



Omar F. Ahmed

BROKEN PROMISES

Human Rights,
Constitutionalism
and Socio-economic
Exclusion in Bahrain

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Cover photo: KARIM SAHIB / AFP / Getty Images
The photo shows a Bahraini woman taking part in a demonstration
in Manama in 2006 at discriminatory policies and detentions without
charge.

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Foreword

The case of Bahrain is one of special interest to IHRC. At its inception in 1997, several of IHRC's key members had been involved in campaigning on Bahrain. The now late Sheikh Abd al-Amir al-Jamri, a senior cleric and opposition leader, was adopted as one of IHRC's Prisoners of Faith, and a campaign to raise awareness of the activities of Ian Henderson, the "Butcher of Bahrain", was another of IHRC's projects at the time.

The change of King and the promises of reform and radical transformation at the start of the era of King Hamad b. Isa al-Khalifa were more than welcome. Whilst IHRC and so many activists and NGOs within Bahrain and outside remained reticent, space was given to the new ruler to enact his promises. With leaders like al-Jamri embracing the new system, we hoped, prayed and awaited with anticipation the eventual transformation of Bahrain.

Sadly, as this report testifies, early cynicism about the proposed process was justified. This report aims to give those unfamiliar with the situation in Bahrain a good historical background as well as current overview of the failure to move from outright monarchy to constitutional monarchy in Bahrain, with all its consequent fallout.

At a time when the international community still hails Bahrain as a transformed and model society, IHRC calls for more comprehensive understanding of that state, and an external and internal push for real change in that country.

Islamic Human Rights Commission, 2010

Overview

I. Executive Summary

As of 2010 Bahrain has not successfully completed its transition from an absolute monarchy in which unqualified power lies with the unelected head of state to a constitutional monarchy that assigns decision-making authority to an elected legislature and representative government.

Socio-economic and political exclusion of the wider population is prevalent. The country's regional economic success belies the fact that a significant proportion of Bahrainis live in poverty and unemployment. Resentment is further exacerbated when accusations of profligacy and corruption are levelled at some senior government officials who are protected from legal scrutiny and public accountability due to their close proximity to royal power in the country.

Confrontation between the security forces and protestors has resulted in violence and, on occasions, death. The focus of many demonstrations is allegations of discriminatory practices carried out by the ruling Sunni al-Khalifa family against Bahrain's majority Shia population. Discriminatory policies are deployed as a tool by the ruling government to marginalise and disenfranchise the largest section of Bahraini society. Though outwardly sectarian in nature, these measures are designed to prevent democratic reform, and are therefore not necessarily concerned primarily with religious exclusion. The response by marginalised Shia in turn is fuelled by socio-economic neglect and political marginalisation as opposed to sectarianism.

Recent developments in the Kingdom of Bahrain are also indicative of a continuation of long-term trends in human rights abuses carried out by the government and the country's state institutions, predominantly its security and intelligence services. This includes unwarranted restrictions on the freedom of expression, assembly and association. Human rights groups within Bahrain also accuse authorities of arbitrarily detaining opposition figures and human rights activists, and subjecting numerous prisoners to torture and ill treatment.

Bahrain is a relatively small island nation that resides along the Persian Gulf coast of the Arabian Peninsula, and is linked to the Saudi Arabian city of Dhahran via the 26-kilometre King Fahd causeway. Bahrain is

currently the headquarters of the United States Navy's Fifth Fleet and is a support base for US military operations in Iraq and Afghanistan. Bahrain is also a member of the United Nations Human Rights Council since 2006.

The population of around 1,039,000¹ is comprised of approximately 527,000 Bahraini nationals with the remainder foreign workers and professionals originating predominantly from other Arab countries and South Asia.² Islam is the religion followed by the vast majority of citizens; around 60 to 70 per cent of whom are Shia and the rest largely Sunni. The ruling al-Khalifas ascribe to the latter and as a consequence all political and security apparatus within the country is tightly controlled on sectarian lines.

