

Case Study: Nabeel Rajab

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1. Facts

Name of HRD: Nabeel Rajab

Characteristics: Human Rights Defender, President of the Bahrain Centre for Human Rights (BCHR), Founding Director of the Gulf Centre for Human Rights (GCHR), Deputy Secretary General of the International Federation for Human Rights (FIDH)

<http://bahrainrights.org/en/updates-arrest-and-detention-bchrs-president-nabeel-rajab>

Timeline of Events

- 5 to 28 May 2012: Nabeel Rajab detained by Bahraini Authorities for criticizing the Interior Ministry for failing to investigate attacks by pro-government armed gangs¹
 - 28 June 2012: fined 300 Bahraini Dinars (US\$790)²
- 6 June 2012: Nabeel Rajab arrested by Bahraini Authorities³ - detained until 27 June⁴
- 9 July 2012: Mr. Rajab sentenced to three months' imprisonment for expressing his views when he tweeted about the Bahraini Prime Minister
 - “[E]veryone knows you are not popular and if it weren't for the need for money, (the Muharraq residents) would not have welcomed you.”⁵
- 16 August 2012: Nabeel Rajab sentenced to three years' imprisonment by the Lower Criminal Court
- 23 August 2012: Conviction overturned for 9 July 2012 charges, but Rajab remained imprisoned as a result of 16 August conviction
- 11 December 2012: Sentence reduced to two years
- 3 May 2013: The UN WGAD concluded that Mr. Rajab's conviction was arbitrary, having resulted from violations of his internationally protected rights to expression, association and assembly.
- 24 May 2014: Nabeel Rajab released⁶
- 1 October 2014: Nabeel Rajab arrested in connection with tweets
- 2 October 2014: Public prosecution extended detention for seven days pending investigation
- 3 October 2014: OHCHR calls for Rajab's immediate release⁷
- 9 October 2014: Case transferred to Lower Criminal Court for 19 October hearing
- 14 October 2014: Norway calls for Rajab's immediate release⁸

¹ <https://www.hrw.org/news/2012/06/11/bahrain-activist-detained-twitter-comments>

² <https://www.hrw.org/news/2014/10/03/bahrain-rights-activist-detained>

³ <https://www.hrw.org/news/2012/06/11/bahrain-activist-detained-twitter-comments>

⁴ <https://www.hrw.org/news/2012/07/11/bahrain-rights-activist-jailed-insulting-tweets>

⁵ http://www.lrwc.org/ws/wp-content/uploads/2013/05/CEARTAS-Report.April_.2013.pdf at 4.3

⁶ <https://www.hrw.org/news/2014/10/03/bahrain-rights-activist-detained>

⁷ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15135&LangID=E>

⁸ http://www.regjeringen.no/nb/dep/ud/aktuelt/nyheter/2014/mr_forkjempere_bahrain.html?id=771739

- 19 October 2014: Lower Criminal Court postponed ruling until 29 October, denied bail to Nabeel Rajab
 - **No reasons for denial available**
- 2 November 2014: Nabeel Rajab granted bail, travel ban imposed
- 20 January 2015: Nabeel Rajab sentenced to six months in prison for “publicly insulting official institutions”⁹
- 2 April 2015: Nabeel Rajab charged again following a series of tweets and opinion pieces he wrote in March 2015 regarding the treatment to which Jaw prisoners were subjected and Bahrain’s involvement in the Saudi-led coalition in Yemen.
 - arrested for “publishing information that would harm the civil peace and insulting a statutory body.”¹⁰
 - taken to the cybercrimes unit of the Criminal Investigations Directorate.
- 13 July 2015: Nabeel Rajab released following a pardon issued by the King, but travel ban imposed in relation to another charge against Nabeel Rajab.¹¹
- December 2015: Nabeel Rajab’s lawyers submitted fourth appeal against travel ban
- 13 June 2016: Police raid home of Nabeel Rajab and arrest him
- 14 June 2016: Charges brought against Nabeel Rajab for “publishing and broadcasting false news that undermines the prestige of the state.”
 - Because bail has been repeatedly denied, he will have spent more than six months in pre-trial detention by the time the court is expected to deliver its verdict, which could result in a prison sentence of up to 15 years.¹²
- 26 August 2016: Rajab transferred to Interior Ministry’s clinic at MOI HQ due to chest pain
- 5 September 2016: Rajab charged in relation to New York Times op-ed
- 26 September 2016: Rajab transferred to East Riffa Police Station
- 21 December 2016: Rajab charged for letter published in Le Monde
- 28 December 2016: Judge orders Rajab’s release on bail in twitter case¹³. He is immediately re-arrested on other charges
- 29 December: Public Prosecution issues seven-day detention order in connection with Le Monde piece
- 23 January 2017: First hearing in Television Interviews Case – Rajab not notified and no lawyer attended

