



Bahrain and the UK: 2014 controversies

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- The UK's political and security relationship with Bahrain is disputed even though the protests that began in 2011 are subsiding.
 - The British government says that its arms sales to Bahrain are consistent with its export licensing policy, which bans the export of items that might be used for internal repression.
 - New naval base facilities in Bahrain for use by the Royal Navy were announced in December 2014.
 - Visits to the UK by Prince Nasser bin Hamad Al Khalifa, a member of the Bahraini royal family who has been accused of torture, continue to be controversial.

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1 Arms sales

The House of Commons Committees on Arms Exports Controls (CAEC) raised the question of arms exports to Bahrain in its 2014 report:

The Committees further recommend that the Government needs to explain to Parliament and the wider public more fully why Saudi Arabia is listed by the Business Department as a Priority Market for arms exports whilst simultaneously being listed by the Foreign and Commonwealth Office as being a country of major human rights concern, and also why Bahrain has now been added to the Business Department's Priority Markets List notwithstanding the continuing concerns about human rights in that country. (See paragraph 134 of Volume II of this Report.)¹

The Government said in response that the normal process of export controls prevents items which may be used for internal repression from going to Bahrain. So the fact that there are human rights concerns about Bahrain should not stop other 'legitimate' defence-related exports there:

The Government believes that UKTI DSO activity to focus its efforts to better effect in support of UK companies, producing a List of Priority Markets offering significant opportunities for UK defence and security industries, is not incompatible with the activity of the Foreign and Commonwealth Office (FCO) regarding human rights and democracy.

The FCO report on its activities: *Human Rights and Democracy Report 2013 (updated 24 June 2014)*, includes a list of 28 countries about which the UK has wide-ranging human rights concerns and in which the UK believes improvements are needed. The Report also includes case studies on other countries which the UK believes show a negative trajectory and where the UK believes improvements are needed.

The UK has a thorough and robust export control and licensing system, which distinguishes between exports for legitimate defence and security purposes and those that breach the Criterion 2 threshold: a clear risk that they might be used for internal repression, violation of human rights or gender-based violence. These considerations are specifically identified in the Government's Consolidated Criteria against which all applications for strategic export control licences for military goods, including arms and dual-use goods, are assessed on a case-by-case basis.

Following UKTI DSO's market review in 2013/14, the Kingdom of Saudi Arabia is on the UKTI DSO List of Priority Markets 2014/15 because it has significant defence and security opportunities for UK exporters, and a high demand from UK companies for UKTI DSO support. Likewise, Bahrain is also included in the UKTI DSO list of Priority Markets for 2014/15, in particular having one significant defence-related opportunity in the air sector.

The Government requires all controlled defence and security exports, including those opportunities in UKTI DSO Priority Markets, to be subject to the Consolidated Criteria. The identification of Saudi Arabia and Bahrain as Priority Markets does not, therefore, impact on export control decisions. UKTI DSO is not set up to lobby on behalf of

¹ [Strategic Export Controls: Her Majesty's Government's Annual Report for 2012, Quarterly Reports for 2012 and 2013, and the Government's policies on arms exports and international arms control issues: Response of the Secretaries of State for Business, Innovation and Skills, Defence, Foreign and Commonwealth Affairs and International Development](#), Cm 8935, October 2014

exporters in this regard and inclusion on UKTI DSO's Priority Market List does not therefore impact on the licensing process.²

2 Security relationship with Bahrain

The main Gulf base for the Royal Navy moved to Bahrain in 1935 and Britain maintained close defence relations with Bahrain from independence in 1971, despite the withdrawal of military assets from east of Suez in 1967. Since the deployment in 1980 of ships to protect the oil trade during Iran-Iraq war, there has been at least one British frigate or destroyer in the Gulf. Bahrain is the usual regional base for the ships, and four British minesweepers are indefinitely based there too. One of the main attractions of Bahrain as a base is the much larger US naval presence there. The large US base was originally a Royal Navy base and was transferred to the US military on Bahrain's independence in 1971.

Since 1971, Bahrain's Chief of Police has continuously been advised by a retired senior British police officer.

2.1 New naval base

On 5 December the Foreign and Commonwealth Office announced that the Foreign Secretary had signed an agreement with the Bahraini government for enhancements of onshore facilities at the Bahraini military's Mina Salman Port in Bahrain. The new facilities will



provide the Royal Navy with a forward operating base and a place to plan, store equipment for naval operations and accommodate Royal Navy personnel.

