

Demonstrating is Our Right

An Analytical Report on the Right to
Peaceful Assembly in Bahrain



“Demonstrating is Our Right”¹

Briefing on the Legal Framework and practice concerning
the Right to Peaceful Assembly in Bahrain



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1- “Demonstrating is our right!”, in Arabic “التظاهر حقنا” is the call that Salam for Democracy and Human Rights (SALAM DHR) adopted and used in gatherings in Bahrain, as an affirmation of the exercise of the right; to show the authorities, other participants and any observers of gatherings that the act of peaceful demonstration is a human right.

Overview

Salam for Democracy and Human Rights (SALAM DHR) is a partner organisation of CIVICUS, the global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society throughout the world. Along with tens of other CIVICUS partner organisations, SALAM DHR is collaborating in the implementation of CIVICUS' WeRise Campaign.

For the project, SALAM DHR has, with CIVICUS, co-designed a local campaign, addressing specific challenges relating to the freedom of peaceful assembly (FoPA) in Bahrain. WeRise is meant to build on CIVICUS's global campaign for expanded civic space and freedom of peaceful assembly (FoPA). The global campaign will capture and share strategies for sustainable peaceful protests, tactics for overcoming challenges and develop recommendations around FoPA.

This briefing sets out a summary review of international human rights obligations and domestic commitments that affirm the right of peaceful assembly in Bahrain. It briefly surveys Government of Bahrain (GoB) practice and laws, which precedes a consideration of the relevant international standards. The briefing presents a brief conclusion and sets out a small number of recommendations, principally to the GoB but also its international partners.

Introduction

The right to peaceful assembly, is guaranteed by Article 21 of the [International Covenant on Civil and Political Rights](#) (ICCPR), to which the GoB acceded in 2006. It states in full that:

“The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

The GoB has recognised, in sum, the right of individuals to assemble, demonstrate and freely meet to express their opinions and participation in political and social life. In scores of countries across the world, it is a long-accepted form of participation in public affairs. The right to peaceful assembly, also known as the right to demonstrate, constitutes one of the main pillars of a rights-respecting and democratic state.

Bahrain's 2002 Constitution, too, recognises this right. Article 28 states, in full, that:

“a. Individuals are entitled to assemble privately without a need for permission or prior notice, and no member of the security forces may attend their private meetings.

b. Public meetings, demonstrations and gatherings are permitted under the rules and conditions stipulated by law, but the purposes and means of the meeting must be peaceful and must not be prejudicial to public decency.”

Legislation that restricts and criminalises peaceful assembly

Does Bahrain's domestic law and practice adhere to the standards and aspirations set out above?

Decree-Law no. 18 of 1973, entitled “Concerning public meetings, processions, and gatherings “and subsequent amendments made to it through Law No. 32 of 2006 and Decree Law No. 22 of 2013, restrict the right to peaceful assembly with articles acting as a tool of censorship and suppression.²

Article 2 of this law requires everyone who is organising a public meeting to notify the Head of Public Security, in writing, at least three days prior to the meeting. Article 3 restricts who can arrange for such pre-authorized gatherings to those:

Who are residents of the town or the place in which the gathering will be held (Art. 3C1);

Whose residency shall be in that town or village and shall be known among the residents for having a “good reputation.” (Art. 3C2);

Whose political and civil rights are intact (Art. 3C3), that is, those whose rights the state has not already restricted, say by being banned from standing in elections or voting on account of previous political engagement, as per restrictions imposed under separate legislation that likewise restricts freedom of opinion, expression, association and assembly; and who must

2- For Decree Law No. 18 of 1973, or 18/1973, entitled “Concerning public meetings, processions, and gatherings”, see the GoB's Legislation and Legal Opinion (LLOC) website: <https://www.lloc.gov.bh/HTM/L1873.htm> (not working at the time of publication); for Law No. 32 of 2006, or 32/2006, entitled “Amending some provisions of Decree Law No. (18) of 1973, Concerning public meetings, processions, and gatherings”, see: <https://www.lloc.gov.bh/Legislation/HTM/K3206>; for Decree Law No. 22 of 2013 (22/2013), entitled “Replacing Article (11) of Decree Law No. (18) of 1973, Regarding public meetings, processions and gatherings”, see: <https://legalaffairs.gov.bh/PDF/L2213.pdf>

State their names, professions, and their place of residency in the notification (Art. 3C4).

