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Human rights situations that require the Council's attention

Written statement* submitted by Alsalam Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Bahrain NGOs Document Unfinished Implementation of the BICI

On the occasion of the 32nd Session of the Human Rights Council, Alsalam Foundation, in coordination with Americans for Democracy & Human Rights in Bahrain (ADHRB), the Bahrain Institute for Rights and Democracy (BIRD), the Bahrain Center for Human Rights (BCHR), the European Center for Democracy and Human Rights (ECDHR), and the Justice Human Rights Organization (JHRO), would like to highlight the current implementation status of the Bahrain Independent Commission of Inquiry (BICI). The Government of Bahrain recently asserted that it has fully implemented the report's twenty-six recommendations. Yet we in the Bahraini human rights community strongly disagree with this assessment. We reiterate our standing call that the Bahraini government takes serious efforts towards implementing the report's recommendations for further human rights reform.

1. The Bahrain Independent Commission of Inquiry

The Government of Bahrain established the BICI in July 2011 in response to international pressure to address the mass abuses it committed during the 2011 mass pro-democracy demonstrations. The BICI had a mandate to investigate government abuses and recommend legal and policy changes to prevent the recurrence of such events. In November 2011, the Commission issued a 512-page report, with 26 recommendations that, if addressed, could lead to meaningful reform.

2. Status of Implementation

It is ADHRB's assessment that the Government of Bahrain has fully implemented two of the 26 recommendations. It has partially implemented 16 of the report's recommendations. It has not implemented eight of the recommendations.

Its efforts have not been complete, and a majority of recommendations have only partially been fulfilled. The government has made progress toward reinstating students and employees fired and expelled during the demonstrations and has made minor progress on other recommendations. In many cases, the government acted to implement cosmetic reforms while continuing to violate the spirit of the recommendations. Many of the core issues of the BICI, including torture, arbitrary detention, and freedom of expression, remain institutional issues of concern.

3. Human rights oversight bodies

The Government of Bahrain established the Special Investigation Unit (SIU) in 2012 in response to a recommendation calling for an independent and impartial mechanism to determine the accountability of those in government who have committed acts resulting in the deaths, torture, and mistreatment of civilians. The SIU operates within the Public Prosecution Office (PPO) and the work of the SIU is accountable to the Ministry of Interior (MoI). Because the SIU is part of the PPO, it remains a part of the government hierarchy. As part of the PPO—one of the key bodies complicit in the abuses reported in the BICI—the SIU is unable to independently and impartially investigate claims of abuse and torture by security forces. Despite its constraints, the SIU has made little effort to hold high-level officials accountable for the abuses of 2011. Accountability is further constrained due to the lack of an independent judiciary. When investigations did result in trials, courts found few members of the security forces guilty, and a majority of sentences were later commuted or reduced.

The Government of Bahrain established the Ombudsman in 2012 to oversee the MoI. Its goal is to provide relief to victims of abuse and investigate MoI employees' alleged misconduct. In order to fulfill its duties, the Ombudsman must be independent of the authorities. However, pursuant to Royal Decree 27 of 2012, the Prime Minister appoints the Ombudsman and his deputy with the recommendation of the MoI. The same decree mandates that the MoI allocate the Ombudsman's budget. The Ombudsman therefore relies on the MoI both for his position and his financial security. Over the course of two years of engagement with the Ombudsman, ADHRB has found that though the Ombudsman improved in form since 2012, it has serious and systemic flaws that prevent it from being a legitimate and capable human rights mechanism.

The Bahraini government created the National Institution for Human Rights (NIHR) in 2009. The king reformed its mandate in 2014. As a national human rights institution, the NIHR is governed by the Paris Principles, which demand independence from the government and adequate powers of investigation. Beyond limited success, however, the NIHR is not adequately independent from the government, nor does it have adequate powers of investigation. Several members of the government sit on the commission, and it has ignored complaints from NGOs. During ADHRB's engagement with the NIHR, the NIHR has displayed a structural bias towards the government and a general apathy toward the wider challenges facing human rights in Bahrain.

The BICI called on the government to take steps to increase the independence and impartiality of its human rights oversight bodies. The government has not fully accomplished this: the Ombudsman, the NIHR, and the SIU remain tied to the government. The lack of independent and impartial oversight means that security force impunity remains entrenched in the official culture.

4. Censorship and political expression

During the 2011 demonstrations, protesters called for greater freedom of expression. Seven BICI recommendations echoed this call. The recommendations call on the government to drop charges against students and employees fired for their participation in the 2011 demonstrations, which are based on political expression, to relax censorship laws, and undertake measures to prevent expression inciting hatred, violence, and intolerance. The government partially implemented four of these recommendations. It did not implement three of them.

In December 2011, the Government of Bahrain announced it would drop all charges relating to freedom of expression except for the victims who were also charged with violent acts. As a result, it dropped charges related to 334 people. Many of the 4,500 people arrested and detained during the demonstrations served arbitrary sentences of up to five years prior to release. Others received longer-term sentences, such as 10-years or life imprisonment, and remain detained.

Due to their participation in the demonstrations, employers dismissed over 4,500 employees, including an estimated 2,000 public sector and 2,500 private sector employees. In response to international pressure, the government convened a commission to resolve the workers' cases, and ensure they were rehired. While the government has made progress, there remain outstanding cases. Additionally, workers report being reinstated in lower grade positions, positions without actual jobs, and being forced to sign loyalty pledges upon returning to work.

Following the dismissal of more than 500 students from Bahraini universities after the 2011 demonstrations, the government reported that the University of Bahrain and Bahrain Polytechnic had decided to reinstate all expelled or suspended students who had not been involved in acts of violence. Upon re-admittance, the students report being forced to sign loyalty pledges, having to surrender their Facebook account information to school officials, and having to answer questions about their participation in the protests. Additionally, authorities continue to practice arbitrary disciplinary measures against students, especially those who criticize the government.

The government has not taken substantial steps towards relaxing censorship or allowing the opposition access to the media. On the contrary, the government has taken legislative steps to strengthen existing laws censoring free speech and create new restrictions on various forms of media. Pursuant to amendments to the Penal Code, anyone the government believes offended the king, Bahrain's flag, or the national emblem can receive a jail sentence of seven years and a fine of up to 10,000 Bahraini dinars.

5. Conclusion

The Government of Bahrain has taken small steps toward implementing the 26 recommendations of the BICI, but larger, structural problems persist. Bahraini officials specified their success in reinstating workers and students dismissed and expelled from work and school due to their political expression. However, not all of the students have been re-admitted, and many workers were reinstated at lower grades. Reinstated workers and students continue to face harassment and reprisals. The Government of Bahrain noted the creation of new human rights oversight bodies, and the independence of other human rights mechanisms. These bodies, however, are not independent of the government. They have neither the capacity nor the political will to investigate reports of abuse and torture. Political expression and

criticism of the government remains a crime. Opposition voices are not allowed access to the news media, and thousands of Bahrainis remain arbitrarily detained for freedom of expression.

Despite its assertions to the contrary, the Government of Bahrain has not fully implemented the 26 recommendations of the BICI.

6. Recommendations

We in the Bahrain human rights community call on the international community to encourage Bahrain to:

- Recommit to full implementation of all remaining provisions of the BICI;
 - Reform current human rights bodies to effectively and independently protect human rights; and
 - Release all remaining prisoners of conscience with a view towards restoring political confidence and reinitiating the National Dialogue process.
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