Hesitant reforms by Sheikh Hamad upon his ascension to power in 1999 were carried out in an attempt to avoid a repeat of major scenes of social and political unrest in the 1990's; which had threatened the power of the ruling al-Khalifa family. Whilst these reforms ostensibly attempted to move Bahrain towards a more open and democratic society, in reality many failed to be implemented or were otherwise not radical enough to guarantee the long-denied rights of the Bahraini people. As it stands, the reign of the current ruler King Hamad al-Khalifa has represented a failure of constitutionalism and a resurgence of monarchical cronyism, institutionalised by state apparatus and enforced through brutal deployment of the security forces.

Officially a 'constitutional monarchy' based upon similar models in Europe, the reality in Bahrain is that all political decision-making is subject to royal consent, rendering it a de facto absolute monarchy. Central authority resides in the chief of state, King Hamad b. Isa al-Khalifa and his Court Minister Sheikh Khalid b. Ahmed al-Khalifa. The prime minister serves as head of the government but the position holds only that power granted to it by the chief of state, as it is the King who appoints an individual at his discretion to the role. The incumbent prime minister, since 1970, is Sheikh Khalifa b. Salman al-Khalifa. The King also appoints the cabinet surrounding the prime minister. The bi-cameral legislative branch consists of the Consultative Council (40 members appointed by the King) and the Council of Representatives or the Chamber of Deputies (40 seats - members directly elected to serve four year terms). The elected chamber is subservient to the appointed house that is granted voting rights in the event of legislative deadlock. Political structures of power in Bahrain represent a continued failure of constitutionalism and a retreat from promises of democratic and representative reform as made by Sheikh Hamad over a decade ago.

Bahrain's economy is heavily dependent upon petroleum export revenues and production/refinement services, yet doubts about its long-term ability to remain a rentier state led to successful diversification programs in the 1990's. The Kingdom now constitutes the main banking hub in the Middle East, is a centre for Islamic finance as well as a regional tourist and retail destination. Despite a steadily growing economy and an estimated per capita GDP of around \$38,000 (on the basis of purchasing power parity), unemployment sits at a comparatively high 15%³ and disproportionately affects young people and those within the Shia community; consequently these are the constituencies in which social unrest and demands for political change are most prominent. Local groups in Bahrain point out that an aggregated measure of income provides a misleading picture of wider Bahraini society. Civil society organisations contend that as many as half of Bahrain's citizens are suffering from poverty and inadequate living conditions.⁴ Such findings indicate that whilst prosperous and steadily developing as a national economy and regional centre, Bahrain's domestic rich-poor gap is widening as wealth is consolidated in the hands of an affluent minority benefitting from favourable patronage by the ruling family, with little evidence of macroeconomic growth trickling down to all sectors of society.

Though they underpin Bahrain's economy and account for the majority of the workforce in the country, a significant number of migrant workers and labourers brought into the country are denied rights in the workplace and treated inhumanely, with many trapped in Bahrain's human trafficking black market.⁵ In a trend symptomatic of the region's wider treatment of foreign workers⁶, authorities have pursued a policy of demeaning lower skilled immigrants, to the extent that the Bahraini government in 2008 announced plans to create segregated zones in which low paid foreign workers would be expected to reside.

In terms of the issue of discrimination against the Shia majority, there exists substantial evidence to denote the operation of sectarian trends in the policy process, both implicitly and explicitly, as carried out by governmental departments, institutions and other organisations, including many of Bahrain's private companies. Most prominently evidenced by the Al-Bandar report in 2006, charges of discrimination include, but are not limited to, claims of a vast conspiracy to rig parliamentary elections in 2006, manipulation of the country's sectarian balance through demographic engineering and ensuring Sunni domination over the country's majority Shia.⁷ Additional evidence of systematic discrimination includes the fact that the Shia community is almost wholly barred from top posts in the government, and security and military forces, whilst also suffering disproportionate levels of poverty in

comparison to their Sunni counterparts. Rather than based on purely a religious or ideological motive, it would be more precise to identify discrimination against Shias as employed as a political tool to nullify the political voice of the majority of Bahraini's and thus disregard the calls for democratic reform through popular disenfranchisement.