According to a comment following Article 3C4, “If the notification does not meet any of these conditions, it will be considered invalid.” Consequently, the request to hold a gathering cannot and will not proceed, in contravention to Article 21 of the ICCPR and the state’s own constitutional commitment.

Article 4 provides discretionary powers to the Head of Public Security, meaning that they are entitled to change the time and location of the assembly as well as prevent an assembly that may breach the “public order”. Neither defined nor described in the text of the law, this can be used arbitrarily to decrease the number of citizens and activists attending a demonstration.

Article 8 states that, with the exception of religious gatherings; those held in connection with trades, commercial or professional bodies or firms:

“[...] every meeting held in a public or private place and attended by persons who have not been personally invited is considered a public meeting. The meeting is considered public, if the Head of Public Security deems that the meeting is due to its topic, the number of invitations to it, or the method of distributing them, or due to any other circumstance [...]”

In other words, the authorities may designate what is and is not a public meeting in line with the government’s assessment of who takes part, what it addresses or how information about it was communicated. This serves to restrict freedom of opinion, expression, association and assembly and creates a chilling effect regarding the state’s willingness to uphold international human rights standards, both in the letter and spirit of the international standards themselves.

Article 11, superseded by Decree Law No. (22) of 2013, also prohibits organising demonstrations or processions in the capital and metropole of (or ‘greater’) Manama while Article 13, in contrast to international obligations or the government’s constitutional obligations, provides for imprisonment. It states that those who organise a gathering without the required permission or in spite of a prevention order, “shall be punished by imprisonment for a period not exceeding six months or a fine not less than one hundred dinars, or both; and, in 13A, that:

“Persons who begin to participate in such a meeting, march, demonstration, or gathering shall also be punished by imprisonment for a period not exceeding one month, or by a fine of not less than fifty dinars, or by both penalties.”³

3- Other parts of this article also provide for imprisonment, viz. 13B provides for four months’ imprisonment, for example.

Those who organise and/or who take part in spontaneous demonstrations - such as those involving vehicles -under 13C - likewise face one month's imprisonment, a fine or both.

Articles 178 and 180 of the Bahraini Penal Code likewise criminalise FoPA.⁴

They state that any person who participates in a gathering of at least five people in a public place “with the aim of committing crimes and premeditated acts facilitating or disturbing public security”, even if it was to reach a legitimate purpose, shall be fined or imprisoned for no more than two years.

Article 180 of the Penal Code states that any person who remains in a gathering after the issuance of an order to disperse while being aware of such order, shall be imprisoned with no maximum period specified and fined no more than 300 dinars. Given major issues in fair representation in Bahraini courts, attending a protest potentially means civilians or activists can be imprisoned indefinitely if they choose to attend a demonstration.

Flawed legislation means flawed practice: restriction of FoPA in practice

As of February 2024, the GoB tolerates, to a very limited degree, FoPA. For matters of widespread, perhaps national popular concern, with generalised, nationwide import or ramifications, such as in relation to the 2023-2024 conflict in Gaza, the authorities have tolerated a degree of FoPA, but not always, notably when popular calls counter state policy.

The authorities do not tolerate FoPA in relation to matters of purely domestic concern, such as in relation to ill treatment, alleged arbitrary arrest or political prisoners or prisoners of conscience, unless such gatherings are small and limited in scope or perceived impact or reach.

4- Penal Code Decree-Law No. 15 of 1976: <https://www.legalaffairs.gov.bh/Publications/Download/017.pdf>

In early 2011, large numbers of people, mainly from the numerically majority Shi'a community joined growing regional demonstrations, calling for more transparency, accountability and democracy in Bahrain. While numerically the majority community, the GoB has chronically and consistently failed to ensure that “every citizen shall have the right and the opportunity [...] to take part in the conduct of public affairs, directly or through freely chosen representatives [...]”.¹

On 14 February 2011, mainly peaceful demonstrators staged a “Day of Rage”. The authorities killed one person that day; and another on 15 February, at the funeral of the person killed the previous day. On 17 February 2011, security forces deployed excessive force at the Pearl Roundabout, a location in the capital, Manama. These actions culminated in seven deaths.

