”, which affirmed that “religious faith and expression are a basic inalienable right”, as well as freedom from religious compulsion and the condemnation of religious violence.⁸ Furthermore in October 2020, the Center signed a memorandum of understanding with the United States Special Envoy to Monitor and Combat Anti-Semitism, expressing a commitment to eliminating anti-Semitism and promoting peaceful co-existence between Muslims and Jews.⁹
10. In December 2021, Bahrain opened the largest cathedral in the Arabian Peninsula, serving the estimated 80,000 Catholics living in the country. On that occasion, the Kingdom also extended a formal invitation to Pope Francis to visit Bahrain.¹⁰
11. However, these promising commitments and actions were not accompanied by necessary reforms to eliminate the severely adverse impact of a number of laws and policies on the full and equal enjoyment by everyone of the rights to freedom of religion or belief, and expression in the country.

Criminalization of Blasphemy & Defamation

12. According to Article 309 of the Bahraini Criminal Code, “A punishment for a period not exceeding one year or a fine not exceeding BD 100 shall be inflicted upon any person who commits an offence by any method of expression against one of the recognized religious sects or ridicules the rituals thereof”.¹¹

⁷ Id., art. 23.

⁸ King Hamad Global Center for Peaceful Coexistence ‘The Kingdom of Bahrain Declaration’ (December 2017) <<https://kinghamadglobalcentre.com/declaration/>>.

⁹ US Embassy in Georgia ‘Memorandum of Understanding on Anti-Semitism’ (October 22, 2020) <<https://ge.usembassy.gov/memorandum-of-understanding-on-anti-semitism/>>.

¹⁰ France 24 ‘Arabian peninsula’s biggest Catholic church opens in Bahrain’ (9 December 2021) <<https://www.france24.com/en/live-news/20211209-arabian-peninsula-s-biggest-catholic-church-opens-in-bahrain>>.

¹¹ Bahrain Penal Code 1976, art. 309.

13. Article 310 defines offences against religion as including altering the text of a religious book to change its meaning or mock the relevant teachings, committing an insult against a religious symbol or sacred person, or imitating a religious practice with the intention of ridiculing it.¹²
14. In 2019, the government announced plans to amend the controversial Press, Printing and Publishing Law of 2002, which had faced considerable criticism – including during the previous cycle of the UPR – for stifling freedom of expression.¹³ The bill was approved by the Cabinet in April 2021, and while it contains moderate improvements from the previous legislation, it has also retained certain key provisions which undermine freedom of expression.¹⁴
15. Notably, Article 1 of the law echoes Article 23 of the Constitution, as it does protect freedom of expression, but only “without prejudice to the foundations of the Islamic faith and the unity of the people, and in a manner that does not provoke division or sectarianism.”¹⁵
16. Furthermore, Article 68 imposes harsh fines on any broadcast or publication attacking or criticizing the official state religion, insulting or criticising a member of the royal family, or inciting “a breach in public order or the spirit of discord in society” that threatens national unity, among others.¹⁶
17. The Press, Printing and Publishing Law as amended contains a new section dedicated to online activities, including strict registration requirements and monitoring of websites, as well as criminal liability for statements made online, including on social media platforms.¹⁷
18. Both the Penal Code provisions and elements of the Press, Printing and Publishing Law have been misused to punish expression deemed offensive to religion. In September 2020, human rights lawyer Abdullah Al-Shamlawi was arrested and convicted on charges of “incit[ing] hatred of a religious sect” and “misusing a telecommunications device” after posting two tweets in which he expressed disagreement with certain religious practices. His initial 8-month prison sentence was eventually overturned on appeal, in part due to the intervention of several human rights groups, who called on the government not to contest the appeal. Nevertheless, in March 2021, Al-Shamlawi was barred from practicing his profession for a year by the Lawyers’ Disciplinary Board, with the Minister of Justice claiming that his tweets – which he had since deleted and even expressed a public

¹² Id., art. 310.

¹³ Human Rights Council ‘Report of the Working Group on the Universal Periodic Review – Bahrain’ (10 July 2017) UN Docs A/HRC/36/3, 114.105, 106, 108.

¹⁴ N. Barakat ‘Veteran journalists welcome amendments to press law’ (6 April 2021) Bahrain News Agency

<https://www.bna.bh/en/Veteranjournalistswelcomeamendmentstopresslaw.aspx?cms=q8FmFJgiscL2fwlzON1%2BDIZu7XeIDIDpKZQ0zeDUIJQ%3D>.

¹⁵ Law No. 47 On Regulating Press, Printing and Publishing
<https://www.legalaffairs.gov.bh/HTM/L4702.htm>, art. 1

¹⁶ Id., art. 68.

