

Mandate of the Special Rapporteur in the field of cultural rights

24 April 2019

Dear Sir, Madam,

I have the honour to address you in my capacity as the United Nations Special Rapporteur in the field of cultural rights, pursuant to Human Rights Council resolution 37/12.

In my forthcoming thematic report to the General Assembly, I will address the topic of “Cultural rights and public spaces”. I am eager to consult a wide range of stakeholders, including States, United Nations agencies, academics, experts, artists, scientists, cultural workers and practitioners, as well as civil society organizations, in order to benefit from their diverse views and experiences. Many multifaceted issues are indeed at stake, as explained in my questionnaire.

I would like to draw your attention to the fact that I use the term “public space” in its plural form, to underline the plurality and diversity of “public spaces” and their differences in nature and scope. Public spaces may include, for example, not only urban but also rural and natural spaces, real and virtual spaces.

Submissions should be sent electronically no later than **20 May 2019** to srculturalrights@ohchr.org, using the email title: “Submission: Cultural rights and public spaces”. Please feel free to answer only the questions relevant to your work. Kindly limit your responses to **2,500 words** and attach annexes where necessary. To facilitate their consideration, it would be preferable if responses could be sent in the working languages of the OHCHR, English, French or Spanish.

Please also indicate if you have any objections with regard to your reply being posted on the OHCHR website.

I wish to thank you in advance for your cooperation and I hope to continue a constructive dialogue on issues related to my mandate.

Please accept, Sir, Madam, the assurances of my highest consideration.



Karima Bennoune
Special Rapporteur in the field of cultural rights

QUESTIONNAIRE ON CULTURAL RIGHTS AND PUBLIC SPACES

The United Nations Special Rapporteur in the field of cultural rights, Ms. Karima Bennouna, will consider in her next report how actors from across the cultural ecosystem access and use public spaces, identify the challenges they face and the strategies they develop to overcome them, and analyse the impact this has on their cultural rights.

The Special Rapporteur will address multifaceted issues at stake, such as impediments in public spaces to cultural expression, the organization of cultural events, the conduct of cultural practices and the use of languages. She will consider the presence or absence of cultural narratives in public spaces, for example in the form of symbols, memorials, architecture or advertising.

Please note that the term “public spaces” in its plural form aims at underlining the plurality and diversity of “public spaces” and their differences in nature and scope. Public spaces may include, for example, not only urban but also rural and natural spaces, real and virtual spaces. Various degrees of privatization may affect public spaces. This may require different measures be adopted to ensure the realization of cultural rights.

Those submitting information should feel free to answer only specific questions that they find most relevant.

1. What are the various existing definitions of “public spaces” used in national legislation or proposed by international mechanisms, experts and civil society organizations? Are other terms used such as “civic space” and “public domain”? What is the scope of the concept of such public spaces?

UNESCO, as part of its Social and Human Sciences Division, [defines](#) a public space as “an area or place that is open and accessible to all peoples, regardless of gender, race, ethnicity, age or socio-economic level. These are public gathering spaces such as plazas, squares and parks. Connecting spaces, such as sidewalks and streets, are also public spaces. In the 21st century, some even consider the virtual spaces available through the internet as a new type of public space that develops interaction and social mixing.” In the past, UNESCO has encouraged the freedom of expression of all people through free and equal access to public spaces both online and offline.

Human rights and civil society organizations have observed a [lack of accessible public and civic space](#) available in Bahrain. This is due to restrictions on free and peaceful assembly and association – restrictions that deny Bahrainis access to public spaces like squares, parks, and plazas

and that stem from the government's view that public and critical activism harms the state. In this way, while 'public' space may exist to a certain extent and in theory in Bahrain, the ability to make full use of it does not.

