

UPR MONITOR

International Service for Human Rights



Human Rights Monitor Series

UNIVERSAL PERIODIC REVIEW, 1ST SESSION BAHRAIN – FINAL REPORT REVIEWED ON 7 APRIL 2008, MORNING

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About this publication and overview

The *UPR Monitor* is the latest addition to publications by the International Service for Human Rights (ISHR). It aims to provide timely information on the new universal periodic review (UPR) of the Human Rights Council (the Council), complementing the *Daily Updates* on the Council and the *Treaty Body Monitor* on all country examinations under the treaty monitoring bodies. The *UPR Monitor* is published in a provisional version within 48 hours of the completion of every review. We then update the *UPR Monitor* after the adoption of the official report by the UPR Working Group.

Bahrain was the first State to be reviewed by the Working Group. Ambassador Doru Romulus Costea of Romania, the President of the the Council, is also the Chairperson of the Working Group. He described the opening of the first meeting of the UPR as a ‘historic moment’ for the UN human rights system. Prior to the beginning of the session of the UPR Working Group there was considerable uncertainty regarding the precise modalities of the UPR.¹ President Costea explained that he had held further consultations, and said that he was confident that the last details could be agreed on in the coming days. For the first few reviews, he said, the agreement was that the State under review had one hour at its disposal. That was the maximum time

¹ See ISHR’s *UPR Alert* of 4 April 2008, available at www.ishr.ch/hrm/council/upr.

available to the State under review for the initial presentation, answers to questions and comments, and the final wrap-up statement.

A number of States commented on the modalities.² Egypt (on behalf of the African Group) and Pakistan (on behalf of the OIC) both said that while they are committed to the UPR and its success, they are of the view that the President's proposed modalities needed to be finalised and formally agreed upon. Egypt (on behalf of the African Group) pointed out that it was willing to accept the modalities for now, but did not accept them as a precedent. Pakistan (on behalf of the OIC) agreed, and demanded that final modalities be adopted before the adoption of the report on Bahrain, currently scheduled for Wednesday 9 April at 12 noon.

Among the most contentious points raised by Egypt (on behalf of the African Group) and Pakistan (on behalf of the OIC), as discussed during the organisational meeting on 4 April 2008, was the issue of webcasting meetings of the Working Group. On the basis of the standing agreement, webcasting is still provided for the first five reviews prior to the adoption of the report on Bahrain. It remains to be seen if this innovative tool can be preserved, thereby guaranteeing effective participation of the State's institutions and NGOs at the national level and the general transparency of the process.

General information on Bahrain

Membership of the Human Rights Council

Bahrain was an original member of the Human Rights Council (the Council) from 2006 to 2007. It is not presently a member of the Council but will be standing again for election in June 2008.

Members of the troika

Slovenia, United Kingdom, Sri Lanka.³

National consultation

The Ministry of Foreign Affairs created a hotline to collect information for the State report and solicited feedback on the draft report, which was published on a special website. A consultation and communications plan was also drawn up and disseminated.⁴

Information submitted to the Working Group

State report⁵

The State report begins with a brief overview of the methodology and process that were adopted for preparing the report. The first substantive section presents domestic laws, policies, and institutions for the promotion and protection of human rights. It includes information on the reform process and non-governmental

² Egypt (on behalf of the African Group), Pakistan (on behalf of the OIC). Nigeria and Palestine wanted to comment along the same lines, but agreed to renounce on their statement to not delay the review of Bahrain.

³ Bahrain requested that a member of its regional group be among its troika. Regional groups selected: Asian Group, Western Europe and Other Group (WEOG), Eastern European Group. Members selected: Slovenia, United Kingdom, Sri Lanka. There were no objections by Bahrain or by the members of the troika to the selection. For a full summary of the selection of troikas, see www.ishr.ch/hrm/council/councilalert/council_update_7session.pdf

⁴ This was submitted as an annex to the State report, but the annex is currently only available in Arabic.

⁵ A/HRC/WG.6/1/BHR/1, 11 March 2008, available at www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CBHSession1.aspx

organisations (NGOs). The report assesses the progress made in fulfilling the pledges made when Bahrain presented its candidature to the Council in 2006.

The report's section on the 'human rights situation on the ground' focuses on children, women, foreign workers, foreign female workers, and trade unions. The report furthermore identifies challenges and constraints facing the State. The number of voluntary pledges contained in this report, both in the subsection dedicated to pledges as well as throughout the document, deserves to be noted.

