

ADHRB, ECDHR, English PEN, PEN International, and RSF

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1. ADHRB, ECDHR, English PEN, PEN International, and RSF welcome the opportunity to contribute to the third cycle of the Universal Periodic Review (UPR) of Bahrain. This submission focuses on Bahrain's compliance with its second-cycle recommendations to ensure protection for the rights to free expression and free press, and to refrain from prosecuting journalists, activists, and other individuals for exercising these rights.
2. The Government of Bahrain fully supported recommendations **115.25 (Mexico), 115.30 (Egypt), 115.148 (Norway), 115.149 (Chile), 115.152 (Austria), 115.153 (Canada) 115.154 (Estonia) 115.155 (Germany), 115.156 (Belgium), 115.157 (the Netherlands) 115.158 (Spain), and 115.161 (Australia)** concerning respect for free expression and free press as well as the protection of and access of journalists, the national legal framework for media and compliance with Bahrain's international obligations in respect to freedom of expression.

Current Status: Not Implemented

Introductory Assessment

1. Despite the recommendations accepted in the previous cycle, the Government of Bahrain has made almost no effort to implement greater protections for media and press freedoms since its second UPR cycle, and it continues to prosecute journalists and citizens for exercising the right to free expression. Though the government claimed in 2012 that a new draft media law "designed to ensure freedom of expression and reduce restrictions on the media" was "in its final stages of debate," it has yet to implement any such law.ⁱ Meanwhile, both traditional and citizen journalists continue to face arbitrary detention, judicial harassment, and torture for criticizing the government or simply reporting the news. Four years on, Bahrain remains among the lowest-ranked countries in the world in indices related to freedom of press; it is ranked 162nd of 180 countries included on Reporters sans Frontières (RSF)'s 2016 World Press Freedom Index.ⁱⁱ Ultimately, Bahraini authorities have only intensified their restrictions on media and free expression.

Trends and Examples

a. Legal Restrictions

2. Although the Bahraini constitution technically guarantees freedom of speech and press, a network of legislation – primarily the penal code, the press law, the anti-terror law, and the cybercrime law – empower the authorities to prosecute individuals on a range of offenses related solely to journalism or expression. Article 169 of the Bahraini penal code, for example, assigns a

prison term of up to two years for the publication by any method of “untrue reports” or information that undermines “the public peace” or the “state’s creditworthiness.” In 2013, the government amended the penal code to increase the punishment for “insulting the King” and, in 2014, the King mandated a prison term for “any person who offends the emir of the country, the national flag or emblem.” Effectively, the amendment allows for civilians to be sentenced for up to seven years in prison and a fine of BHD 10,000 simply for exercising their right to freely express criticism. One activist who has fallen foul of the increased punishment for “insulting the King” is activist Zainab al-Khawaja, daughter of imprisoned human rights defender Abdulhadi al-Khawaja. Before she fled the country for fear of reprisal, al-Khawaja received several multi-year prison terms for charges related to insulting the King, among other forms of free expression, after she tore a photo of King Hamad bin Isa al-Khalifa.

3. In 2006, the government promulgated the Law of Protecting Society from Terrorist Acts, commonly known as the anti-terror law, which gave the authorities grounds to prosecute individuals as terrorists for speech that can be construed as “threatening the Kingdom’s safety and security or damaging national unity or security of the international community.” In 2013 and 2014, amendments to the law expanded the authorities’ power to suspend due process in terror cases. Article 29 currently stipulates that the Public Prosecution “acquires the additional authority of the judge of [the] Lower Court provided in the Law on Penal Procedure, and the consultative authority of the Higher Court...when investigating” terrorist crimes. This means that the Public Prosecution is exempt from the standard restrictions of the Bahraini penal code when it pursues a terrorist case. Article 29 provides the Public Prosecution with grounds to issue initial detention orders of up to 90 days, and, Article 30 permits security forces to detain and interrogate an individual for a renewable period of 14 days. The Public Prosecution may give permission to extend this detention period “when necessary and for reasons of investigation or for the security of the society” without any explicit justification.
4. The 2002 Press and Publication Law similarly empowers the Bahraini government to prosecute journalists based on 17 categories of offence with associated sentences of up to five years in prison. Like those outlined in the penal code, many of these offences directly infringe on free expression and invite extremely broad interpretation, including publishing criticism of Islam or the King, inciting actions that undermine state security, or advocating a change in government. While in 2008 the Shura Council, Bahrain’s royally-appointed upper chamber of parliament, proposed several amendments to improve the law, the amendments stalled and the authorities continue to prosecute journalists based on these provisions. For example, in July 2016, the Public Prosecution Office (PPO) charged Nazeeha Saeed, a correspondent for France 24 and Radio Monte Carlo Doualiya, with unlawfully working with foreign media. Under article 88 of the 2002 Press and Publication Law, Bahraini journalists are required to obtain and annually renew a license from the Information Affairs Authority (IAA) in order to cooperate with any foreign media outlets. Saeed had applied for renewal at the end of March 2016 but the IAA refused her request; it was the first time her license had been rejected. The authorities have frequently targeted Saeed in reprisal for her journalism.ⁱⁱⁱ
5. In February 2016, the government announced that it had finalized a first draft of a new law on media, but it did not provide a timeline for its promulgation. Moreover, the language of the current draft appears to grant authorities additional power to limit free expression, rather than instituting greater protections thereof. The law would require journalists to “respect the

