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Human rights situations that require the Council's attention

Joint written statement* submitted by Alsalam Foundation, Americans for Democracy & Human Rights in Bahrain Inc, non-governmental organizations 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.

[19 August 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.

Bahrain: Preventing Free and Fair Elections

The Bahraini monarchy, after supporting recommendations made by multiple international bodies, and after making commitments to reforming its conduct toward civil and political society and improving access to freedoms in those spaces, has consistently failed to deliver on its commitments and has consistently failed as a reliable good-faith partner within multilateral institutions. Alsalam Foundation and Americans for Democracy & Human Rights in Bahrain (ADHRB) welcome this opportunity at the 51st session of the United Nations Human Rights Council (HRC) to draw attention to ongoing actions of the monarchy that prevent the citizens of that country from exercising their rights of self-determination under the Universal Declaration of Human Rights and Article 25 of the International Covenant on Civil and Political Rights (ICCPR).

Manufacturing Government Legitimacy in Bahrain

Although the Bahraini constitution technically guarantees the freedoms required for genuinely free and fair elections, a network of legislation create a broad range of opportunities for the monarchy and its government agencies to disempower Bahraini citizens and to prosecute individuals on a wide spectrum of offenses related solely to opinion or expression. Citizens do not genuinely possess the “ability to choose their government and do not have the ability to choose their political system.”

The inability of the Bahraini citizenry to enjoy genuinely free and fair elections is directly connected to the monarchy’s “serious restrictions” and continued violations of the freedom of expression and assembly, the freedom of press, and the freedom of association. This report will focus on these two elements of effective elections – free and fair – and attempt to demonstrate how the Bahraini monarchy’s suppression of a genuine quality of free and fair prevents elections in the country from being anything other than political theater designed to swaddle the monarchy in an aura of legitimacy.

Freedom of Expression and Assembly

Genuine elections involve more than the physical casting of a ballot. For elections to be genuine, the process must also include an environment where people are allowed to freely exchange opinions as well as gather together in order to have conversations of this free exchange.

Bahrain has a large network of legislation that can be used to restrict freedom of expression, chiefly the counterterrorism and cybercrime laws. These two legislative mechanisms allow the government to criminalize free expression and repress dissent within the kingdom. More specifically, both these laws either fail to define their key terminology, or offer definitions to terms that are excessively broad.

For example, terrorism is defined as “any crime under the Penal Code which intends to disrupt public order or endanger the kingdom’s security or the national unity”. Article 6 of the counter terrorism law provides that “activities calling on the interruption of legal or constitutional provisions are terrorist in nature”. This language has empowered the monarchy to declare any person who talks of, or advocates for, any institutional or legislative reforms guilty of an act of terrorism. As such, Bahraini authorities have enormous freedom to judicially harass any person for publicly expressing a view unfavorable to the monarchy and its government.

In response to increased online dissent and activism, the Bahraini government has added to its efforts to silence peaceful critics and intimidate online activists. Supplementing the repressive effects of its overly broad and vague anti-terrorism law, the government has muffled opposition voices by suppressing online dissent through cybercrime legislation, including the 2014 Information Technology Crimes Law, which allows for the prosecution

of online free speech creating an environment where political opinion is suppressed, and the monarchy can push one controlled message.

Freedom of Association

Bahraini authorities banned political and civil society groups either through forceful dissolution or requirements that all groups “register with the Ministry of Labor and Social Development.” In this way the government protects itself from any organized, critical voices within its society and activists have asserted that “the ministry routinely exploited its oversight role to stymie the activities of NGO’s and other civil society organizations.”

Formal political parties are illegal as outlined in The Law of Associations. This prohibits civil society groups from “engaging in politics” and allows authorities a wide latitude to interfere in the activities of its civil society groups and determine if an organization should be dissolved. In 2019 the Court of Cassation upheld the dissolution of Wa’ad, the last remaining opposition political party in Bahrain. In 2016, the monarchy and its government forcibly dissolved Al-Wefaq, at the time the largest opposition political party in the country, and sentenced its leader, Shaikh Ali Salman to a life sentence.

Hobbling Democracy in Parliament

The members of the upper house or National Assembly, by reason of their appointment by the King, lack the capacity act as an effective check on the monarchy. The governing council of Bahrain is not constituted to operate as a genuine parliament. As it is structured, the upper chamber is entirely appointed by the monarchy and as such, does not and cannot possess structural, practical, or theoretical independence from the King. It is operated as an extension of the monarchy – the 22 member Cabinet of Ministers, seven of whom are members of the ruling family, is also appointed by the King – and cannot effectively represent the democratic preferences and direction preferred by the country’s citizens. Formal political parties are illegal and opposition societies have been outlawed by the monarchy. Besides this, the monarchy has prohibited the candidacy of anybody who formerly belonged to a dissolved political party.

Freedom House scored Bahrain at 2/40 for political rights and 10/60 for civil liberties, whilst giving it an overall freedom score of just 12/100 designating it as “Not Free.” When elections are allowed to take place, the electoral framework predetermines the results. Election districts are drawn in way that the majority Shia population are prevented from achieving a level of representation in parliament that is consistent with its distribution throughout the country. The government body responsible for the rules of Bahrain’s elections and election oversight is headed by a member of the royal family. The monarchy’s complete control on political power and its ability to shape the structure of elections and parliament, excludes any possibility of achieving change through elections.

Every law needs to be passed by both the Councils *ad idem* before being sent to the King for final approval. Both the houses also lack the power to alter royal decrees, and the King often bypasses the National Assembly altogether by issuing laws when it is in recess. Independent studies have found that Bahraini authorities have “targeted redistricting to dilute Shia majority community” .

In 2018, the government amended Law no 14/2002 known as the Law on Exercise of Political Rights, to target and prevent the candidacies of prominent Shia political figures contesting elections. This law “[a]ffects the remaining thousands of prisoners of conscience who were arrested for their political opposition or human rights beliefs”.

Since the 2011 pro-democracy protests, the government has imposed a blanket ban on all demonstrations, marches, sit-ins, religious gatherings, and funeral processions. The government has prohibited and outlawed peaceful assemblies, providing the Ministry of Interior with ample powers to ban rallies near “security sensitive areas” further expanding their powers through amendments in the Public Gathering Law. Anyone who participates

in any kind of demonstration without authorization from the government, or in the event of invalidation of the application, all the participants of such demonstration are labelled as criminals and subjected to the consequences set out under Article 13 in conjunction with broad laws such as anti-terror law or cyber security law.

Recommendations:

- Remove abusive restrictions on freedom of expression;
- Amend the press law to bring its provisions into compliance with article 19 of the International Covenant on Civil and Political Rights;
- Reinstate the operating license of the independent media outlet Al-Wasat;
- Allow independent political societies to operate in Bahrain
- Accept the requested visits of the Special Rapporteurs on freedom of expression and freedom of assembly

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