Official UN documents⁶

Bahrain's accession to several international treaties was welcomed, while it was urged to ratify others.⁷ It was recommended that Bahrain incorporate the respective treaty definitions of torture and racial discrimination in domestic law.⁸ The draft law establishing a national human rights institution (NHRI) was noted, as was the adoption of policy measures related to human rights. The extensive section on the situation of human rights on the ground lists specific concerns, including discrimination in access to social services,⁹ the low status of women,¹⁰ lack of protection for migrant workers,¹¹ torture,¹² trafficking,¹³ pattern of impunity,¹⁴ and limits on human rights NGOs.¹⁵ At the same time, the comprehensive health services were commended,¹⁶ as was the establishment of trade unions.¹⁷ Two treaty bodies' requests for additional information¹⁸ and another's recommendation that Bahrain seek technical assistance were also mentioned in this compilation.¹⁹

Other relevant stakeholders²⁰

This report compiled information submitted by 12 NGOs.²¹ Many of the issues raised were the same as those contained in the official UN documents. Specific concerns include the lack of codified personal status laws,

⁶ A/HRC/WG.6/1/BHR/2, 14 March 2008, available at www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CBHSession1.aspx

⁷ Core universal human rights treaties to which Bahrain is a party: *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), *International Covenant on Economic, Social and Cultural Rights* (ICESCR), *International Covenant on Civil and Political Rights* (ICCPR), *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), *Convention on the Rights of the Child* (CRC), *Optional Protocol to the CRC on the involvement of children in armed conflict* (CRC-OP-AC), *Optional Protocol to the CRC on the sale of children child prostitution and child pornography* (CRC-OP-SC).

⁸ Committee against Torture (CAT), Committee on the Elimination of Racial Discrimination (CERD).

⁹ CERD, Committee on the Rights of the Child (CRC).

¹⁰ United Nations Development Programme (UNDP), CRC, United Nations common country assessment (CCA) of 2002.

¹¹ CERD, Office of the United Nations High Commissioner for Refugees (UNHCR), CERD, CAT, Special Rapporteur on the human rights of migrants.

¹² CAT.

¹³ Special Rapporteur on trafficking in persons, especially women and children.

¹⁴ CAT.

¹⁵ CAT, CERD, Special Representative of the Secretary-General on the situation of human rights defenders, Special Rapporteur on violence against women, its causes and consequences, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

¹⁶ World Health Organization (WHO).

¹⁷ CERD.

¹⁸ CERD, CAT.

¹⁹ CRC.

²⁰ A/HRC/WG.6/1/BHR/3, available at www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CBHSession1.aspx

²¹ Asian Centre for Human Rights, Amnesty International, Front Line, Global Initiative to End All Corporal Punishment of Children, Human Rights Watch, International Federation for Human Rights, Islamic Human Rights Commission, Interfaith International, HAQ: Movement for Liberties and Democracy, International Lesbian and Gay Association, National Committee for Martyrs and Victims of Torture, Reporters without Borders. The original reports are available at www.ohchr.org/EN/HRBodies/UPR/Pages/UPRBahrainStakeholdersInfoS1.aspx

gender discrimination, resumption of the use of the death penalty, torture and ill-treatment, harassment and intimidation of human rights defenders, impunity of officials, criminal sanctions against sodomy, restriction of press freedoms, prohibition of unauthorised public gatherings, strategic demarcation of election constituencies, poverty and unemployment, imminent housing crisis, and high levels of pollution. Most subsections contain recommendations to the Government.

No information was included under the sections on achievements, best practices, challenges and constraints; key national priorities, initiatives and commitments; and capacity building and technical assistance.

Interactive dialogue²²

Presentation by the State

Bahrain used around 35 minutes for its initial presentation. States were then given the floor, with members speaking for three minutes and observer States for two. Bahrain chose to respond to the Working Group in clusters of seven to eight States at a time, thereby using the most of the 60 minutes allocated for the State under review. The review was completed by concluding remarks from the delegation.

The delegation of Bahrain was led by H.E. Mr Nizar Al-Baharna, the Minister of State for Foreign Affairs. Mr Al-Baharna referred to the UPR as ‘the first human rights innovation of this millennium’, and spoke of the privilege and responsibility of being the first State to undergo review. He reminded the Working Group that the UPR is a cooperative mechanism based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs.