There is also evidence that implicates the security services in numerous instances of torture carried out against imprisoned activists. Authorities are guilty of denying Bahrainis their legally protected rights to freedom of protest, assembly and association, with frequent cases of harassment and the arbitrary arrest and detention of opposition figures and human rights activists.

II. Aims and Remit

This Islamic Human Rights Commission (IHRC) report on Bahrain aims to highlight the failure of constitutionalism and democratic reform within the country, and the socio-economic exclusion of the wider general population as well as targeted institutional discrimination against its Shia majority specifically. Additionally, the report will explore both the trends in human rights abuses that have appeared over the last ten years and the policy and institutional frameworks that have in most cases been the source of resultant conflict and abuse. This includes but will not be limited to torture, arbitrary arrest, sentencing and detention of opposition figures and human rights activists as well as the denial of basic rights of freedom of assembly, protest and of association.

The political-historical context of the current situation will first be provided, before the report moves on to offer an analysis of what was ultimately a false dawn promulgated in 1999 by the then newly crowned Amir of Bahrain, Sheikh Hamad b. Isa al-Khalifa.

The report will continue by highlighting the socio-economic effects of the failure of democratic constitutionalism within Bahrain, in respect of both specific marginalised groups including the Shia population, as well as wider society.

The penultimate section of this report is concerned with outlining Bahrain's human rights obligations under both international and domestic law, and the extent to which these rights have been systematically violated over the last decade, despite promises of reform made by the country's ruler Sheikh Hamad since his coming into power in 1999.

The final chapter presents a summary of recommendations provided as a means to move beyond the various confrontations and conflicts that have developed within Bahrain.

III. Legal Framework

Bahrain is a party to numerous international, legally binding treaties intended to protect the human rights of citizens of member states. This report will refer to the following in discussions of the extent to which there is evidence that the Bahraini government has failed in adhering to its international and domestic legal obligations (date of accession in parentheses):

ICERD - International Convention on the Elimination of All Forms of Racial Discrimination (27 March 1990).

ICSPCA - International Convention on the Suppression and Punishment of the Crime of Apartheid (27 March 1990).

CRC – Convention on the Rights of the Child (13 February 1992)

UNCAT - United Nations Convention Against Torture or other cruel, inhuman or degrading treatment or punishment (6 March 1998).

CEDAW – Convention on the Elimination of All Forms of Discrimination Against Women (June 18 2002)

ICCPR - International Covenant on Civil and Political Rights (20 September 2006).

ICESCR – International Covenant on Economic Social and Cultural Rights (27 September 2007).⁸

ACHR - Arab Charter on Human Rights (15 March 2008).

Bahraini Law

Domestic Bahraini law is expected to incorporate changes in compliance with the international treaties to which it is a party. Consequently Bahraini statutory law does for example prohibit the use of torture, and discrimination on the grounds of race and religion, as required by UNCAT and the ICERD treaties respectively. Comprised of a complex, interconnected relationship between various legal directives, including Bahrain's penal code, its code of criminal procedure, range of royal decrees, the 'new' 2002 constitution and the suspended constitution of 1973, the domestic legal framework of the country will be referenced substantively, when drawn upon, throughout the report.