Charge Information

5 May 2012 Charge

- Charge: “Incitement to illegal demonstrations by means of social media networking”¹⁴
 - Notice: Not informed of reason for arrest until presented before the Public Prosecutor on 6 May 2012¹⁵
 - Pre-trial release: Released from jail on bail on 28 May 2012, placed on a travel ban¹⁶
 - Consequence: Convicted, fined 300 Bahraini Dinars on 28 June 2012¹⁷

⁹ <http://www.lrwc.org/ws/wp-content/uploads/2015/11/Nabeel-Rajab-NGO-statement.18.Nov..15.English.pdf>

¹⁰ <https://www.hrw.org/news/2015/04/03/bahrain-free-rights-activist-held-tweets>

¹¹ <http://www.lrwc.org/ws/wp-content/uploads/2015/11/Nabeel-Rajab-NGO-statement.18.Nov..15.English.pdf>

¹² <https://www.hrw.org/news/2016/12/12/bahrain-release-rights-activist>

¹³ <http://www.gc4hr.org/news/view/1460>

¹⁴ Nabeel Abdulrasool Rajab v. Bahrain, Working Group on Arbitrary Detention, Opinion No. 12/2013, U.N. Doc. A/HRC/WGAD/2013/12 (2013) at 4.

¹⁵ *Ibid*, at 4.

¹⁶ *Ibid*, at 4.

- Charge: “Insulting a statutory bodies statutory body via twitter”¹⁸
 - Law Invoked:
 - Article 216 of the Penal Code: A person shall be liable for imprisonment or payment of a fine if he offends, by any method of expression the National Assembly, or other constitutional institutions, the army, law courts, authorities or government agencies.¹⁹

6 June 2012 Charges

- Charge 1: “Libeling the citizens of the town of Al-Muharraq,” under articles 364-369 of the 1976 Bahraini Penal Code,²⁰ and “publicly insulting residents of a Sunni-dominated neighbourhood for their ties to the ruling dynasty”²¹
 - Penal Code Articles:
 - **Article 364:** A punishment of imprisonment for a term of no more than 2 years or a fine of no more than BD 200 shall be inflicted upon any person who by any method of publication accuses another of having committed a certain occurrence rendering him liable for penalty or subject to contempt. The punishment shall be imprisonment and a fine, or either penalty, if the libel is committed against a public servant during or because of or by reason of discharging his duties, or if such libel affects one's honor or puts families into disrepute or if it is understood in he intended for attaining an illegal purpose. If the libel takes place by way of publishing any newspaper or publication, this shall be considered as an aggravating circumstance.
 - **Article 365:** A punishment of imprisonment for a period of no more than 2 years and a fine of no more than BD 100, or either penalty, shall be inflicted against any person who slanders another by any method of publication so as to affect his honor or integrity without making a specific accusation against him. The penalty shall be imprisonment for a period of no more than two years and a fine of no more than BD 100, or either penalty if the act of slander is committed against a public servant during, by reason of or on the grounds of discharging his duties, or if such slander affects one's honor or puts families into disrepute or if it is understood to be intended fur attaining an illegal purpose. If the slander takes place by way of publishing in any newspaper or publication, this shall be considered as an aggravating circumstance.
 - **Article 366:** A prison sentence for a period not exceeding 6 months or a fine not exceeding BD 50 shall be inflicted if the libel or slander is committed through the telephone or without provocation against the victim and the presence of a third party. The penalty shall be a fine not exceeding BD 50 if the libel or slander is committed without provocation against the victim and in the presence of a third party. If a libel or slander is committed in the cases mentioned in the above two paragraphs against a public servant during, by reason of or on the account of discharging his duties, or if such libel or slander affects one's honor or puts families into disrepute or if it is understood to be intended for attaining an illegal purpose, this shall be regarded as an aggravating circumstance.
 - **Article 367:** There shall be no crime if a perpetrator proves the truth of the accusation where such accusation is made against a public servant or an