Mr Al-Baharna took the opportunity to reiterate his Government’s position and react to some of the issues that had been put to Bahrain prior to the review. He gave brief explanations on issues such as limitations on freedom of assembly, equality between men and women, corporal punishment, capital punishment, migrant workers, and the independence of the judiciary. He also assured that the ratification of the Rome Statute²³ is being studied. He said that a national human rights institution would be established by the end of this year. Other efforts include the fast tracking of a draft law on NGOs, and a pledge to foster regional cooperation with the Council. Finally, Mr Al-Baharna emphasised the importance of sharing best practices, and specifically asked for Bahrain to receive, through the UPR, technical assistance in the development of more effective remedies.

In closing, the Minister briefly discussed future plans, including the draft action plan to implement voluntary commitments made at the Council and the holding of national consultations on the implementation of UPR outcomes. Bahrain intends to incorporate views expressed at these national consultations on the follow-up to the UPR into the national action plan before it is finalised. He also expressed his Government’s commitment to monitoring, evaluating, and reporting on the national action plan.

Key issues

All States that took the floor commented on the historic significance of the examination of Bahrain, the first State to be reviewed under the UPR. States congratulated Bahrain on its dedication and cooperative approach

²² Most statements made at the UPR Working Group can be found at <http://portal.ohchr.org/portal/page/portal/UPR/1session/>. Fill in the form at www.ohchr.org/english/bodies/hrcouncil/form.htm to receive username and password. Audiovisual archives of the meetings of the Working Group ‘webcast’ are available at www.un.org/webcast/unhrc/index.asp.

²³ The Rome Statute established the International Criminal Court.

to the process, evident in its holding of national consultations, the resulting national report, and the sending of the high-level delegation to the Working Group.

The issues raised by the Working Group were: the preparation of the national report, voluntary commitments undertaken by the Government, international human rights obligations, the establishment of an NHRI, empowerment of women, protection of foreign workers, situation of the Shi'a minority, provision and access to social services, independence of the judiciary, freedom of the media, cooperation with international organisations, combating human trafficking, awareness-raising and training on human rights, modernisation of schools, counter-terrorism laws, and uneven election constituencies.

The plans to establish a **national human rights institution** (NHRI) were noted by India, Bangladesh, and Indonesia. India asked whether this is an area where Bahrain seeks international cooperation, whereas Indonesia wished to know if Bahrain considers the role of an NHRI to be indispensable to its future implementation of human rights norms. Bahrain explained that its Cabinet passed an agreement in November 2007 to establish an NHRI, and repeated its hope that it will be set up during 2008.

The Working Group was very interested by steps towards the empowerment of **women** and the elimination of discrimination against women. Many Arab States commended Bahrain for its great progress in this area.²⁴ Pakistan specifically pointed to the significant role of the Supreme Council of Women, while the United Arab Emirates requested further information on the efforts being undertaken to give women a higher profile. Bahrain explained the role of the Supreme Council of Women, whose main objective is the inclusion of women in human development. The Supreme Council works to reinforce the role of women in political life and in the economy through, for instance, signing a memorandum of cooperation with legislative authorities. It reiterated the importance of including women in human development, and assured that the Supreme Council is making efforts to promote this.

Slovenia reminded Bahrain of the requirement to include a **gender perspective in the UPR**, and asked what the State has done so far to achieve this. It furthermore recommended that Bahrain remove all reservations to the *Convention on the Elimination of all Forms of Discrimination against Women* (CEDAW), ratify the Optional Protocol to CEDAW, and harmonise all domestic legislation accordingly. Bahrain replied that it is currently working to ensure consistency of national law with CEDAW. It did not reply to the question on removing its reservations.

Switzerland recommended that a non-discriminatory **Family Code** enter into force as soon as possible, and inquired how the authorities intend to ensure that such a Code is properly implemented. Bahrain explained that its family laws are based on Islamic Shari'a. Civil society is working and participating in the enactment of such laws. Switzerland also expressed its concern about the situation of female migrant domestic workers, and asked about measures taken to guarantee their rights. On this last point, Bahrain replied that special measures have been taken for the protection of domestic workers. These include the establishment of shelters, the creation of a hotline, and the adoption of a law on the protection of victims of violence within homes.