On 3 March 2011, the heretofore mainly peaceful demonstrations became more confrontational. On 15 March 2011, the GoB declared martial law, as they deployed forces from neighbouring Saudi Arabia. On 16 March, GoB security forces dispersed those who had gathered and as the government imposed a curfew across the country.²

For up to a decade following this national crisis, despite carefully orchestrated and exaggerated assertions to the contrary, and the establishment of so-called oversight bodies that served to shield the authorities' human rights violations through vague promises that allegations would be investigated, the government ended, in effect, adherence to international human rights standards, including in relation to FoPA.

The GoB continues to suppress peaceful demonstrations by using various methods to deter people from exercising their right to assembly. The most recent violations are the GoB's crackdown on the demonstrations that began on 13 October 2023 in solidarity with the people of Gaza. Demonstrators denounced the government's policy of normalisation with Israel, demanded the closure of the Israeli embassy in Bahrain and an end of the war on Gaza following the death of a massive number of civilians from Israeli military action on Gaza Strip.

The GoB banned demonstrations, ignored, and even arbitrarily denied notifications for demonstrations on grounds that they are harmful to “public security” despite the absence of any objectively verifiable measure of what this may constitute. Practically, the notification authorities once asked for, has become prior permission to gather or demonstrate.

This is a clear violation of Article 21 of the Covenant as the Human Rights committee's General Comment No.37 (see below) mentioned that having to apply for permission from the authorities undermines the concept that peaceful assembly is a human right.

Nevertheless, activists have staged more than 200 peaceful protests; the security forces suppressed these gatherings through various means.⁵ Moreover, Bahraini security forces generally deployed excessive force to disperse demonstrators and imposed unreasonable restraints on freedom of movement. Batons, sound bombs, and teargas were used to disperse crowds.⁶ Many attendees were arrested, with others were summoned for investigation in the following 24 hours, including activist Ali Muhanna who has been ordered to appear for questioning by police four time this year, at the time of writing.

Since October 7, the Bahraini authorities have arrested more than 90 Bahraini citizens,⁷ for participating in pro-Gaza demonstrations, the majority of whom are minors between the ages of 14 and 17.⁸ More than a dozen were tried on charges of taking part in the demonstrations, with their prison sentences ranging from six months to two years.

Furthermore, in a clear violation to the students' right to freedom of expression and peaceful assembly, the University of Bahrain threatened students by activating a sanctions list against those who participate in pro-Gaza and Palestinian gatherings on campus.⁹

In a different context involving FoPA, Ali Haji was arrested in November 2023,¹⁰ after he protested in front of the Ministry of Interior building to demand his civil rights, which have been restricted since his release, such as his right to work. The Bahraini Public Prosecution released him on bail after he was detained for one day on charges of entering a prohibited military zone.

While the concept of assembly is usually applied to the participation of several individuals, even one protestor is entitled to protection under the ICCPR through Article 21 and Article 19 which protects the right to freedom of expression even for individuals who act alone.

5- See Al-Wefaq Society's monthly report for November and December 2023:

<https://twitter.com/ALWEFAQ/status/1747616604987306448>

6- Regime forces in Bahrain suppress a demonstration held in solidarity with Palestine West of the capital, Manama, Al-Wefaq Islamic Society account on X platform, October 19, 2023: <https://x.com/ALWEFAQ/status/1715046437883449502?s=20>

7-The Bahraini regime summons two children, aged 8 and 6, on charges of participating in a solidarity gathering with Gaza, LuaLuaTV, October 23, 2023: <https://twitter.com/LuaLuaTV/status/1716396453130572194?s=20>

8- Two Bahraini teenagers have been jailed for at least a week for taking part in pro-Palestine protests, LuaLua TV, 16 November, 2023: <https://twitter.com/LuaLuaEnglish/status/1725113637310705727?s=20>

9-University of Bahrain Threatens Students with "Sanctions List" in Case of Assembling in Support of Gaza, Bahrain Mirror, 23 October 2023: <http://bahrainmirror.com/en/news/63738.html>

10-SALAM DHR calls for the release of Ali Haji, SALAM DHR's on X, November 14, 2023: https://twitter.com/SalamDHR_AR/status/1724409274615341195?s=20

International standards: a stark contrast with domestic practices

The legislation and practice set out above fall short of the GoB's international obligations and constitutional promises to the Bahraini people. Supplemental observations by the UN's Human Rights Committee and other, partner states' engagement in, for example the Universal Periodic Review, has also highlighted these shortcomings.