kingdom's sovereignty, system of governance, icons, institutions and statutory bodies," providing even wider grounds for the authorities to criminalize criticism of the government.^{iv}

6. Though it has yet to promulgate a new media law, the government has implemented new media policies. In December 2015, the Ministry of Information and Parliament Affairs announced that the editors-in-chief of Bahrain's six daily newspapers had signed a "charter of press ethics" to guide Bahraini media coverage.^v The charter emphasizes the importance of the press in solidifying national unity and "the preservation of national security and stability in order to serve the national interest."^{vi} It also calls for "not supporting any incitement on any sect or group of people", and avoiding the language of sectarianism in the kingdom.^{vii} The charter additionally places the responsibility of any violation of the ethics code on the newspaper editors-in-chief. Ultimately, the charter further empowers the IAA to target and restrict media outlets. The ethics code does not define terms like "sectarianism" or "incitement," leaving interpretation and enforcement to the discretion of the IAA. In the past, the IAA has consistently employed these catch-all terms to effectively criminalize government criticism, using these grounds to censor outlets like *Al-Wasat*, the country's only semi-independent newspaper: in August 2015, the IAA temporarily suspended *Al-Wasat* for an editorial entitled "They will never approve you," by Hani Al-Fardan. Though the column primarily criticized social media campaigns directed at opposition members, the IAA accused its author of spreading false or misleading information.^{viii}
7. The government has specifically imposed greater restrictions on online free expression with a series of new decrees and the cybercrime law. Based on ministerial decree No. 1 in 2009, the IAA is empowered to filter websites that violate articles 19 and 20 of the 2002 Law on Press and Publications. Those articles allow the IAA to block any websites that criticize the royal family or the government, or that publish material that can be judged as "encroaching on religions and jeopardizing public peace."^{ix} It is estimated that Bahraini authorities block more than a 1,000 websites. These include websites for human rights organizations, political societies, personal blogs, online forums, newspapers, and websites that broadcast Shia religious events within the country. Many online chat services are also blocked, such as PalTalk. In 2013, after the Gulf Cooperation Council (GCC) collectively approved the Riyadh Document, the Bahraini government promulgated an associated law "criminalizing anyone who establishes a website, published information online or uses any information technology tool to assist or aid communications with terror cells, as well as promoting disruption of public order or morale." That same year, the authorities blocked 70 websites allegedly associated with "internationally recognized" terror organizations, including sites and forums connected with Bahraini opposition groups, the February 14th Coalition protest movement, and the Islamic Ulema Council, a major Shia religious organization that the government has since dissolved. In 2016, Bahrain's major internet service providers (ISPs) began blocking the messaging application Telegram, which is popular with activists due to its purported encryption capabilities. After the government dissolved Al-Wefaq in June 2016, the authorities blocked its website as well. The Bahrain Center for Human Rights (BCHR) found that, in just one week, the government blocked four alternative website addresses for the independent LuaLua TV channel and BCHR's alternative address. It also shut down the Islamic Enlightenment Society (Al-Tawiya), a Shia civil society organization, and blocked its website.
8. In December 2014, the government enacted a new cybercrime law, which prescribes punishments for wiretapping internet or computer systems, criminalizes the access or possession of pornographic material online, and forbids data encryption if done with "criminal intentions." The

