

September 6, 2012

The Honorable Hillary Rodham Clinton
Secretary of State
United States Department of State
2201 C St, NW
Washington, DC 20520

Dear Secretary Clinton,

We are writing to encourage the United States delegation to the United Nations to oppose the Bahraini government's nomination of Saeed Mohammed al-Faihani for a seat on the United Nations Human Rights Council's Advisory Committee. We call on you to clearly oppose al-Faihani's nomination, as his position on the committee would undercut U.S. efforts to bolster the reputation and credibility of that body and undermine the independence of the Advisory Committee.

Al-Faihani has held a number of positions in the Bahraini government, notably in the Foreign Ministry and Ministry of Human Rights. Most recently, in August 2011, al-Faihani was appointed by the King of Bahrain to serve as an "agent" (وكيل) for human rights in the Ministry of Human Rights and Social Development. Paragraph 68 of HRC resolution 5/1 provides that "Individuals holding decision-making positions in Government or any other organization or entity which might give rise to a conflict of interest with responsibilities inherent to the mandate shall be excluded." Further, in its sixth session, the Human Rights Council adopted decision 6/102 describing the technical and objective requirements for the submission of candidatures, including "independence and impartiality." Al-Faihani's current position and career stand in clear contradiction to this requirement, severely undermine his credibility as an expert, and make him a liability to the Advisory Committee and the Council.

At every level, al-Faihani has supported government-led efforts to downplay and deny human rights violations. As Freedom House has observed, "His expertise is in presenting the Bahraini government in the 'most positive light possible.'" During his service at the Bahraini Ministry for Social Development, al-Faihani told Human Rights First in May 2011 that no one in Bahrain was being tortured, that "everyone who's been arrested has been shown an arrest warrant and proper documentation and that no one had been taken by masked men from their home." The November 2011 report of the state-sponsored Bahrain Independent Commission of Inquiry (BICI) thoroughly documented the occurrence of these violations, in stark contrast to al-Faihani's claims.

In addition, Bahrain has denied or severely restricted access for international rights groups, including Human Rights First, Human Rights Watch, Amnesty International, and Freedom House to visit the country and report on human rights. Bahrain also recently flouted requests by the Universal Periodic Review, the Council's peer review mechanism, to cease harassment of human rights defenders who participated in the session. Bahrain has also received four official requests for visits by Special Rapporteurs – the Council's most important instrument for assessing human rights progress – including: the special rapporteur on torture, the special rapporteur on the rights to freedom of peaceful assembly

and association, special rapporteur on the human rights of migrants, and special rapporteur on the situation of human rights defenders. Of these requests, the government has only responded to the request from Special Rapporteur on Torture Juan Mendez, but has repeatedly postponed his trip and to date has not confirmed a date to visit Bahrain. As for the remaining rapporteurs, the government claims to still be “studying the requests” of their visits. Cooperation with rapporteurs is an important indicator of a state’s willingness to respond to allegations of violations and to allow outside scrutiny of its human rights performance. The Bahraini government’s track record is a clear illustration that the monarchy does not take the Council seriously, and cannot be expected to make positive contributions to its mission.

The appointment of any government representative to the Advisory Committee is contrary to the norm and threatens the credibility of the body. Therefore, we strongly urge you to oppose al-Faihani’s nomination. The U.S. government is to be commended for its efforts to improve the effectiveness of the Council by removing those who stand in opposition to its mission, and al-Faihani’s presence on the Advisory Committee would run directly counter to those efforts.

Sincerely,

The Project on Middle East Democracy

cc. Assistant Secretary for International Organization Affairs Esther Brimmer

Deputy Assistant Secretary of State for International Organization Affairs Paula Schriefer

U.S. Permanent Representative to the United Nations Ambassador Susan E. Rice

U.S. Representative to the Human Rights Council Ambassador Eileen Chamberlain Donahoe

Assistant Secretary of State for Democracy, Human Rights, and Labor Michael Posner