For example, in response to the mass peaceful protests in 2011 during the Arab Spring and the occupation of the Pearl Roundabout in Manama, government forces used violence against the demonstrators. Officials [destroyed](#) some of the major public areas used by protesters to host demonstrations, including the Roundabout itself – a cultural icon. In this way, Bahrain has placed restrictions on the peaceful access to public space. In December 2016, January 2017, and May 2017, security forces attacked a peaceful sit-in in the village of Duraz that was held to prevent the deportation of a prominent Shia cleric, killing six people and leading to the arrest of over 250.

Because the government heavily polices public spaces, Bahrainis have no way of peacefully expressing their views within the public arena. As a result, the Bahraini government has sharply curtailed public spaces' ability to serve as a communal gathering area and reflect popular will and sentiment.

2. What are the diverse legal frameworks, trends and practices at the national level that either promote or impede actors from across the cultural ecosystem, including women and persons with disabilities, from accessing and using public spaces? What strategies are most useful in overcoming such challenges?

In the case of Bahrain, the majority of legal frameworks concerning access and restrictions to public space arise at the national level. One major national level inhibitor is Bahrain's cybercrime law. Bahrain, along with many other Gulf Cooperation Council countries, has implemented [cybercrime legislation](#) intended to limit freedom of speech on the internet. Because UNESCO includes online space within its definition of public space, Bahrain's cybercrime laws are an obstacle to Bahrainis' full enjoyment of online and public space. Bahraini authorities frequently use the cybercrime law to "limit freedom of expression and at the same time omit key elements needed to combat cybercrime as this would be understood under most legal frameworks." Among those who have been targeted under the cybercrime law is prominent human rights defender Nabeel Rajab. On 31 December 2018, Bahrain's Court of Cassation – its court of last resort – upheld Rajab's five-year prison sentence for tweets and retweets critical of the government's involvement in the war in Yemen and torture in Jau Prison.

In 2018, Amnesty International [reported](#) that the GCC states "have continued their suppression of the rights to freedom of expression, association and assembly over the past year." Both [Freedom House](#) and

[Reporters without Borders](#) gave Bahrain low rankings in their annual freedom of speech monitors. [CIVICUS](#) has described Bahrain's civil society space as closed, noting that the government's "assault on civil society, which began following widespread peaceful demonstrations in 2011, continues despite recommendations made by a state-sponsored commission in 2011."

The [closure](#) of civic space, restrictions on free expression, assembly and association, and severe limits on the exercise of social and political rights in Bahrain significantly hampers the ability of critics, dissidents, human rights defenders, and civil and political society members from constructively engaging the Bahraini government in public spaces. Indeed, the government has [placed](#) broad limitations on holding and participating in sanctioned public gatherings by placing bureaucratic barriers to organizing such gatherings and securing legal permits. These restrictions also affect Bahraini's access to, or participation in, cultural spaces. Furthermore, the government hampers engagement with public and civic space by harassing, detaining, and jailing journalists, thereby restricting the free flow of information. For example, there are currently [nine journalists](#) in prison.

Restrictions on access to public space affect Bahrain's majority Shia Muslim community in particular. Although Shia Muslims constitute the majority of Bahrain's citizen population, government officials frequently harass members of the Shia community, including in the lead up to significant Shia holidays. For example, just before Ashura in 2018 – a significant holiday for Shia Muslims – authorities [harassed](#) 15 Shia clerics and orators, including arbitrarily detaining them. Some of them were detained for nearly two months.

Moreover, several prominent Shi'a clerics have been detained or accused of crimes specifically [targeting](#) assemblies. Sheikh Maytham al-Salman, a Shia scholar, was charged in August 2016 with 'illegal gathering' alongside human rights defender Dr. Taha al-Derazi for holding a peaceful sit-in protest against the government's maltreatment of the Shia community. In addition to charging Sheikh al-Salman and Dr. al-Taha, from June 2016 through May 2017 officials engaged in a [prolonged "siege"](#) of the village of Duraz, the home of Sheikh Isa Qassim, a spiritual leader of Bahrain's Shia community (Sheikh al-Qassim is currently in Iran after undergoing surgery in London). Demonstrators gathered in Duraz to prevent the government from deporting Sheikh al-Qassim, as authorities had denationalized him, engaging in a peaceful sit-in. Officials set up checkpoints into and out of the village, restricting residents' freedom of movement. Bahrain's major Internet Service Providers – including its three largest, Batelco, Zain, and Viva – enforced a daily internet blackout between 7:00pm and 1:00am. Security forces raided the sit-in on [21](#)

[December 2016](#), 26 January 2017 – when security forces used live ammunition, [fatally shooting](#) Mustafa Hamdan – and [23 May 2017](#) – when security forces attacked the protesters, killing five, and arresting at least 286.