Historical Context

Al-Khalifa rule in Bahrain commenced after the invasion of the islands by Sheikh Ahmad al-Khalifa in 1782. The country has remained under their rule ever since, except for the years 1799-1809 when it was occupied by the Imam of Muscat (Oman) and the period 1809-11 when Saudi Arabian neighbours drove out the Omanis and ruled in their stead. After developing contacts with one another in the early 19th century, a spate of agreements between the al-Khalifa and the British followed, including the General Treaty of 1820 signed by Bahrain and the East India Trading Company and the “Perpetual Treaty of Peace and Friendship” in 1861. The outcome of these agreements was for both sides mutually beneficial; Britain increased its geo-political influence in Bahrain and the wider Gulf whilst the al-Khalifa consolidated their own rule over Bahrain.⁹ This relationship of convenience continued as power in the country was handed down hereditarily from father to son throughout the end of 19th and into 20th century. Although the islands were never formally made a colony of the British Empire, they had been purposefully integrated into an overarching imperial order, its gravitational centre as the British government in India, with a view to establishing unchallenged British hegemony in the region. In light of these geo-strategic aims Britain entrenched itself deeply in Bahraini affairs, both domestic and foreign. The later effects of this exertion of influence upon the domestic politics of Bahrain was evident even as the British Empire crumbled, leading one observer in London to comment in 1929 that whilst Bahrain “is not a protectorate...the Sheikh employs three Englishmen who are respectively employed in managing his revenue, his customs and his police. Indeed conditions are fully comparable with a well-run Indian state.”¹⁰

It must be pointed out that the contemporary struggle for democracy and human rights in Bahrain mirrors the efforts of previous liberal nationalist movements in the country’s history, indeed the wider struggle for legislative councils and popular representation go back to 1922. Closely analogous in respect of both opposition and consequent state repression were the demands made by the Higher Executive Committee (HEC) of the al-Khalifa government in the early 1950’s. The HEC consisted of four Sunnis and four Shia members who were elected by representatives of a national assembly, which was born out of a mass opposition rally in 1953. The HEC published a list of demands that included the creation of an elected legislative council, the adoption of a codified system of criminal and civil laws, the establishment of trade unions and the appointment of a court of appeals.¹¹ The HEC and its offshoots did force the regime to

adopt some political and social reforms, but the Bahraini police and British forces suppressed radical opponents of the ruling family.

1971 was a turning point in Bahrain's history. On 15th August of that year, Britain agreed to terminate all special treaties and agreements between the two countries whilst maintaining relations on a friendly and co-operative basis. This declaration was preceded by two years of regional diplomatic manoeuvring, culminating in the passing of United Nations Security Council Resolution 278 in 1970 which, upon taking into consideration a report by the secretary general's personal representative in Bahrain, concluded that the "overwhelming majority of the people of Bahrain wish to gain recognition of their identity in a fully independent and sovereign State free to decide for itself its relations with other states."¹²

Bahrain was now an independent state with a burgeoning merchant class, widespread social unrest and a ruling political class that faced increasing popular pressure to enact reform. In an attempt by the al-Khalifa family to urbanise and modernise its essentially tribal method of rule, thereby aiming to establish a basis of government which could be considered a more legitimate replacement of pre-existing traditionalism and autocracy, Sheikh Isa b. Sulman al-Khalifa in his December 1971 National Day speech became the first ruler of Bahrain to explicitly commit to a written constitution. He outlined the view that such a constitution would ensure societal unity whilst guaranteeing citizens their fundamental freedoms of social welfare, education, work, health and the free expression of opinion. Crucially, it would also provide the people with the right to participate in the management of their country's affairs.¹³ Central to this process would be the creation of a partly elected Constitutional Assembly, charged with debating, deliberating upon and eventually ratifying a written constitution. Thus Bahrain's first national elections were held on 1st December 1972.¹⁴ The Constitutional Assembly consisted of ex officio delegates appointed by the Amir, cabinet ministers and twenty-two elected representatives.¹⁵ A year after deliberations commenced the Constitutional Assembly approved a draft constitution containing more than one hundred articles. A key part of the document called for a National Assembly, consisting of both elected and appointed members. The ruler would be empowered to dissolve it by decree, but would have to make his reasons public. Dissolution by decree would elicit new elections within two months. Under these constitutional terms National Assembly elections took place on 7th December 1973.