¹⁷ *Ibid.*

¹⁸ <http://www.telegraph.co.uk/news/worldnews/middleeast/bahrain/9262935/Bahrain-extends-detention-of-human-rights-activist.html>

¹⁹ https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdf

²⁰ <https://www.hrw.org/news/2012/06/11/bahrain-activist-detained-twitter-comments>

²¹ <http://www.bbc.com/news/world-middle-east-18345796>

officer entrusted with a public service and where the occurrence is connected with the relevant office or service. In such case, a slander may also be proved if it is made by the perpetrator and is related to the libel occurrence. No proof shall be entertained if the incident took place more than 10 years ago or if the crime has lapsed one of the legal grounds or if the judgement passed in respect thereof has lapsed.

- **Article 368:** There is no crime where the litigants' verbal or written defense before the law courts or investigation authorities includes libel or slander to the extent of the right of defense.
- **Article 369:** There is no crime in reporting in good faith to the judicial or administrative authorities a matter rendering the doer thereof legally liable.
- **Pre-Trial Release:** Released on bail on 27 June 2012
- **Consequence:** Sentenced 9 July 2012 to three months in jail, sent to Jaw prison to serve sentence²²
 - Overturned on 23 August 2012

7 July 2012:

- Travel ban issued
- Charge: “incit[ing] illegal rallies and marches online by using social networking websites” for organizing and participating in three demonstrations on 12 January, 14 February, and 31 March 2012.²³
- "publicly vilifying the people of Al-Muharraq and questioning their patriotism with disgraceful expressions posted via social networking websites."
- Law Invoked:
 - *Bahrain Penal Code* Articles 178 – 182
 - **Article 178:** Every person who takes part in a demonstration in a public place where at least five persons are assembled with the aim of committing crimes or acts intended to prepare or facilitate the commission of such crimes or aimed at undermining public security, even though for the realization of a legitimate objective, shall be liable for imprisonment for a period of no more than two years and a fine not exceeding BD 200, or either penalty.
 - **Article 179:** If one demonstrator or several demonstrators attempt to use violence for the realization of the purpose for which they have assembled, their action shall be deemed as a riot. The penalty for each person who knowingly takes part in such riot shall be a prison sentence and a fine not exceeding BD 500, or either penalty.
 - **Article 180:** If one of the public authority officers finds that 5 persons or more have demonstrated with the intent of causing a riot, he may in such capacity order them to disperse. Thereafter, he shall be empowered to take the necessary measures for dispersing those who have not complied with the order by arresting them and may use force within reasonable limits against any person resisting the said order. He may not use firearms except in extreme necessity or when someone's life is threatened. Persons still demonstrating after the issue of the order to disperse while being aware of such order, shall be liable for imprisonment and a fine not exceeding BD 300, or either penalty.
 - **Article 181:** Every person who prevents or obstructs the issue of the order to disperse referred to in the preceding Article shall be liable for imprisonment for a period not exceeding 5 years. The prevention of the issue of the order to

²² <http://www.bna.bh/portal/en/news/516360>

²³ http://www.lrwc.org/ws/wp-content/uploads/2013/05/CEARTAS-Report.April_.2013.pdf at 4.3.

disperse or obstructing it with the use of force shall not bar the taking measures set forth in the first paragraph of the preceding Article.

- **Article 182:** Every person who knowingly continues to demonstrate after the prevention of the order to disperse or obstructs it with the use of force shall be liable for imprisonment or a fine not exceeding BD 500 or both penalties.
- *Law 32/2006 on Public meetings, Processions, and Gatherings*
 - requires the organizers of any public meeting to notify the head of Public Security at least three days in advance and authorizes that official to determine whether a meeting warrants police presence on the basis of “its subject... or any other circumstance.” The law stipulates that meeting organizers are responsible for “forbidding any speech or discussion infringing on public order or morals,” but leaves “public order or morals” undefined.²⁴
- Consequence: Prosecuted and convicted of “illegal gathering” and “disturbing public order”, “calling for an taking part in demonstrations without prior notification” on 16 August 2012; sentenced to three years in prison
 - Public prosecutors had said Rajab's participation in marches and "provocation of his supporters" led to violence, including throwing petrol bombs and blocking roads.²⁵
 - Evidence not able to be publicly examined or produced in open court²⁶
 - Prosecutors presented no evidence that Rajab advocated or engaged in violence²⁷
 - Imprisoned at al-Jaw prison
 - Reduced on appeal to two years, at the Court of Appeal in Manama on 11 December 2012²⁸
 - December 2013: Court rejects request for early release
 - 24 May 2014: Nabeel Rajab released