France requested information on reforms being undertaken to provide assistance to **victims of forced marriage**, while Sweden inquired about the measures taken by the Government to guarantee full equality of women in courts. Morocco expressed its wish to learn about the national strategy adopted, including relevant statistics. Bahrain responded that it is seeking to amend legislation on an ongoing basis as part of a framework to protect women in general. It gave the examples of the promulgation of laws on maternity leave and the pending amendment of the regular State budget to enshrine gender equality.

²⁴ Pakistan, Qatar, Algeria, Libya, Mauritania, Morocco.

The level of the protection of **economic, social and cultural rights** in Bahrain was highly praised.²⁵ Saudi Arabia referred to Bahrain's immense progress in this field as an 'economic, social and cultural renaissance'. Morocco commented that this stems from Bahrain's conviction that economic, social and cultural rights are as important as civil and political rights, and that these two sets of rights complement each other. Achievements in the areas of health, education, labour, and housing were particularly highlighted. Bahrain asserted that its Action Plan foresees the inspection of workers' housing, and also spoke of the provision of insurance for unemployed nationals and non-nationals.

China noted that Bahrain has taken measures to tackle its high **unemployment rate**, and inquired how it intends to specifically implement these.²⁶ Bahrain stressed that the number of unemployed has dropped significantly. It also spoke of the establishment of two entities in this area, the Labour Market Reform Authority and the Labour Fund. Bahrain recounted the Government's heavy investment in training to cut employment, as well as efforts to improve living conditions through improving salaries and compensations for nationals and non-nationals alike. Bangladesh commented that the situation of migrant workers in Bahrain is improving. In response, Bahrain elucidated its efforts in relation to protecting the rights of migrant workers.

Qatar noted that in 2005, the House of Representatives agreed to establish a special course on human rights and democracy in all **school curricula**. Bahrain provided some clarification on the content of such a course, saying that the contents of the relevant international human rights conventions are presented in a way that is easy to understand, with particular emphasis on the rights of women and children. Practical sessions where these concepts are implemented are also offered. Cuba requested details on the progress and prospects of the 'School for the Future' project, a reform of the education system based on modern information technology, e-education, and audio-visual resources.²⁷ Bahrain responded that appropriate resources are supplied to schools and the staff is trained to use these.

Egypt and the Sudan inquired about the provisions on the socio-economic situation contained in the *Convention on the Rights of the Child*, and the efforts made by Bahrain to ensure that national legislation corresponds to these. However, these queries were not addressed by the delegation.

The Working Group also focused on the **freedom of expression** in Bahrain, in particular with regard to the media. Pakistan remarked that freedom of expression has been encouraged and that media channels have increased over time.²⁸ Sweden pointed out that despite assertions by the delegation, the envisaged Press Law prohibits certain expressions of opinion in Bahrain. It thus asked the delegation to elaborate on possible measures to guarantee that this new law is not unduly restrictive. Canada similarly asked for information on the measures taken by the Government to promote and protect the freedom of expression. In response, Bahrain listed numerous developments in the field, including the organisation of fora for the exchange of ideas, amendment of legislation, and the abolishment of sanctions. The question by the United Kingdom on the deadline for introducing the Press Law went unaddressed. Bahrain also failed to respond to Jordan's inquiry on how Bahrain has proceeded to guarantee both monotheism and freedom of expression at the same time, as well as Kuwait's question on what effective steps Bahrain has taken to widen and enhance freedom of expression.

Bahrain's announcement of and adherence to **international commitments** and international cooperation was also discussed. Saudi Arabia inquired about Bahrain's cooperation with international organisations. Turkey expressed its support for Bahrain's determination to develop a campaign against human trafficking. Malaysia welcomed Bahrain's accession to the *International Covenant on Civil and Political Rights* (ICCPR) and the

²⁵ Palestine, Pakistan, Saudi Arabia, Malaysia, Libya, Morocco, Djibouti.

²⁶ Echoed by Djibouti.

²⁷ Lebanon and Yemen also expressed interest in the improvement of education in Bahrain.

²⁸ Echoed by Saudi Arabia.

International Covenant on Economic, Social and Cultural Rights (ICESCR), the withdrawal of its reservation to Article 20 of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), and the implementation of other measures pursuant to the recommendations of treaty bodies. Algeria similarly noted that the institutions in Bahrain are sincerely seeking to ensure compliance with the voluntary commitments entered into by the Government. Bahrain reiterated its commitment to international cooperation, and gave more information on its various efforts to combat human trafficking.