3. What are the specific characteristics of public spaces that either are conducive to the realization of cultural rights, including of women and persons with disabilities, or are an impediment to them, including in relation to issues of discrimination, equal access, accessibility, availability, and adequacy?

One way the Bahraini government has suppressed the use of public spaces is by destroying those spaces that are symbolic of dissent for the people of Bahrain. These actions preclude future activism, destroy the legacy of the activists, and demonstrate the lengths the government will go to in order to halt free and peaceful assembly, including for cultural rights purposes.

In particular, authorities destroyed the [Pearl Roundabout](#) in 2011. The Roundabout stood as a symbol of Bahrain and its membership in the six-nation Gulf Cooperation Council (GCC). It was composed of six swords, representing the six states of the GCC, supporting a pearl, representing Bahrain's pearling past. It became a focal point and symbol of the pro-democracy demonstrations in. In 2011, demonstrators [organized](#) a campout, a sit in, and hosted speakers and political discussions. Recognizing that it was a prominent public gathering space, and a symbol of the reform movement, Bahraini authorities [destroyed](#) the monument and paved over it. This response to Bahrainis' use of public space demonstrates the government's attempts to restrict citizens' use of public spaces in acts of peaceful assembly. Such assemblies are frequently met with "excessive force and the arrest and torture of protest organizers and participants."

4. What could be the contents and contours of a possible "right to public spaces", and of legitimate restrictions that could be made to it, in accordance with international standards? Is this concept employed in your country or in your work? Is it helpful?

The right to freely and peacefully assemble is stipulated in Article 20 of the Universal Declaration of Human Rights. In order to fully enjoy this right, there must be concomitant access public spaces. Many governments, including the Government of Bahrain, have used overly restrictive counter-terrorism laws to restrict the right to freely and peacefully assemble under the guise of protecting public safety. Such governments must narrow the scope of their counter-terrorism laws and balance them with the international right to freely and peacefully assemble. Fundamentally, the right to public spaces and peaceful

assembly in such spaces cannot be abrogated by overly broad counter-terror laws.

5. What is the role of cultural rights in ensuring the existence, availability, accessibility, and adequacy of public spaces that are conducive to widespread participation in cultural life, the realization of citizenship, cultural democracy, as well as the realization of other human rights?

The lack of public spaces prevents large scale dialogue, and the full expression of cultural rights. By depriving Bahrainis of a space to address their grievances, the government prevents them from fully expressing their cultural rights. Supporting and promoting cultural rights would provide space for discussion and interaction among Bahrainis of different cultural backgrounds and it would allow different groups to find common ground amidst differences. However, the suppression of cultural rights, the restriction on the use of public space for cultural events and assemblies limits Bahrainis' ability to engage in this manner.

6. What is the impact on the enjoyment of cultural rights of trends regarding privatization, which may affect a variety of public spaces?

Cultural rights in Bahrain are not significantly affected by privatization.

7. What recommendations should be made to States and other stakeholders concerning these topics?

The Government of Bahrain must:

- Bring its counter-terror and cyber-crime laws into accordance with international standards, so as to allow for free and peaceful assembly;
- Promulgate a law explicitly enshrining a right to peaceful use of public spaces, including for cultural purposes;
- Take concrete steps to promote and protect the cultural rights of all Bahrainis, in particular of the Shia majority community;
- Engage in constructive outreach to the Shia community in a show of good will to demonstrate interest in, and support for, the community's cultural practices.