1 October 2014 Charges

- Charge: “Publicly insulting official institutions”
- Law Invoked:
 - Article 216 of Bahraini Penal Code: “A person shall be liable for imprisonment or payment of a fine if he offends by any method of expression the National Assembly, or other constitutional institutions, the army, law courts, authorities or government agencies.”²⁹ and is punishable by up to three years in prison³⁰
- Interrogation on 2 October: prosecutor did not make exculpatory evidence available³¹
 - Rajab detained at East Riffa Police Station for 7 days pending investigation
- First hearing 9 October: Court of Public Prosecution ordered continued detention until trial on 19 October
- Released on bail at second hearing on 2 November 2014
 - Condition of a travel ban³²
- 20 January 2015: Nabeel Rajab sentenced to six months in prison³³

²⁴ <https://www.hrw.org/news/2008/04/06/universal-periodic-review-state-bahrain>

²⁵ <http://www.reuters.com/article/us-bahrain-protest-activist-idUSBRE87F0G420120816>

²⁶ WGAD Complaint, at 31.

²⁷ <https://www.hrw.org/news/2014/10/03/bahrain-rights-activist-detained>

²⁸ https://www.amnestyusa.org/files/uaa12812_5.pdf

²⁹ <http://www.lrwc.org/bahrain-free-nabeel-rajab-immediately-and-unconditionally-statement/>

³⁰ <https://www.hrw.org/news/2014/10/03/bahrain-rights-activist-detained>

³¹ <https://www.hrw.org/news/2014/10/03/bahrain-rights-activist-detained>

³² <https://www.frontlinedefenders.org/en/case/case-history-nabeel-rajab#case-update-id-1223>

³³ <http://www.bbc.com/news/world-middle-east-30903294>

2 April 2015 Charges³⁴

- Charge 1: “insulting a statutory body”, based on his social media comments about the alleged torture of detainees in Jaw Prison in March 2015.
 - Laws Invoked:
 - **Article 216:** A person shall be liable for imprisonment or payment of a fine if he offends, by any method of expression the National Assembly, or other constitutional institutions, the army, law courts, authorities or government agencies.
 - **Possible Sentence:** Up to 3 years
- Charge 2: “disseminating false rumours in times of war,” based on social media posts criticizing Saudi Arabia-led coalition air strikes in Yemen.
 - Laws Invoked:
 - **Article 133:** A punishment of imprisonment for a period not exceeding 10 years shall be inflicted upon any person who deliberately announces in wartime false or malicious news, statements or rumors or mounts adverse publicity campaigns, so as to cause damage to military preparations for defending the State of Bahrain or military operations of the Armed Forces, to cause people to panic or to weaken the nation's perseverance. Imprisonment shall be the penalty if the offence is committed as a consequence of spying for a foreign country. Life imprisonment shall be the penalty if the offence is committed as a consequence of spying for a foreign country.
 - **Article 160:** Imprisonment for a period not exceeding 10 years shall be the punishment for any person who favors or advocates in any manner whatsoever, the overthrow or change of the country's political, social or economic system with the use of force, intimidation or such other illegal methods.
 - **Possible Sentence:** Up to 10 years
- Charge 3: “Insulting a neighbouring country [Saudi Arabia]”
 - Laws Invoked:
 - **Article 215:** A punishment of imprisonment for a period of no more than two years or a fine of no more than BD 200 shall be inflicted upon any person who offends in public a foreign country or on international organization based in the State of Bahrain or its president or representative. The same penalty shall apply to a person who offends such organization's flag or official emblem. Legal action in respect of such crime shall not be brought except upon the written request of the Justice Minister.
 - **Possible Sentence:** Up to 2 years
- Timeline of Events³⁵
 - 12 July 2016: first hearing:
 - 2 August 2016: 2nd hearing
 - 5 Sep 2016: 3rd hearing
 - 6 October 2016: 4th hearing
 - 31 October 2016: 5th hearing
 - 16 November 2016: 6th hearing
 - 15 December 2016: 7th hearing
 - 28 December 2016: 8th hearing – Court ordered release of Nabeel
 - **Release denied:** Public Prosecution immediately takes him into custody in relation to 13 June 2016 charges³⁶