vague language grants the authorities substantial discretion to define “criminal intentions”, while the criminalization of data encryption particularly affects political activists in the country as they often use encryption technology to keep records of human rights violations or exchange political opinions freely. Husain Hubail, a freelance photojournalist detained by the authorities in July 2013, received a sentence of five years in prison in April 2014 on cybercrime charges that include the use of social media networks to “incite hatred of the regime.” The High Court of Appeals upheld his sentence in September 2014. During his detention, members of the MoI’s dedicated cybercrime unit tortured Hubail and subjected him to other forms of ill treatment.^x The cybercrime unit also investigated Mohammad Al-Ghasra, a CNN Arabic correspondent, after he published a news update on social media related to political corruption. The unit summoned him to be questioned on May 2015, and he later received a warning from the IAA on June 2015.^{xi}

9. The Information Affairs Minister, Mohammed al-Rumaihi, issued an additional decree in July 2016 that expanded the 2002 Press and Publications Law to restrict and regulate online content production. The decree now requires licensed newspapers to obtain another one-year renewable license in order to publish information through electronic media, and it limits the length of publishable videos to two minutes. Livestreaming is banned. To apply for the license, newspapers must submit a list of all associated electronic media, including websites and social media accounts, as well as specific individuals responsible for overseeing them. The decree does not include any clear criteria by which the authorities will review applications. Notably, the authorities were effectively enforcing these regulations for at least several months prior to the decree: in January 2016, the government prohibited *Al-Wasat* from publishing videos on its social media accounts, such as Instagram and YouTube, citing improper licensing.
10. In August 2016, the authorities additionally issued new online safety regulations that require ISPs to use a centralized filtering system run by the government’s Telecommunications Regulatory Authority (TRA), allowing it to more extensively monitor and censor internet content. This filtering system may be linked to the government’s purchase of a “National Website Filtering Solution” from Canadian technology company Netsweeper for either \$1.1 million USD or \$3.1 million USD. On 21 September 2016, internet research group Citizen Lab found that Netsweeper “helped the Bahraini government block opposition party websites, various news websites and content critical of Islam” and is “being rolled out across the country of Bahrain.”^{xii}
11. There is also mounting evidence that the government has engaged in the targeted disruption of internet service in certain areas to punish and/or impede protests and demonstrations. During the government’s violent dispersal of the 2011 pro-democracy sit-in at the Pearl Roundabout, for example, internet service was slow and at times unavailable. Demonstrators have reported almost identical conditions during protests in August 2013 and February 2014; in the former, the authorities specifically restricted Skype, WhatsApp, and Viber. In June 2016, following the government’s decision to denaturalize Sheikh Isa Qassim, the country’s most prominent Shia religious figure, hundreds of protestors initiated an open-ended sit-in outside his home in Diraz.^{xiii} Security forces surrounded the village and all major ISPs – including the three largest: Batelco, Zain, and Viva – enforced a daily internet blackout between 7:00 p.m. and 1:00 a.m. Digital security experts have determined that the blackout is deliberate and that the ISPs may be following a government order; if true, the blackout would constitute a form of internet interference that has been condemned by the UN.^{xiv} Meanwhile, outside Diraz, pro-government social media accounts have simultaneously circulated photographs of public sector employees seen participating in the sit-in, equating them with terrorists and calling for their arrest. On 12

July 2016, this campaign culminated in the interrogation and subsequent arrest of Ali Abdulraheem, an official at the state Labour Market Regulatory Authority (LMRA), after social media users, including a member of parliament, posted a picture of him participating in the demonstrations online.

