

PRESS RELEASE

Bahraini Government Proposes Freedom of Expression Amendments Following National Dialogue

- Parliament to vote on amendments in coming weeks

1. The government of Bahrain yesterday introduced a proposal for legal reform to the Bahraini Parliament that it terms the Freedom of Expression Amendments. These proposed amendments include (i) changing the language of Article 168 of the Penal Code; (ii) deleting Article 134A of the Penal Code; (iii) deleting Article 174 of the Penal Code; and (iv) adding a new provision to the Code, Article 69 bis.

2. The proposed Freedom of Expression Amendments are an initiative by the government to provide stronger guarantees for freedom of expression in Bahrain by narrowing the circumstances under which individuals can be charged with speech-related activity under the country's criminal laws. This initiative follows other cutting-edge action by the government in the human rights arena, including the establishment by the King of an independent expert commission to investigate alleged human rights abuses; the creation of a Fund for Victims that grants various types of remedies to those who have been the subject of human rights abuses or are subject to such abuses in the future; and the issuance of royal pardons for persons accused of speech-related offences under Bahraini law.

3. It is proposed that the amendments would apply retroactively where this would be beneficial to the accused in a pending case.

4. The government's proposed Freedom of Expression Amendments represent an important step in the process of modernizing its laws. The government will continue to review its laws and practices to ensure continued compliance with its commitment to human rights and obligations under international instruments. This will include reviewing other provisions of the Penal Code, as well as the Press Law, with a view to proposing additional amendments that further promote and safeguard the rights of individuals in Bahrain.

5. The Freedom of Expression amendments (discussed below) will now be put before parliament and will be voted upon in the coming weeks. The proposal is one of the outcomes of the National Dialogue and is a priority for the government. It is therefore hoped that Parliament will deal with it in an expedited manner.

Article 168

6. The current text of Article 168 is provided in the annex. Under the proposed new law, Article 168 is amended to read as follows:

(a) Imprisonment for a period of no more than two years and a fine not exceeding BD 200, or either penalty, may be imposed on any person who deliberately disseminates a false statement knowing that it may be damaging to national security, public order or public health, and consequently such damage occurs.(b) A statement can only be subject to criminal penalties for damaging national security under subparagraph (a) if it (i) deliberately incites imminent violence; (ii) it is likely to incite such violence and (iii) there is a direct and immediate connection between the statement and the likelihood or occurrence of such violence.

7. The government of Bahrain takes very seriously its commitments under international law, including its obligations under the International Covenant on Civil and Political Rights (ICCPR), which guarantees freedom of expression within certain limits under Article 19.

8. The language of the proposed amendment takes into account the most recent pronouncements by the UN on the evolving norms relating to freedom of expression under the ICCPR. The text of the new article is drawn from the language of Article 19 itself, as well as best practices under international law set out in the UN Human Rights Committee's General Comment No. 34 issued in July 2011 and recent pronouncements of the UN Special Rapporteur on Freedom of Opinion and Expression on this issue.

Articles 134A and 174

9. The text of Articles 134A and 174, currently part of the Penal Code, is provided in an Annex to this press release.

10. The government proposes to delete these two speech-related crimes from the Penal Code in their entirety. There will be no new crime that replaces these provisions.

Article 69 bis

11. The government proposes to add a new provision, Article 69 bis. This provision would be of general application to the Penal Code and is intended to be an interpretative aid to other laws regulating freedom of expression in the Kingdom of Bahrain as well. The provision would read as follows:

Restrictions defined in this or any other law on the freedom of expression shall be construed as limited to those which are compatible with the values of a democratic society. The exercise of the freedom of expression can only be punished through restrictions that are so limited.

12. This general clause is intended to ensure that, in interpreting and applying the law, lawyers and judges pay due regard to Bahrain's commitment to restricting freedom of

expression only where such restriction is compatible with the values of a democratic society.

Article 168

Annex – New Proposed Provisions

(a) Imprisonment for a period of no more than two years and a fine not exceeding BD 200, or either penalty, may be imposed on any person who deliberately disseminates a false statement knowing that it may be damaging to national security, public order or public health, and consequently such damage occurs.

(b) A statement can only be subject to criminal penalties for damaging national security under subparagraph (a) if it (i) deliberately incites imminent violence; (ii) it is likely to incite such violence and (iii) there is a direct and immediate connection between the statement and the likelihood or occurrence of such violence.

Article 69 bis

Restrictions defined in this or any other law on the freedom of expression shall be construed as limited to those which are compatible with the values of a democratic society. The exercise of the freedom of expression cannot be punished in the absence of restrictions so limited.

Annex – Current Penal Code Provisions to be Amended or Deleted

Article 134A (to be deleted)

A punishment of imprisonment for a period of no less than 3 months and a fine of no less than BD 100, or either penalty, shall be imposed upon any citizen who has attended abroad in whatever capacity and without authorization from the Government, any conference, public meeting or seminar or has participated in any manner whatsoever in the deliberations thereof with the intent of discussing political, social or economic conditions in the State of Bahrain or in any other state so as to weaken financial confidence the State of Bahrain or undermine its prestige or standing or to worsen political relations between Bahrain and these countries.

The same punishment shall be inflicted upon any person who liaises abroad without any authorization from the Government with representatives or delegates of any foreign country, association, organization, society, federation, union or institution with the intent of discussing any of the matters contained in the preceding paragraph.

Article 168 (to be amended)

A punishment of imprisonment for a period of no more than 2 years and a fine not exceeding BD200, or either penalty, shall be inflicted upon any person who willfully broadcasts any false or malicious news reports, statements or rumours or spreads adverse publicity, if such conduct results in disturbing public security, terrorizing people or causing damage to public interest.

The same penalty shall be inflicted upon any person who possesses, either personally or through others, any documents or publications containing anything provided for in the preceding paragraph, if they are intended for distribution or reading by others, and upon any person who possesses any publishing, recording or promotion device intended, even on a temporary basis, for the printing, recording or broadcast of any of the above.

Article 174 (to be deleted)

A punishment of imprisonment for a period of no more than 2 years and a fine not exceeding BD200, or either penalty, shall be inflicted upon any person who produces or possess, with the intent of trading, distribution, posting or display, any pictures designed to cause offence to the country's reputation whether by a presentation that is contrary to the truth, by giving an improper description, presenting unbecoming aspects or by any other method.

The same penalty shall be inflicted upon any person who imports, exports, copies deliberately either personally or through others any of the above for the aforesaid purpose, or any person who advertises such materials, displays them for sale, trading therein even in a secretive manner, and any person who provides such items directly or indirectly even free of charge and in any way whatsoever. The same penalty shall be inflicted upon whoever distributes or delivers such materials for distribution by any means.

In case of recurrence of the offence, the punishment shall be both imprisonment and payment of fine without prejudice to the provisions of Article 76.