The Human Rights Committee's General Comment 37 - the treaty body's further clarification of Article 21 - details that:

While assemblies are usually organised in advance, allowing time for the organisers to notify the authorities to make the necessary preparations, spontaneous assemblies, which are typically a direct response to current events, are equally protected under Article 21 and that advance notification must not be misused to stifle peaceful assemblies; and

Peaceful assembly is to be protected wherever it is exercised, be this outdoors, indoors, and online; in public and private spaces; or a combination thereof, and that such assemblies may take numerous forms, including flash mobs.¹¹

In its concluding observations, the Human Rights Committee in 2018 expressed its concern that the right to freedom of assembly is severely limited. In its report, the committee noted that public gatherings and marches are severely restricted by the 1973 decree on public gatherings and Decree No. 32/2006.¹² In this regard, the Committee noted with concern that participating in public gatherings without government authorization is a crime punishable by a fine and/or imprisonment. The Committee also expressed concerns over reports that the GoB regularly avails itself of legal provisions, making assemblies illegal, dispersing protests violently, and arresting activists, human rights defenders, and members of the opposition.

The recommendations made to Bahrain during the fourth cycle of the Universal Periodic Review (UPR) of 2022 highlight its violations of the right to peaceful assembly and failure to implement and protect this right.

In the context of the fourth cycle (2022-2027) of the four-yearly Universal Periodic Review (UPR), a non-binding human rights review mechanism presided over by peer states, eight countries, including the USA, Canada, and Germany, recommended that Bahrain lift all restrictions on peaceful assembly and association by eliminating the continuing prohibition on public demonstrations and allowing political societies to engage in meetings without restrictions.

11- United Nations, Human Rights Committee - General comment No. 37 (2020) on the right of peaceful assembly (article 21): <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-37-article-21-right-peaceful>

12- HRC's Concluding observations on the initial report of Bahrain, 2018: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhSiMkkhmRBkQVncBdFYxdTy6GQja8djUQQUivDIkVKQImvIZ%2BgwjT-2jYggAyZn1IEZ2xZ7Toz4WtpBozJ3jO9IHJFL35H4amdve496VjibPAP>

Although Bahrain had previously supported recommendations without implementing them, it has currently adopted four out of eight recommendations related to the right to peaceful assembly, most of which focus on legislative amendments that lift restrictions on the right to assembly.

Furthermore, three countries, including the US, called for the release of all persons detained solely for the exercise of their rights to freedom of expression and peaceful assembly, and repeal all legislative provisions criminalising the exercise of these rights. Bahrain has not supported these recommendations.

Despite this, suppression of the freedom of peaceful assembly escalated and the human rights conditions deteriorated, especially with all the silencing of activists and opposition voices.

Conclusion and Recommendations

The GoB has shown itself cognisant and capable of adhering to international standards. The fact that it is not doing so reflects a political decision. SALAM for Democracy and Human Rights calls on the GoB to:

Lift restrictions and amend legislation restricting the right to peaceful assembly in line with international standards;

1. Allow the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association to visit Bahrain;
2. Implement the recommendations of the fourth cycle of the UPR 2022, including those related to the right to peaceful assembly; and
3. Release all detainees who were sentenced for their participation in peaceful demonstrations.

(Footnotes)

1- Excerpt of Article 25 of the United Nations' International Covenant on Civil and Political Rights (ICCPR), 1966

[https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights#:~:text=Article%2025,-Every%20citizen%20shall&text=\(b\)%20To%20vote%20and%20to,public%20service%20in%20his%20country.](https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights#:~:text=Article%2025,-Every%20citizen%20shall&text=(b)%20To%20vote%20and%20to,public%20service%20in%20his%20country.)

2- Reuters - Timeline: Anti-government protests in Bahrain, 16 March, 2011 at <https://www.reuters.com/article/idUSTRE72F4RR/>