³⁴ <http://bahrainrights.org/en/updates-arrest-and-detention-bchrs-president-nabeel-rajab>

³⁵ <http://bahrainrights.org/en/updates-arrest-and-detention-bchrs-president-nabeel-rajab>

³⁶ <https://www.frontlinedefenders.org/en/case/case-history-nabeel-rajab#case-update-id-4847>

- 23 Jan 2017 9th hearing: The Court adjourned the case to 21 Feb to hear (examine and cross examine) the said Public Prosecution witness.
- 21 February 2017: 10th hearing – the case is postponed to 22 February.
- 22 February 2017: 11th hearing postponed to 22 March to hear the testimony of the investigation officer, and to allow access for Rajab's lawyer to have a copy of the evidences.
- 22 March: 12th hearing postponed to 17 May
- 17 May: 13th hearing postponed to 14 June

13 June 2016 Charges

- Charged with “spreading false information and malicious rumors about domestic matters with the aim of discrediting and adversely affecting the State prestige”³⁷
 - Believed to have been a result of statements made during television interviews
- Law Invoked:
 - **Article 134:** A punishment of imprisonment for at least 3 months and a fine of at least BD 100, or either penalty, shall be inflicted upon every citizen who deliberately releases abroad false or malicious news, statements or rumors about domestic conditions in the State, so as to undermine financial confidence in the State or adversely affect its prestige or position, or exercises in any manner whatsoever activities that are harmful to the national interests. The punishment shall be imprisonment for a period not exceeding 10 years if an offence is committed in wartime.
 - **Possible Sentence:** Up to 3 Years
- Timeline of Events:³⁸
 - 23 Jan 2017: 1st Hearing: the criminal court adjourned the session to 8 Feb to notify Nabeel. (Nabeel and his lawyer were absent)
 - 8 Feb 2017: 2nd hearing: trial postponed to 21 Feb 2017 for defense to review the case attached CD.
 - 21 Feb 2017: 3rd hearing - The hearing is postponed until 7 March.
 - 7 March 2017: 4th hearing - Trial postponed originally to 16 April, then abruptly postponed to 3 May,
 - 3 May 2017: Postponed again to 16 May.
 - 16 May 2017: 5th hearing - Trial postponed to 30 May.
 - 30 May 2017: 6th hearing - Trial postponed to 12 June
 - 12 June 2017: Trial postponed to 13 June
 - 13 June: Trial postponed to 14 June
 - 14 June: Trial postponed to 2 July
 - 2 July: Rajab and lawyers did not attend, trial adjourned for 3 July
 - 10 July: sentenced to 2 years in prison in absentia
- Locations Held:
 - 13 June – 26 August 2016: East Riffa Police Station
 - 26 August – 26 September 2016: Interior Ministry’s Clinic
 - 26 September – Present: East Riffa Police Station

5 September 2016 Charges

- Charge: “intentionally broadcasting false news and malicious rumours abroad, impairing the prestige of the state” for letter published in the New York Times describing his judicial harassment and arbitrary detention.³⁹

³⁷ <http://bahrainrights.org/en/updates-arrest-and-detention-bchrs-president-nabeel-rajab>

³⁸ <http://bahrainrights.org/en/updates-arrest-and-detention-bchrs-president-nabeel-rajab>

³⁹ <http://www.omct.org/human-rights-defenders/urgent-interventions/bahrain/2017/05/d24361/>

- Law Invoked:
 - **Article 134:** A punishment of imprisonment for at least 3 months and a fine of at least BD 100, or either penalty, shall be inflicted upon every citizen who deliberately releases abroad false or malicious news, statements or rumors about domestic conditions in the State, so as to undermine financial confidence in the State or adversely affect its prestige or position, or exercises in any manner whatsoever activities that are harmful to the national interests. The punishment shall be imprisonment for a period not exceeding 10 years if an offence is committed in wartime
 - **Possible Sentence:** Up to 3 Years
- No hearings in this case

21 December 2016 Charges

- Interrogated and accused of “spreading false information and tendentious rumours” that insult Bahrain and the Gulf Cooperation Council (GCC) states and harm their relations” in relation to a letter published in French newspaper *Le Monde*⁴⁰
- Does not appear that Nabeel Rajab has yet been charged in this case

⁴⁰ <http://bahrainrights.org/en/updates-arrest-and-detention-bchrs-president-nabeel-rajab>