¹⁷ Americans for Democracy and Human Rights in Bahrain (ADHRB) ‘Bahrain: “Social Media Misuse” and Suppression of Dissent Violate ICCPR’ (2 February 2021)
<https://www.adhrb.org/2021/02/bahrain-social-media-misuse-and-suppression-of-dissent-violate-iccpr/>.

apology for – had violated the Lawyer’s Code.¹⁸

Discrimination against Shia Muslims

19. Despite representing the majority of the population, the Shia Muslim community of Bahrain has long suffered institutionalized discrimination. The perceived fusion of religious and political affiliations has resulted in an ongoing trend of targeted investigations and arrests of Shia religious leaders on suspicion of seditious intent.
20. In August 2020, the Jafari Endowments Council, a government department tasked with overseeing Muslim affairs, imposed tight restrictions on places of worship during Ashura, a major religious event celebrated by Shia Muslims. These included the prohibition of most in-person ceremonies, limiting the duration of ceremonies to 20 minutes, prohibiting sermons to be broadcast on loudspeakers except at specific times, as well as limiting the putting up of ceremonial banners and images to specific areas. According to the Ministry of Health, these measures were deemed necessary for preventing the spread of COVID-19 at gatherings.¹⁹ However, civil society and religious leaders have raised concern at the disproportionate impact of these regulations for the Shia community, noting that the measures did not reflect the broader approach of the government to curb the pandemic, as other public spaces such as shopping malls, entertainment facilities and swimming pools had been reopened two weeks prior.²⁰ The Mosques and other religious buildings were reopened shortly after the end of Ashura.²¹
21. In 2021, the Armed Conflict Location and Event Data Project recorded a sharp increase in “religious repression events” related to the Ashura celebration, including police harassment, arrests of preachers and other religious leaders, and the removal of religious banners and other items. There was also evidence of continued repression of Shias for several months in the aftermath of the 2020 Ashura festival.²²
22. A number of Shia religious leaders had already been subjected to police threats, heavy fines and the closure of religious buildings if they failed to comply with the pandemic measures. Some individuals reportedly faced criminal charges for engaging in religious practices on their private property, or for reciting traditional Shia prayers. State-sponsored media published articles claiming that Shia worshippers had defied government regulations and blaming them for increasing

¹⁸ Lawyers for Lawyers ‘Abdullah Al-Shamlawi prohibited from practicing law for one year’ (31 March 2021) <<https://lawyersforlawyers.org/en/abdullah-al-shamlawi-prohibited-from-practicing-law-for-one-year/>>.

¹⁹ Ministry of Health ‘National Medical Taskforce highlights precautionary measures during Ashura season’ (14 August 2020) <<https://healthalert.gov.bh/en/article/News-934250>>.

²⁰ ADHRB ‘Bahrain’s Double Standard on Religious Freedom: The Case of Ashura 2020’ (5 October 2020) <<https://www.adhrb.org/2020/10/bahraains-double-standard-on-religious-freedom-the-case-of-ashura-2020/>>.

²¹ ADHRB ‘Bahrain’s Double Standard on Religious Freedom: The Case of Ashura 2020’ (5 October 2020) <<https://www.adhrb.org/2020/10/bahraains-double-standard-on-religious-freedom-the-case-of-ashura-2020/>>.

²² L. Nevola ‘Religious Repression during Ashura Season: Cases from Bahrain, Iraq and Yemen’ (16 December 2021) ACLED <<https://acleddata.com/2021/12/16/religious-repression-during-ashura-season-cases-from-bahrain-iraq-and-yemen/>>.

COVID-19 infections.²³

23. In April 2019, 138 Shia Muslims were convicted and stripped of their citizenship for allegedly conspiring to establish an Iran-backed Shia militant group. This decision was condemned as unfounded by national and international human rights organizations.²⁴ Two months later, 92 of these persons had their citizenship restored on appeal. However, they continued to serve their terms of imprisonment.²⁵
24. In a positive development, in April 2021, the authorities released a number of political prisoners. Among them was Sayed Kamel Al-Hashemi, a cleric who had been sentenced in 2018 to serve 3 years of jail time, having already served two and a half thereof, inter alia for making a comment on social media criticizing the government for arresting religious preachers.²⁶

Freedom of Religion and Freedom of Expression in International Law

25. Article 18 of the Universal Declaration of Human Rights enshrines the right to freedom of thought, conscience and religion, including the freedom to change one's religion or belief and to manifest it on private as well as public settings.²⁷ This right is also articulated in Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which Bahrain ratified in 2006.²⁸
26. While Article 22 of Bahrain's Constitution guarantees freedom of conscience, it does not fully protect freedom of religion or belief, as it does not contemplate the freedom to change one's religion or belief. Additionally, protecting the freedom to practice one's religion only insofar as it is "in accordance with the customs observed in the country" heavily restricts the freedom of religion or belief of persons belonging to minority groups that are not recognized by the government.²⁹
27. Article 19 of the ICCPR allows for restrictions on freedom of expression only where they are necessary "for the respect of the rights and reputations of others" or "for the protection of national security, public order or public health or morals."³⁰
28. These freedoms are fundamental to the operation and maintenance of an open and free society, even when content that is expressed and disseminated proves unpopular or offensive.