The assembly was able to deliberate and alter laws initiated by the cabinet, and propose legislation of its own accord. Despite some restrictions two contentious issues came to the fore during discussions in first two years

of sitting. Firstly the formulation of a general labour law that would have allowed the organisation of trade unions whilst placing significant limitations on the importation of foreign workers, and secondly the debate surrounding whether internal security measures implemented in 1965 should continue. The ruling al-Khalifa family did not wish to see either of the two measures enacted. The cabinet was unwilling to cede influence to the assembly, and when in 1975 the assembly members refused to ratify the state security decree and the extension of leases granted to bases for the United States military, the prime minister submitted in protest the cabinet's resignation to the Amir. In August 1975 Sheikh Isa, the then Amir, responded by dissolving the National Assembly, freezing constitutional articles for the re-election of members and re-instating the cabinet, granting it full legislative powers.¹⁶ So came to an end Bahrain's short-lived parliamentary experiment, and commenced an as of yet unresolved dispute over the status of the suspended 1973 constitution.

The period 1975-1990 was characterised by the now organised yet still officially unrecognised struggle for human rights and the restoration of a democratic state legislature. Mass arrests became commonplace as prominent activists were incarcerated and tortured, sometimes to death. The State Security Act of 1974 was a key instrument used by the state to quash unrest and resulted in the arrest and ill-treatment of many imprisoned trade unionists and political activists. A central aspect of this Act was the State Security Law which allowed the government to detain without trial, and hold for up to three years on a renewable basis, any individual deemed to have committed a crime related to state security. Other measures included trial by State Security Courts – equally as draconian, these courts were often found to have colluded with the security forces in the arbitrary arrest, detention and torture of opposition figures. The Act was only rescinded in 2001.

The 1990's witnessed a tumultuous period in Bahrain. Increasingly vocal opposition demands for a re-instatement of the 1973 Constitution were met by escalating repression from the state security forces, including an upsurge in reports of torture and beatings in detainment, extra-judicial imprisonment and severe restrictions on the rights of freedom of expression, association and protest. In 1992 the United Nations Human Rights Commission (UNHRC) in Geneva placed Bahrain on a list for monitoring. Opposition demands were articulated relatively peacefully with Sheikh Isa petitioned in November 1992 and October 1994. Signatories numbered over 25,000¹⁷ and included not only opposition leaders and influential members of the professional classes, but a cross section of Bahrain's religious groups including Shia and Sunni Muslims as well as other non-Muslim minorities. The government offered no response

to the petitions other than a refusal to meet with representatives and an instigation of further cycles of violent suppression against demonstrators and activists and continued violation of political and human rights.

In 1994 opposition against the state crystallised in the form of a mass uprising that lasted until 1999. Opposition demands during this period were much the same as in previous eras of dissent: the failure of the governing al-Khalifa in effecting real political and democratic change and of causing through policy the widespread economic deprivation of Bahrain's majority. Discrimination against Shia, though practiced, was not an outright, publically articulated demand during this period. Violence was commonplace as security forces, often consisting of non-Bahrainis, acted with characteristic impunity against demonstrators, beating, arresting and detaining large numbers. Instances of torture during this period are well documented¹⁸ as is the repeated arrest of influential opposition leaders including Sheikh Abd al-Amir al-Jamri, Abd al-Wahhab Husayn and Sheikh Ali Salman. It is estimated that by 1999, 38 people were killed in violent clashes with the police and up to 15,000 arrested with torture being perpetrated against those held as a result in detention centres. The government accused foreign agitation in the form of Iran and the Lebanese Hezbollah, demonstration leaders claimed they were calling simply for their democratic rights and the re-instatement of the 1973 constitution and the suspended National Assembly.¹⁹

In March 1996 the state security court expanded from one to three chambers to cope with increased numbers of persons charged under the state security law. By mid-1997 the only remaining international news agency bureau, the German Press Agency, was forced to leave the country. With Amir Isa al-Khalifa unwilling to enter into any meaningful discussions with the opposition movement and its demands, increasing state repression and continued demonstrations and clashes between the security services and protestors, it seemed by 1999 that an already volatile situation had reached a dangerous impasse.

