

AMNESTY INTERNATIONAL

Open Letter

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Bahrain: Open Letter to the Shura Council

Joint Letter by Amnesty International and ARTICLE 19

Dr Faisal Radhi Almousawi
Chairman of the Shura Council
Bahrain

15 June 2006

Proposed Amendments to Decree No. 18 of the year 1973 of Public Meetings, Processions and Gatherings (“Bahraini Gatherings Code”)

Your Excellency,

Amnesty International and ARTICLE 19 both have noted and greatly welcome the State of Bahrain’s pledge on 25 April 2006 to protect and uphold human rights as part of its nomination to the newly established UN Human Rights Council, and we congratulate you on Bahrain’s election to the Council for a one-year term. Having now been elected to the UNHRC, it is particularly important that the State of Bahrain should uphold the highest standards in the promotion and protection of human rights, and to co-operate fully with the Council.

In this connection, we are concerned to learn that since Bahrain’s election to the Council, the House of Representatives has approved amendments to the 1973 Decree on Public Meetings, Processions and Gatherings [hereafter the Gatherings Code], and has referred the new text to the Shura Council. Some of these proposed amendments, as well as certain of the provisions in the original 1973 decree which have been retained in the new draft law stand as an impediment to the full realisation of fundamental human rights enshrined in the Universal Declaration of Human Rights, including the rights to freedom of expression and freedom of assembly. We are concerned that these restrictions, if implemented, would seriously breach Bahrain’s international obligation to uphold the rights to freedom of expression and association, especially in view of welcome steps taken by Bahrain to ratify the International Covenant on Civil and Political Rights and of the Bahraini government’s reiteration of its adherence to those obligations in its pledges to the UN Council.

Amnesty International and ARTICLE 19 are concerned that the Bill as it stands now, may allow for violations of the rights to freedom of expression, freedom of association and the right to privacy. The two organisations would therefore urge Your Excellency to initiate a thorough reconsideration of the new

Gatherings Code Bill, taking into account the following observations.

The definition of 'public gathering' is too broad and open to abuse

Article 8 defines a 'public gathering' as "every meeting held in a public or private place participated [in] by individuals who do not have [a] personal invitation".

Meetings which are held in private, or which involve a small number of people, should not be subject to a requirement of official prior notification. Amnesty International and ARTICLE 19 are concerned that the broad definition of 'public gathering' in this provision and the authority it grants the head of public security to determine whether a particular gathering is a private one, go far beyond legitimate requirements of public order and safety, and grant the authorities excessive powers to monitor and control peaceful activities.

The two organisations are concerned that a system of prior notification for small gatherings is unnecessary, intimidating, and could create the impression that the State is monitoring all gatherings of people. Consequently, we call upon your Excellency to press for amendments to Article 8 so that only large-scale public meetings are subject to a requirement of prior notification.

The penalties are excessive and disproportionate for speech-related conduct

Amnesty International and ARTICLE 19 are concerned that imposing penalties, including imprisonment, for speech-related conduct where there is no threat of or incitement to violence or hatred is inconsistent with international law. Such measures exert a serious chilling effect on freedom of expression and freedom of assembly, discouraging participation in legitimate expressions of thought and participation in public life for fear of penalties.

We urge Your Excellency and the Shura Council to resist the imposition of incarceration penalties for the organising or participation in a public gathering under Article 13.

Further, we consider the imposition of heavy penalties for failure to give prior notification to be particularly inappropriate in the case of participants. Participants will rarely have the ability to confirm whether or not the notification procedure has been properly complied with, nor is it appropriate to impose such an obligation on participants. Accordingly, we call for Articles 13(a) and 13(b) to be removed.

Freedom of association belongs to all persons not just citizens

It is explicitly stated in all of the core international human rights treaties that human rights attach to all persons in the country's jurisdiction (not just citizens) and these rights must be protected without discrimination. To deny individual basic civil rights on this basis is untenable and we call for Article 10(a), which was in the original version, and remains in the new version of the Bahraini Gatherings Code, to be removed.

The ban on demonstrations for election purposes is unjustifiable

The ability of individuals to express support for election candidates is an inalienable right stemming from the fundamental tenets of democracy. We consider this ban to be unjustifiable and urge the Council to call for the excision of Article 10(b) which was in the original version, and remains in the new version of the Bahraini Gatherings Code.

The right of association is not only an important civil and political right on its own, it is also critical to the proper implementation of the right to freedom of expression. Amnesty International and ARTICLE 19 emphasise that the right to freedom of expression is a fundamental human right which underpins the realisation of other human rights and full participation in public life. We therefore call upon Your

Excellency and the Shura Council to consider our concerns on this matter, and to push for these changes to be made to the draft law before it is ratified by the Shura Council.

We look forward to Your Excellency's response in connection to this matter.

Yours Sincerely,

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ARTICLE 19 Global Campaign for Free Expression

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cc: Minister of State for Shura Affairs: Majid bin Mohsin al-'Alawi
Minister of Labour: Dr. Abdulaziz Al-Faadhel

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