The Foreign Secretary said that this would enhance the UK's presence in the Gulf:

This will guarantee the presence of the Royal Navy in Bahrain well into the future. The expansion of Britain's footprint builds upon our 30-year track record of Gulf patrols and is just one example of our growing partnership with Gulf partners to tackle shared strategic and regional threats.³

Michael Fallon, the Defence Secretary, said that the new facilities would enable

Britain to send more and larger ships to the Gulf: "We will now be based in the Gulf for the long term."⁴

On hearing the news of the plans for a new Royal Navy base, Bahrainis protested in the Shia town of Sitra, calling for the expulsion of the British Ambassador, Iain Lindsay. Activists said

² *Ibid*

³ 'UK-Bahrain sign landmark defence agreement', FCO press release, 5 December 2014

⁴ 'UK-Bahrain sign landmark defence agreement', FCO press release, 5 December 2014

that the granting of the base by the Bahraini government was a reward for the UK government's allegedly muted criticism of Bahrain's human rights record.⁵

3 Human Rights and democracy

Freedom House rates Bahrain only better than Saudi Arabia when comparing the Gulf States for repression.⁶ Bahrain is the only one of the Gulf States where a Sunni monarchy rules a Shia minority, and Shias in Bahrain generally have a lower standard of living than Sunnis, as they do in other Gulf States. Bahrain's lack of oil wealth exacerbates this situation, as it is more difficult for the authorities to buy off dissent.

The situation deteriorated sharply in 2011, when Shia and pro-democracy political unrest threatened the monarchy, and the Gulf Cooperation Council decided to intervene to support the Bahraini government. An armed force composed of Saudi and UAE units entered Bahrain, in a clear demonstration of the Saudis' determination, in particular, not to allow the Bahraini monarchy to fall.

3.1 Foreign Affairs Committee report

The House of Commons Foreign Affairs Committee conducted an inquiry into the UK's relations with Saudi Arabia and Bahrain in 2013. It called Bahrain's human rights record and the UK's approach to it into question, while recognising that Bahrain is in a delicate situation:

Bahrain is subject to intense pressure from Saudi Arabia and Iran, which have strong and opposing interests in what happens in Bahrain and which somewhat limit the freedom of movement of Bahrain's leadership. This regional and sectarian context is not always well understood or explained by Western press. However, it cannot excuse the continuing stalemate and slow rate of progress in Bahrain.

Nonetheless, the UK is right to be understanding of Bahrain's dilemmas. For its region, prior to the protests Bahrain was relatively liberal and reforming, and there is not an easy answer to its internal political issues. However, many of Bahrain's problems are of its Government's own making. The UK must press with greater urgency and force for Bahrain to implement the BICI reforms, engage seriously in dialogue and welcome UN mechanisms in order to re-establish good faith in its intentions. If there is no significant progress by the start of 2014, the Government should designate Bahrain as a 'country of concern' in its next Human Rights Report.⁷

3.2 2014 election

In November 2014, Bahrain held the first general election since the uprising of 2011. Al-Wefaq, the main Shia opposition bloc, decided not to participate in the election having boycotted parliament ever since the events of 2011. The government said that 51% of Bahrainis had participated, while al-Wefaq put turnout at about 30%. Very few of the successful candidates stood for political parties, indicating a widespread dissatisfaction with traditional politicians even among Sunnis and government loyalists.⁸ The Bahraini government has been accused of using coercion to encourage Bahrainis to vote and the opposition claims that most voters were government employees.

⁵ 'Protests erupt over British decision to open military base in Bahrain', *Daily Telegraph*, 7 December 2014

⁶ Freedom House, [Bahrain](#)

⁷ Foreign Affairs Committee - *Fifth Report: The UK's relations with Saudi Arabia and Bahrain*, HC 88, 2013-14, Summary

⁸ 'Electoral rules (and threats) cure Bahrain's sectarian parliament', *Washington Post*, 1 December 2014

The British government 'commended the election of a broad range of candidates' and described the election as a 'success' despite the boycott by opposition political societies.⁹

3.3 UK policy

The British government says that it brings up the question of human rights abuses and torture allegations when it meets representatives of the Bahraini Government and welcomes progress that it says the Bahrainis have made in implementing the recommendations of the inquiry report on the events of 2011:

Our Ambassador and his team regularly discuss human rights, including allegations of torture and mistreatment, with the Government of Bahrain at the highest levels. The British Government consistently and unreservedly condemns torture and cruel, inhuman or degrading treatment or punishment, and it is a priority for us to combat it wherever and whenever it occurs. As well as raising our concerns with the Government of Bahrain, the UK continues to work with the Bahraini authorities to share best practice on torture prevention measures and address allegations of torture and mistreatment.

We commend the steps taken by the Bahraini Government to implement the recommendations set out in the Bahrain Independent Commission of Inquiry. As outlined in our recent human rights case study on Bahrain, progress has been made in a number of areas but there is still more to be done.¹⁰

The Oxford Research Group said out in a briefing that the failure to mention human rights in the announcements of the new naval facilities was 'notable'.¹¹

3.4 Human Rights Council

The UK was elected to be on the UN Human Rights Council for the period from the beginning of 2013 to the end of 2016.