The failure of constitutionalism

I. Undelivered Promises of Reform

In 1999 Hamad b. Isa al-Khalifa became the ruling monarch of Bahrain (he bestowed upon himself the title of King on 14th February 2002) after his father Amir Isa b. Salman al-Khalifa unexpectedly passed away on 6th March 1999. In response to the political deadlock between the ruling family and oppositional movements within the country, Amir Hamad instituted or pledged to enact the following reforms and measures:

- To open a dialogue with religious and political opposition leaders in his palace and in their homes.
- He ordered the release of prominent opposition leader Sheikh Abd al-Amir al-Jamri, as well as the eventual release of all political prisoners.
- On 16th December 1999 he announced imminent municipal elections and the right of women to vote.
- The abolition of the controversial State Security Act 1974, including the State Security Law and the State Security Court.
- Accepted the resignation of state security adviser Ian Henderson in July 2000.²⁰
- The appointment of 19 new members of the Majlis al-Shura (Consultative Council) and promises that it would be converted to an elected body after around five years.
- On 23rd November 2000 an Amiri decree appointed 46 members of a Supreme National Committee to prepare a draft charter that would define and formulate the role of state institutions and their constitutional authority.²¹

International observers were quick to praise Amir Hamad's sweeping reform agenda, convinced his measures represented a clear break from Bahrain's authoritarian past. The Economist magazine in London went so far as to proclaim that the citizens of Bahrain "cannot believe their luck" at the new, politically liberal direction towards which the country now seemed to be heading. Human rights activists in the country were more sceptical and quick to point out that it was intense and sustained pressure from below that forced the hand of the ruling family to embrace modest political liberalisation, with the government response described as largely pragmatic. One campaigner remarked: "that's politics and Shaykh Hamad played it well. We credit him for the liberties but we still have to safeguard our constitutional rights."²²

Opposition scepticism was justified. The Supreme National Committee was sidelined by the constitutional committee, headed by the Minister of Justice Sheikh Abdullah al-Khalifa and composed of seven appointed ministers, which neither made its dealings transparent to the public (unlike the Supreme National Committee), or took into consideration any of the recommendations of that committee. On 14th December 2000 it was announced that a National Action Charter (NAC) would be put to a referendum of the people. The charter proposed that Bahrain move to a system of constitutional monarchy with the establishment of a bicameral legislature entailing one elected house and a second appointed one. The opposition was concerned about the ambiguity of the way in which the new parliament would be created as the National Action Charter stated only that the “first council shall be formed through direct and free elections and shall have legislative attributes. The second council shall be appointed and shall comprise people of experience and competence who will offer their advice and knowledge when needed.”²³ At the insistence of influential opposition leaders, including among others Sheikh al-Jamri and Sayyid Abdullah al-Ghuryfi, who were hesitant in their endorsement of the National Action Charter, Amir Hamad met with four figures representing the opposition: Sheikh Abdulameer al-Jamri, Sayyid Abdullah al-Ghurayfi, Addulwahab Hussain and Dr. Ali Al-Oraybi. As a result he ceded to their demand that legislative power would belong to the elected body alone with the function of the appointed council as merely advisory or consultative.

An interim report by Human Rights Watch outlined the following concerns in February 2001:

...the problem is that the Charter is disturbingly vague when it comes to the role and powers of the legislature. It neither proposes nor assigns numbers to either chamber, nor does it indicate how differences between them will be resolved. It also does not set a target date for elections. And while it proclaims to promote a checks-and-balances type of division between executive, legislative, and judicial branches, it also stipulates that the Amir-become-King is in charge of all the branches, including the appointment and dismissal of the prime minister and the cabinet. It is not clear what power, if any, will reside in the legislature. Reform advocates fear that what citizens will get will be essentially two advisory bodies, one elected and one appointed.²⁴

With the crucial endorsement of the opposition, the NAC was put to the electorate, now consisting of all Bahraini citizens over the age of twenty,

resulting in a resounding 98.4% of the vote in favour of the proposed changes.²⁵

Municipal elections were held on 9th May 2002 and parliamentary elections followed on 24th October that same year. Political parties are not, and have never been, legal entities in Bahrain and so organisations that participated did so under the banner of 'societies'. A coalition of four societies, namely The Nationalist Democratic Coalition, Islamic Action, National Democratic Action Society (NDAS) and the largest party, the al-Wefaq (National Islamic) society, decided to boycott the parliamentary elections on the grounds that the new parliamentary system did not conform to the 1973 constitution as had been stipulated by the NAC and endorsed by the ruling government.