12. In 2015, Freedom House's "Freedom on the Net" report assigned Bahrain a score of 72/100 and ranked it the 57th worst country for internet freedom out of a total 65 ranked countries.^{xv} The report cites "tight surveillance" and the prolific blocking of websites by the government as the major hindrance to freedom of expression online.^{xvi}

b. Targeting of Journalists and Activists

13. The Government of Bahrain has regularly utilized the legislation detailed above to prosecute journalists and activists or interfere in their work. In the two years from the start of its UPR cycle to the midterm in 2014, the government restricted the travel of 44 journalists and 22 media organizations. In 2013, the Bahrain Press Association documented 21 cases of the authorities arresting, detaining and/or interrogating journalists, with an additional 14 cases of journalists being subjected to intimidation or physical attack while reporting.^{xvii} Security forces expelled several Bahraini nationals for filming a government raid on the headquarters of the opposition al-Wefaq Political Society. Since the midterm, the government has continued to target members of the media. In February 2015, a court sentenced cameraman Jaffar Marhoon to life in prison after he was detained for 14 months on charges of terrorism. That same month, a court of appeal upheld a three-year sentence for Qasim Zainal Deen, a freelance photographer who filmed opposition protests, on charges including illegal assembly and vandalism. Bahraini security forces raided the house of another photographer, Sayed Ahmed al-Mousawi, and arrested him in February 2014.^{xviii} In November 2015, after more than a year without trial and having been subject to torture (xiii), a court sentenced al-Mousawi to 10 years in prison and revoked his nationality on charges of being a member of a "terror cell."
14. Foreign journalists are intermittently permitted to enter the country but routinely face significant obstacles to their work. In February 2016, American reporter Anna Day and three cameramen were arrested for "carrying out media activities without receiving the permit from the competent authorities" And accused of illegal assembly and intent to commit a crime while covering demonstrations in Bahrain on the fifth anniversary of the 2011 uprising. They were released and deported two days after their arrest. In April 2013, Bahraini authorities arrested and later expelled an ITN British TV team on similar grounds. That June, they additionally arrested a BBC News team while they were covering a demonstration in al-Dair. Between February 2011 and February 2015, the government has restricted the travel of at least 51 journalists from various international media organizations.
15. In June 2016, the authorities initiated a new wave of prosecutions against activists for exercising their right to free expression on social media. Security forces rearrested human rights defender and Bahrain Centre for Human Rights (BCHR) President Nabeel Rajab on charges related to several tweets in which he discussed human rights violations in Bahrain and criticized the Saudi Arabia-led military intervention in Yemen. On 5 September, after *The New York Times* published a letter from Rajab, the authorities additionally charged him with the "deliberate dissemination of false news and spreading tendentious rumours that undermine the prestige of the state and its stature." He currently faces up to 16 years in prison if convicted on all charges. In November 2015,

the Bahrain High Court of Appeal upheld a one-year prison sentence against Ghada Jamsheer, a human rights defender who leads a network of female activists called the Women's Petition Committee, in relation to tweets she had posted. Additionally, the authorities charged artist Khalil al-Madhoon with "insulting the King" for a comment he posted on Instagram in June 2016. Al-Madhoon is the son of an Al-Wefaq member and was targeted for reprisal in 2011. That same month, security forces arrested Mohammed al-Alawiyat, a football player, and charged him with "insulting the King" on Twitter; he remains in pre-trial detention.^{xx}

