

UPR of Bahrain: delegation fails to acknowledge ongoing human rights violations

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On 21 May 2012 the second cycle of the Universal Periodic Review (UPR) commenced with the thirteenth session of the working group, opening with an examination of Bahrain. Anticipation for the commencement of the second cycle was marked by concern that the process would involve the repetition of recommendations accepted during the first round of reviews. However, these worries were not realised as recent events in Bahrain dominated discussion, shifting focus away from the last review.

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The delegation of Bahrain approached the review against the backdrop of year-long anti-government protests that created numerous and diverse human rights concerns. In this context, the opening statement of Bahrain's Minister of State for Human Rights Affairs, Mr Salah Bin Ali Mohamed Abdulrahman, was bemusing. He spoke vaguely yet optimistically of Bahrain's 'culture of respect' for human rights, delicately avoiding mention of the protests beyond allusions to 'unfortunate events' and 'certain occurrences'. Throughout the review, the Bahraini delegation tried to direct attention to the future when questioned about human rights violations related to the protests, defeating the regularly reiterated commitment of States to a 'frank and productive dialogue'.

Nevertheless, most of the 67 States on the speakers' list remained persistent in raising the immediate and severe human rights concerns facing Bahrain. While the introduction of a 1 minute 49 second time limit^[1] did not lead all representatives to dispense with flowery congratulations and formalities, most posed their questions directly and relatively quickly, focussing on the need to:

- Promote the rights of women, gender equality and implement CEDAW
- Introduce legislation protecting the rights of children, particularly the citizenship rights of children of Bahraini mothers and non-Bahraini fathers
- Reform industrial relations, particularly by protecting the rights of migrant workers and introducing an anti-trafficking policy
- Protect the rights to freedom of expression and assembly, and release civilians detained on related grounds. In particular, the cases of Abdulhadi al-Khwaja and Nabeel Rajab were cited
- Address allegations of torture and educate law enforcement officials on human rights. The delegates also confirmed the importance of inviting the Special Rapporteur on Torture to Bahrain
- Ensure the freedom of the media
- Conduct new trials for defendants convicted in military courts
- Ratify the Convention on Enforced Disappearances, Rome Statute and optional protocols to CEDAW and CAT
- Abolish the death penalty.

To some degree, the Bahraini delegation engaged with questions surrounding the first three of these issues, appreciating States' congratulations for advancements made and accepting that the courses adopted must be stayed. However, the delegates quickly and sometimes curtly dismissed questions relating to the next four issues, and failed to meaningfully recognise questions posed regarding the last two. The recommendations concerning ratifying Conventions, strengthening judicial processes, providing citizenship rights to children of non-Bahraini fathers, and freedom of expression and the media were made following the last review, with little action taken since. A worrying tendency to deflect responsibility away from the Government emerged at an early stage in proceedings. For example, Mr Abdulrahman referred, throughout the session, to the establishment of the Bahrain

Independent Commission of Inquiry (BICI) to address allegations of torture and other human rights violations emerging from the protests. It seemed that the delegation considered that merely establishing such mechanisms relieved the State of the need to engage with these problems further.

This frustrated discussions, as States reiterated concerns about freedom of expression, torture, freedom of the press, and trials conducted in military courts. Switzerland was among the first to focus on the right to freedom of expression, with many other States echoing the call for the release of citizens detained for peacefully protesting. The Bahraini delegation denied that any prisoners were detained on that basis and claimed that all imprisoned persons are accused of criminal conduct. Mr Abdulrahman deftly met Denmark's call for Mr Abdulhadi al-Khawaja to be released to Denmark for medical treatment, by claiming that the Government cannot, under any circumstances, interfere with the 'perfect independence' of the Bahraini judiciary. Queries from numerous States regarding allegations of torture in prisons were swiftly dismissed with reference to the BICI's investigation, and the right of citizens to submit personal grievances to the Office of the Prosecutor. These denials were framed by the claim that the security forces never used indiscriminate power in quashing protests, and that any force that was used was absolutely necessary to maintain the security of Bahrain.

The delegation also explained away several issues by describing time-intensive legal processes obstructing law reform. Concerns about delays in the passage of laws establishing the freedom of the media, recommended in the last review, were addressed in this way. Mr Abdulrahman explained the delays by referring to Bahrain's dedication to establishing a 'comprehensive' framework for free media, though he affirmed the Government's continuing duty to review media content and remove material that could incite violence or hatred. During its first review, Bahrain had accepted a recommendation to bring its press law into line with the International Covenant on Civil and Political Rights. This recommendation was repeated, with Japan alleging that a proposed press law was even more restrictive than the old law.

Mr Abdulrahman also referred to Bahrain's desire to be thorough in reforming human rights laws to explain its continuing failure, since the last review, to ratify various international Conventions which have been approved 'in principle'. Many other issues were barely given lip service, such as the destruction of places of worship and abolition of the death penalty.

Bahrain's reluctance to engage with States might be explained by the legitimate desire, observable in many States that have experienced serious upheaval or conflict, to rebuild and move forward. However, the Bahraini delegation's focus on the future was completely unacceptable in light of reports of ongoing human rights violations. The delegation's insistence on looking beyond events of the recent past, pausing only to note that Bahrain has accepted all recommendations from the last review, defeated the potential for constructive dialogue on current and severe human rights violations.

At the adoption of the report by the UPR Working Group, the Bahraini delegation stated that it would consider the 164 recommendations made and would provide its responses to the 21st session of the Human Rights Council (the Council). It added that while some of the recommendations made may go against national law, the separation of powers, or the sovereignty of Bahrain, the delegation nevertheless appreciated all those recommendations and would undertake in-depth discussions with relevant authorities with the view to accepting as many as possible.

The adoption of the report was primarily notable for a statement by the President of the Council referring to a media campaign being run in Bahrain that identified and threatened members of civil society who had engaged with the UPR process. She listed the names of those threatened, calling on the Government of Bahrain to carry out follow-up and ensure that these people are able to return safely to the country.

The delegation responded extremely defensively, denying that threats had been made and describing the President's comments as 'unfounded allegations'. Several points of order were made (Saudi Arabia, Yemen, Belarus, Kuwait) some criticising the President's intervention as setting an unwarranted precedent by referring to issues relating to the 'sovereignty of States', that go beyond the UPR and the report under review. Further, it was argued that the President should not take it upon herself to speak on behalf of the Human Rights Council. The President responded by stating that she was carrying out the decision taken by member States in paragraph 30 of the outcome document of the review of the Council (adopted in 2011), which 'strongly rejects any act of intimidation or reprisal against individuals and groups who cooperate or

have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, and urges States to prevent and ensure adequate protection against such acts'.

[1] The time allocation for States is set at three minutes for member States of the Council and two minutes for observers, except where this would mean that not all States can be accommodated in the total time available. In these cases the time available is divided equally between all States signed up to speak. This was one of the procedural changes included in the outcome of the review of the work and functioning of the Human Rights Council, which concluded in 2011.

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