There have been calls for the UK to take a firmer line on the Human Rights Council on the subject of Bahrain. In 2012, a joint collective declaration was promoted by Switzerland condemning abuses going on in Bahrain. The declaration was supported by many countries' representatives, including those of France and Germany, but the UK and the US, along with some other EU member states, failed to support the declaration.¹²

On 10 June, the UK, along with 45 other states including all 28 EU members, signed a Joint Statement on Bahrain at the Human Rights Council, in which it recognised the positive steps taken by the government of Bahrain in order to improve the human rights situation but also highlighted remaining areas of concern.¹³

The Bahrain Institute for Rights and Democracy welcomed the statement.¹⁴

⁹ Bahrain: [Written question – 218054](#), 17 December 2014

¹⁰ [Written question 212308](#), Helen Goodman, 28 October 2014

¹¹ [Briefing: East of Suez, West from Helmand: British Expeditionary Force and the Next SDSR](#), Oxford Research Group, 15 December 2014

¹² ['UN Human Rights Council: Strong Message on Bahrain Abuses'](#), Human Rights Watch press release, 28 June 2012

¹³ ['Bahrain - Country case study update'](#), Foreign and Commonwealth office press release, 16 October 2014

¹⁴ ['UN Human Rights Council Issue Joint-Statement on Bahrain at 26th Session'](#), Bahrain Institute for Rights and Democracy, 10 June 2014

4 Prince Nasser bin Hamad

There has been controversy about the fact that Prince Nasser bin Hamad of Bahrain was allowed into the UK, given that several Bahrainis, at least one of whom has been granted political asylum in Britain, allege that they were tortured by him.

Prince Nasser was allowed to return to Bahrain after the London Olympics because the Crown Prosecution Service decided that he had diplomatic immunity and could not be prosecuted in connection with the allegations of personal participation in the torture of dissidents during the 2011 unrest in Bahrain. The allegations were collated by the European Centre for Constitutional and Human Rights in Berlin in July 2012.

In March 2013, proceedings were launched in the High Court by FF, a refugee from Bahrain resident in the UK, to attempt to overturn the decision by judicial review, on the following grounds:

1. Section 1 of the 1978 Act [*State Immunity Act 1978*] does not apply to criminal proceedings.
2. Following the judgments of the House of Lords in *R v Bow Street Magistrate and Ors, ex parte Pinochet Ugarte (3)* [2001] 1 AC 147, and *Jones v Ministry of the Interior of the Kingdom of Saudi Arabia and anor* [2006] UKHL 26, [2007] 1 AC 270, it is clear that public officials of foreign states have no immunity from criminal process in relation to the international crime of torture based on immunity *ratione materiae*.
3. Prince Nasser bin Hamad does not have immunity *ratione personae* because the status of his current position does not attract immunity.¹⁵

On 7 October, when the case was due to be contested in court, the Department of Public Prosecutions backed down. An order to quash the original decision was made by Lord Justice Laws and Mr Justice Cranston, with the consent of the DPP, meaning that the prince had lost his immunity from prosecution.

So the government, in the form of the DPP, has agreed that its original decision was wrong, meaning that the Prince could be prosecuted if he enters the UK.

The government of Bahrain said that it had never sought immunity from prosecution for anyone, denied the allegations against Prince Nasser, for which it said there was no evidence, and reiterated “its firm condemnation of torture” recognising its “responsibility to investigate any reasonable allegation.”¹⁶

Prince Nasser was back in the UK in October 2014. Bahrain human rights advocates groups criticised the fact that he was not arrested.¹⁷

Tobias Ellwood, for the British government, said that there was insufficient evidence for him to be prosecuted:

I have not held any discussions with human rights groups regarding Sheikh Nasser bin Hamad Al Khalifa. In October, the Crown Prosecution Service could not sustain its finding that Sheikh Nasser had been immune from prosecution when he visited the UK

¹⁵ *R. v Director of Public Prosecutions*, High Court, [Judgment of 19 June 2013](#)

¹⁶ ‘[Prince Nasser of Bahrain torture ruling quashed by High Court](#)’, *Daily Telegraph*, 7 October 2014

¹⁷ ‘[NGOs Call on Home Secretary to Remove Prince Nasser of Bahrain from the UK](#)’, Bahrain Institute for Rights and Democracy, 27 October 2014

in 2012. Regardless of this finding on immunity, the police had in any event concluded that there was insufficient evidence to take any further action. Sheikh Nasser has since visited the UK. Bahrain remains a close partner of the UK, and Sheikh Nasser continues to be welcome here.¹⁸

¹⁸ [Bahrain: Written question – 218097](#), 17 December 2014