²³ ADHRB 'Bahrain's Double Standard on Religious Freedom: The Case of Ashura 2020' (5 October 2020) <<https://www.adhrb.org/2020/10/bahrain-double-standard-on-religious-freedom-the-case-of-ashura-2020/>>.

²⁴ DW News 'Bahrain strips 138 people of citizenship for links to elite Iran force' (16 April 2019) <<https://www.dw.com/en/bahrain-strips-138-people-of-citizenship-for-links-to-elite-iran-force/a-48355458>>.

²⁵ Middle East Online 'Bahrain court overturns 92 Shiites' citizenship stripping' (30 June 2019) <<https://middle-east-online.com/en/bahrain-court-overturns-92-shiites%E2%80%99-citizenship-stripping>>.

²⁶ Bahrain Center for Human Rights 'Bahrain's released political prisoners: The human stories behind the numbers' (23 April 2021) IFEX <<https://ifex.org/bahrain-released-political-prisoners-the-human-stories-behind-the-numbers/>>.

²⁷ Universal Declaration of Human Rights (adopted 10 December 1948) A/RES/217 (III), art. 18.

²⁸ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.

²⁹ 2002 Constitution of Bahrain (amended 2017), art. 22.

³⁰ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 19.

29. Viewed in light of both Article 19(3) as well as Article 20(2) of the ICCPR, Article 23 of the Bahraini Constitution unreasonably restricts freedom of expression when it infringes upon the “fundamental beliefs of Islamic doctrine”, threatens “the unity of the people”, or provokes “discord or sectarianism”.³¹ These grounds are overly broad and highly subjective, opening the door to the arbitrary and unjustified restrictions on expression as well as deterring discussion on ideas of all varieties. This is especially the case for Bahrain’s laws on blasphemy and restrictions on online activities.
30. The Human Rights Committee’s General Comment No. 22 on Article 18 of the ICCPR notes that “The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents of other religions or non-believers.”³²
31. Bahrain’s blasphemy laws violate both freedom of religion and expression by criminalizing expression that is deemed an offence against a recognized religion, its rituals or religious figures. The exercise of such fundamental freedoms can in no way be lawfully restricted for the sake of protecting religions or institutions as such. Furthermore, international law prohibits discrimination on the basis of one’s religious beliefs, including those that are perceived as incompatible with state-recognized religions or “offensive”.
32. According to Article 26 ICCPR, the state has an obligation to ensure the equal protection of the law to all persons without discrimination, including on the basis of religion.³³ The reported targeting of Shia religious leaders on the grounds of seditious intent reflects discriminatory presumptions on the basis of a persons’ religious affiliation.
33. Likewise, Bahrain’s crackdown on Shia Muslims in the midst of the COVID-19 pandemic cannot be justified as a proportionate restriction on freedom of religion. Rather, it has the effect of continuing the targeted discrimination against the Shia community.
34. During the third cycle of the UPR, Bahrain had supported a number of recommendations on, inter alia, aligning its Penal Code and Press Law with its international human rights obligations³⁴ and eradicating all forms of discrimination, in particular on the basis of religion or belief.³⁵ As outlined throughout, while some progress has been made in fulfillment of these commitments, much remains to be done, and Bahrain should redouble its commitments in this regard.

Recommendations

³¹ Id., art. 23.

³² UN Human Rights Committee ‘General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)’ (30 July 1993) CCPR/C/21/Rev.1/Add.4, 9.

³³ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 26.

³⁴ Human Rights Council ‘Report of the Working Group on the Universal Periodic Review – Bahrain’ UN Docs A/HRC/36/3, 114.99, .102, .105, .106, .108, .110, .113, .115, .116, .117, .122.

³⁵ Id., 114.62, .63.

35. In light of the aforementioned, ADF International suggests the following recommendations be made to Bahrain:

- a. Ensure full respect for freedom of religion or belief and freedom of expression, in accordance with its human rights obligations;
- b. Amend Article 23 of the Constitution to ensure its full compatibility with international human rights law and standards governing freedom of expression;
- c. Repeal Articles 309 and 310 of the Penal Code criminalizing blasphemy;
- d. Revise the Press, Printing and Publishing Law to guarantee full protection for freedom of expression, both online and offline;
- e. Take steps to guarantee the equal rights of all persons to freedom of religion, including by putting an end to targeted discrimination against Shia Muslims;
- f. Cease arbitrary arrests and stripping of citizenship of members of the Shia community, including particularly its religious leaders;
- g. Redouble efforts to promote interreligious dialogue, sectarian reconciliation and peaceful coexistence.



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