16. Rajab is not the only person the authorities have prosecuted for criticizing Saudi Arabia. In 2015, security forces arrested social media activists Hussain Khamis and Yousif al-Amm for posting tweets that allegedly "insulted" soldiers participating in the Saudi-led military operation in Yemen. A court convicted them of spreading false news during a time of war and sentenced each of them to five years in prison on 18 February 2016. Similarly, authorities arrested Dr. Saeed al-Samaheji in January 2016 after he used social media to criticize the Saudi government's mass execution of prominent Shia cleric Sheikh Nimr al-Nimr and 46 other individuals that same month: he is now serving a one-year sentence in Jau Prison on charges of "misusing electronic networks to insult a brotherly nation."
17. According to BCHR, since 2012, the authorities have sentenced at least 40 individuals to more than 842 months in prison for charges related to exercising their right to free expression on the internet.^{xxi} At least 17 people are currently serving prison terms connected to their online activity, including prominent human rights defender and blogger Dr. Abduljalil al-Singace, who was arrested in 2011. Although al-Singace presented credible evidence that he was tortured by security forces, a civilian court upheld his earlier conviction by a military tribunal for attempting to destabilize the government through his online activism and participation in the pro-democracy movement. He is currently serving a life term in Jau Prison, where the authorities have subjected him to further abuse, such as the denial of medical attention for his long-term poliomyelitis, a serious health condition that has left him paralyzed since childhood. More recently, in October 2015, the authorities arrested and confiscated the electronic devices of Ebrahim Karimi. After subjecting him to abuse and interrogating him about his Twitter account, officials charged him with misusing social media, inciting hatred against the government, and insulting the King, among other offenses. A court sentenced Karimi to two years in prison and revoked his citizenship.^{xxii}
18. Hundreds, if not thousands, of Bahrain's approximately 4,000 political prisoners remain incarcerated on charges related solely to free expression and/or assembly. In May 2016, a court reversed its previous acquittal of Al-Wefaq Secretary-General Sheikh Ali Salman on charges of attempting to overthrow the government, more than doubling his prison sentence from four to nine years. Sheikh Salman had previously been found guilty of charges relating to "publicly inciting hatred, an act which disturbed public peace, inciting non-compliance with the law and insulting public institutions," according to Bahrain's state news agency, BNA.^{xxiii} His charges stem from a political speech he delivered in 2014. Sheikh Salman was reportedly summoned for interrogation and may face new charges in relation to an oral intervention that was delivered on his behalf at the 33rd UN Human Rights Council Session in September 2016.^{xxiv} Similarly, the leader of the Wa'ad opposition society, Ebrahim Sharif, recently completed a one-year prison sentence on charges related solely to a political speech. The prosecution is reportedly seeking to appeal his original sentence, however, in an attempt to secure a longer prison term. Additionally, since June 2016, the authorities have interrogated and/or charged more than 60 Shia religious leaders on accusations related to their participation in peaceful gatherings and/or the contents of their

sermons, following government amendments to the country's Political Societies Law which prohibit religious figures from engaging in political speech, among other restrictions.

19. Ultimately, the Government of Bahrain has only increased its restrictions on free expression since the start of its second UPR cycle. Activists and journalists remain at an extremely high risk of arrest, torture, and imprisonment for doing their jobs or expressing their opinions in any medium – from print to social media.

Recommendations:

20. To fully implement second UPR cycle recommendations **115.25 (Mexico), 115.30 (Egypt), 115.148 (Norway), 115.149 (Chile), 115.152 (Austria), 115.153 (Canada), 115.154 (Estonia), 115.155 (Germany), 115.156 (Belgium), 115.157 (the Netherlands), 115.158 (Spain), and 115.161 (Australia)**, the coalition makes the following recommendations to the Government of Bahrain:

- Repeal or amend legislation, decrees, or other regulations that permit expansive restrictions on free expression and free press, such as Article 169 of the Penal Code, the 2002 Press and Publications Law, the Law of Protecting Society from Terrorist Acts, the cybercrime law, and the Charter of Press Ethics.
- Promulgate a new media law that fully enshrines the right to free expression in all media and removes vague offences that can be interpreted to include forms of legitimate free expression.
- Eliminate arbitrary and redundant licensing policies for media outlets and journalists.
- Limit the censorship power of the IAA and other media oversight bodies.
- Release all wrongfully imprisoned journalists, photographers, human rights defenders, and social media activists.
- End arbitrary arrest and torture of journalists and activists and investigate and hold accountable all security personnel implicated in any such violations.
- Prohibit the arbitrary disruption of internet service.
- Cease mass online filtering and reinstate arbitrarily blocked websites.
- Allow foreign press to report freely from Bahrain.

