



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 August 2017]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.17-15057(E)



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## **Bahrain: The house arrest imposed on the leader of the Shiite community, Ayatollah Sheikh Isa Qassim, and the prosecution of the Duraz protesters continue\***

The leader of the Shiite community, Ayatollah Sheikh Isa Ahmad Qassim, is still placed under house arrest by the security authorities in Duraz; this security harassment has been going on for more than 70 days.

The continued tight security measures near Ayatollah Qassim's house hinder his private doctors from following-up his medical condition and harass his family members wishing to visit him because they are being held for long periods and subjected to strict measures. In addition, several violations of freedom of movement were recorded in Duraz, and a number of citizens are still being prosecuted over their participation in the peaceful assembly in Duraz before it was quelled using excessive force and hundreds of people were arrested. The detention conditions and trials of some of the arrested people are still ambiguous because they were not allowed to meet with their lawyers or their families.

These measures imposed by the security authorities on the residents of Duraz have coincided with provocative media coverage and the authorities' denial of the information reported about various violations, including the disruption of performing the largest Friday prayer for the Shiite community in Bahrain. Bahrain is witnessing a significant deterioration in ideological and religious security and fundamental rights and freedoms have been severely violated within a security context.

### **Prosecutions against Duraz Protestors**

As a part of a campaign imposed by Bahrain's government on the rights to freedom of speech, and freedom of assembly, tens of clerics, chanters, political and human rights activists received summons from the security authorities over their participation in the open sit-in in Duraz area in front of Sheikh Isa Qassim's house ever since the authorities issued an official Decree revoking his citizenship. Bahraini courts sentenced several participants in the sit-in, in addition to the cases mentioned earlier when listing the most important events.

The cases and incidents related to the Duraz open sit-in are examples that clarify how Articles 178 and 179 of Bahrain's Penal Code are used to target political activists and Shiite clerics who have refused the government's policy regarding several cases of targeting political and religious leaders and figures, amongst which is Sheikh Isa Qassim, the spiritual leader of the Shiite majority in Bahrain. The sit-in in front of Sheikh Isa Qassim's house remained peaceful with the presence of hundreds of people on a daily basis before it was suppressed by the security authorities. Most of the Public Prosecution's accusations are over illegal gathering of more than 5 persons which aims to the disruption of the country's security and violation of law, despite the fact that the sit-in is a peaceful protest with legitimate demands and falls under the right to freedom of expression and assembly.

Bahrain has received several recommendations whether from the Bahrain Independent Commission of Inquiry (Bassiouni), Human Rights Council, the High Commissioner for Human Rights, or other organizations regarding the laws that restrict the freedom of expression and speech, and the importance of the compatibility between the legislations and the human rights covenants and treaties. Yet, it is noticed that the Bahraini courts are using the laws in an un-equivalent manner to restrict rights and freedoms, as a tool of punishment against any activities opposing the government and its policies.

For instance, the BICI report recommends to make the laws in Bahrain compatible with what the international human rights covenants and treaties state, in particular those concerning the freedom of expression and freedom of speech. Hence, the Bahraini government said that the amendment to the Penal Code, by introducing Article 69-bis, will assure the implementation of these recommendations, and that introducing this article will represent a qualitative shift that would certainly separate between the offence and the freedom of expression and speech, so that expression is not criminalized.

Article 69-bis states that: “The explanation of the limits imposed on the right of expression be within the necessary status of a democratic society according to the principles of the National Action Charter and constitution, and that the exercise of the freedom of expression within this frame be a reason that exempts from punishment.”<sup>1</sup>

On the other hand, when reviewing the accusations of many cases mentioned in this report – or other cases which the Bahraini jurisdiction dealt with, or the cases that were mentioned concerning the arbitrary arrest like those of: Sheikh Ali Salman, Sheikh Hassan Isa, Ibrahim Sharif, Jamil Kadhem, Fadel Abbas and others – and comparing those accusations with the statements and expressions which the accusations were based upon and the way they were employed, the contrary of the government’s claims regarding the separation between offence and freedom of expression is realized.

The verdict decided in Article 69-bis (when implemented), forms a basic indication to understand the regulating or punishing provisions related to freedom of expression. Therefore, the judicial authority has no right to give an understanding not compatible with the concept stated in the article when implementing it.

The concept of the democratic society stated in the Article, can be indicated in a frame that distinguishes it from other concepts; it is a concept expressing a state of clear aspects. This way this frame would form the minimum standard which indicates whether the society is a democratic one or not, noting that there is no democratic society that prevents the people from exercising the freedom of expression and opinion through gatherings and verbal statements or reports, which form the basic components of any democratic society.

What the Bahraini government is committing through un-equivalent implementation of law, which does not comply with the accusations against defendants, makes the courts unfair and disrespectful to the rights and freedoms stated in International Law and Bahraini legislations. Even though Bahrain has ratified the International Covenant on Civil and Political Rights in 2006, under which it has become obliged according to Article 2 of the Covenant, to respect the rights recognized in it<sup>2</sup>, yet it is clarified throughout the cases listed in which Bahraini courts violated laws and failed to provide guarantees to people’s practices that fall under their right to freedom of expression.

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\*Bahrain Forum for Human Rights, NGO without consultative status, also shares the views expressed in this statement.

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1 Article 69-bis of Law No. 51 of 2012 regarding the amendment of some provisions of the Penal Code issued by decree law No. 15 of 1976.

2 Article 2 of the International Covenant on Civil and Political Rights, “1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.”