France specifically inquired whether Bahrain envisages the signing of the *International Convention for the Protection of All Persons from Enforced Disappearance*. The Netherlands invited Bahrain to keep the Working Group informed about developments in its legislation, particularly regarding human rights defenders and migrant workers. It also recommended that Bahrain extend standing invitations to all UN special procedures as soon as possible. Bahrain drew attention to the international human rights treaties which it has adopted so far, and explained its intention to proceed with the ratification of others, including the *Convention on Enforced Disappearances*, the *Convention on the Rights of Persons with Disabilities*, and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. The Russian Federation asked for further information on the OHCHR programme for the training of staff of penitentiary bodies. The question was not answered.

Concluding remarks

Taking the floor again, Mr Al-Baharna described the UPR process as ‘invaluable’, and expressed his appreciation for the constructive dialogue that had taken place. He insisted that although this formal dialogue will not be repeated for another four years, Bahrain is willing to engage in dialogue and cooperate informally with the Council and its members. Mr Al-Baharna explained that Bahrain currently places emphasis on the concepts of ‘commitments and results’, and that these will continue to guide it in the implementation of the outcomes of the UPR. He expected that in four years’ time, the concepts of ‘achievement and sustainability’ would guide the review. Finally, Mr Al-Baharna thanked all States for raising important issues, and reaffirmed Bahrain’s commitment to ‘make human rights the spirit of our world’.

Adoption of the report [9 April, 5.30 pm]

The consideration and adoption of the Working Group’s report on Bahrain was due to take place at noon on 9 April 2008. However, due to a delay in the finalisation of the report, its adoption was re-scheduled for later that afternoon. The President reiterated that the UPR is a work in progress, and was adamant that this delay should not be seen as a precedent.

The Ambassador of the United Kingdom took the floor on behalf of the troika. He thanked H.E. Mr Nizar Al-Baharna, the Minister of State for Foreign Affairs of Bahrain, and his colleagues for the ‘exemplary’ manner in which they contributed to the UPR. The Ambassador reported that discussions on the draft report were ‘extremely constructive’ and thus the final report accurately recounts the discussions that took place during the examination.

Mr Al-Baharna described the UPR as a rare opportunity which allows the Council and the State under review to cooperate and improve the human rights situation on the ground. He expressed his gratitude to the troika and the secretariat. Mr Al-Baharna voiced his satisfaction with the report, and confirmed that the recommendations contained therein will be incorporated into the national action plan.

The adoption of the first reports of the UPR proved to be more problematic than foreseen, and the discussions took far longer than the 30 minutes originally allocated to it. A key issue was whether or not the name of the proposing State should be mentioned after each recommendation. One group of States reiterated their

understanding that the report of the Working Group should be simply a factual reflection of the proceedings. Thus, the recommendations in the report reflect the views of the individual States that made them, rather than the Working Group as a whole.²⁹ In this view, the recommending States should be mentioned after each recommendation.

Mexico, as a member of the troika for Ecuador,³⁰ called for standardisation of reports. It suggested that the names of States should not be appended to each recommendation. Instead, States making recommendations should be mentioned in a *chapeau* before the list of recommendation. The position of the State under review should be included at the end of the report.

Cuba felt that only the recommendations accepted by the State under review and which ‘enjoy broad support’ should be included in the section on conclusions and recommendations. Those recommendations that do not meet this ‘essential requirement’ may be mentioned in the general summary but should not be included in the listing of recommendation nor clearly identified as such.³¹

On a more general note, Slovenia reminded the Working Group that the institution-building package of the Council should serve as the primary guidance throughout the UPR process.³² Another sticking point in the discussions was whether or not Ecuador has made a voluntary pledge or commitment prior to the interactive dialogue in the Working Group with regard to sexual orientation.³³

Following the debate, the report on Bahrain was adopted by consensus.

²⁹ Egypt, Pakistan, Nigeria, Algeria.

³⁰ The report on Ecuador did not mention States’ names after each recommendation, and all the recommendations were accepted by Ecuador.

³¹ Echoed by the Russian Federation.

³² Echoed by Canada.

³³ Please refer to the *UPR Monitor* on Ecuador for further details.

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