Notes

- i Universal Periodic Review Twenty-first Session, “Report of the Working Group on the Universal Periodic Review: Bahrain,” United Nations Human Rights Council, 6 July 2012, A/HRC/21/6, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/150/49/PDF/G1215049.pdf?OpenElement>.
- ii “2016 World Press Freedom Index,” RSF, 2016, <https://rsf.org/en/ranking#>
- iii For more information, see “44 NGOs to Government of Bahrain: Rights of Nazeera Saeed and all journalists must be respected,” ADHRB, PEN International, English PEN, Committee to Protect Journalists, et al., 28 July 2016, <http://www.adhrb.org/2016/07/42-ngos-government-bahrain-rights-nazeera-saeed-journalists-must-respected/>
- iv “HRH Premier chairs cabinet session,” Bahrain News Agency, 21 September 2015, <http://www.bna.bh/portal/en/news/687868>
- v “Bahrain editors sign Charter of Press Ethics,” Gulf News, 3 December 2015, <http://gulfnnews.com/news/gulf/bahrain/bahrain-editors-sign-charter-of-press-ethics-1.1631107>
- vi “Bahrain Charter of Press Ethics”. ADHRB. <http://www.adhrb.org/wp-content/uploads/2016/01/Bahrain-Charter-of-Press-Ethics.pdf>
- vii *ibid*
- viii For more information on the government’s targeting of *Al-Wasat*, see: *Report of the Bahrain Independent Commission of Inquiry*, Bahrain Independent Commission of Inquiry, 10 December 2011, <http://www.bici.org.bh/>; and *Apart in Their Own Land: Government Discrimination Against Shia in Bahrain*, Vol. II, ADHRB, BCHR, and BIRD, 13 September 2015, <http://www.adhrb.org/2015/09/adhrb-releases-part-2-of-shia-discrimination-report/>
- ix “Press Law”. Bahraini Journalists Association http://www.bahrainijournalists.org/References_and_documents/Law
- x For more information on this case, see: “Hussain Hubail: June’s Champion for Justice,” ADHRB, 2 June 2014, <http://www.adhrb.org/2014/06/hussain-hubail-junes-champion-for-justice/>
- xi “December 2015: Arrest of the “Al-Wasat” journalist, Mahmoud Al-Jaziri, from his home and warning the “CNN” correspondent, Mohammad Al-Ghasra. Tweeter “Bou Khamees” prosecuted over new charges,” Bahrain Press Association (BPA), 13 February 2016, <http://www.bahrainpa.org/wp/?p=305>
- xii For more information, see: Jakub Dalek, Ron Deibert, Bill Marczak, Sarah McKune, Helmi Noman, Irene Poetranto, Adam Senft, *Tender Confirmed, Rights At Risk: Verifying Netsweeper in Bahrain*, Citizen Lab, University of Toronto, 21 September 2016, <https://citizenlab.org/2016/09/tender-confirmed-rights-risk-verifying-netsweeper-bahrain/>; and Laura Wright, “Canadian tech company Netsweeper helped Bahrain censor websites, says report,” CBC News, 21 September 2016, <http://www.cbc.ca/news/technology/netsweeper-bahrain-government-internet-censorship-1.3769803>
- xiii For more information, see: “In response to government repression Bahrainis hold mass sit-in in Diraz,” ADHRB, 29 June 2016, <http://www.adhrb.org/2016/06/10196/>
- xiv Bill Marczak, “‘Time for some Internet Problems in Duraz’: Bahraini ISPs Impose Internet Curfew in Protest Village,” Bahrain Watch, 3 August 2016, <https://bahrainwatch.org/blog/2016/08/03/bahrain-internet-curfew/>
- xv “Freedom on the Net 2015: Bahrain” Freedom House. 2015. <https://freedomhouse.org/report/freedom-net/2015/bahrain>
- xvi *Ibid*
- xvii *Less Freedom, Broader Impunity: 2013 Annual Report*, Bahrain Press Association, 2013, <http://www.bahrainpa.org/wp/?p=176>
- xviii “Violence Against Journalists in Bahrain”. Bahrain Centre for Human Rights. 2 November 2015. <http://www.bahrainrights.org/en/node/7645>
- xix *Ibid*
- xx For more information, please see: *Digital Rights Derailed in Bahrain*, BCHR, 2016, http://bahrainrights.org/sites/default/files/BCHR_Derailed_Web_0.pdf
- xxi For more information, please see: *Digital Rights Derailed in Bahrain*, BCHR, 2016, http://bahrainrights.org/sites/default/files/BCHR_Derailed_Web_0.pdf
- xxii For more information, please see: ADHRB, BCHR, and BIRD, “End Impunity: Violence against Journalists in Bahrain,” 2 November 2015, <http://www.adhrb.org/2015/11/violence-against-journalists-in-bahrain/>

^{xxiii} Bahrain News Agency, 'Society Secretary General sentenced to four years,' (16 May 2015), online:
<http://bna.bh/portal/en/news/673862>

^{xxiv} For more information, please see: "Imprisoned Opposition Leader Interrogated over UNHRC Intervention Delivered on his Behalf," BCHR, 2016, <http://www.bahrainrights.org/en/node/8175>