King Hamad further alienated the opposition before the elections with the announcement of 56 Royal Decrees, the last of which was 56/2002. The decree granted amnesty to members of the security and intelligence services for acts undertaken prior to the general amnesty decree of February 2001. International human rights organisations and those within Bahrain voiced their disquiet at what was seen as an attempt to provide impunity to members of the security and intelligence services in spite of the legality of their previous actions, including torture.²⁶

Bahrain's most recent parliamentary elections were held in 2006, the results of which highlighted an increasing sectarian divide within the country, itself reflecting gerrymandering and the engineering of constituencies. The leading Shia al-Wefaq society ended with 17 of the 40 seats in the Chamber of Deputies, whilst the Sunni al-Menbar and al-Asala societies took a combination of 13 seats altogether.²⁷ The remaining 10 seats were divided between smaller parties. Bahrain's next parliamentary elections are forthcoming in 2010.

There are two key causes that rendered the failure of constitutionalism and democratic representation in Bahrain. Firstly, opposition leaders claimed Amir Hamad had reneged on his pledge to grant legislative authority *solely* to the elected house and in doing so neglected the requirements of the 1973 constitution, thereby undermining the very premise upon which the opposition had granted the National Action Charter sufficient endorsement required for it to attain an unexpectedly high 98.4% acceptance rate amongst the electorate. Secondly King Hamad's promises of reform have for many in the country been proven inadequate in terms of substance and in their view have rendered him a pragmatist concerned only with saying and doing what is required to ensure the continued survival of the al-Khalifa family as the ruling monarchy in Bahrain. Charges of corruption

remain, as do those of nepotism; the al-Khalifa and allied loyalists retain a powerful hold upon the vast majority of senior government positions.

As of April 2010 Bahrain exists as a “constitutional monarchy” only in name. Despite claims to the contrary Bahrain’s political system remains fundamentally unreformed as permitted democratic and representative institutions are granted only nominal powers and are in the end superseded by the traditional loci of decision-making power within the country; King Hamad and the Prime Minister Sheikh Khalifa b. Salman, both unelected and ultimately unwilling to recognise and enforce the demands for reform as demanded by the Bahraini people.

II. Oppositional and Popular Demands

The opposition in Bahrain is diverse and covers many ideological and religious positions within the country. The following is a (non-exhaustive) list of the main political societies:

Al-Wefaq is Bahrain’s largest political party and won an overwhelming share of the electoral vote in the parliamentary election of 2006 resulting in seventeen out of forty seats in the Council of Representatives. Its membership consists predominantly of Shia individuals, and it is led by Sheikh Ali Salman who spent five years in exile in London.²⁸

National Democratic Action Society (NDAS) is the strongest secular party with a mixed Sunni and Shia membership. It is currently headed by Ibrahim Sharif al-Sayed who took over from Abd al-Rahman al-Nuaymi in 2005. The society was formed in 2001 with the intention of creating an umbrella organisation to unify a diverse coalition, including leftists, liberals, Arab Nationalists and communists. It was partially successful, although the communists and some other smaller factions left after a few months. It won only one seat in the 2006 election.

Al-Asalah is a Sunni party that won five seats of forty in the 2006 Council of Representatives election. Led by Ghanim al-Buaneen, the society commands support from conservative Sunni areas within the country and was prominent in opposing the US led invasion of Iraq in 2003.

Al-Menbar Islamic Society is a Sunni party that won seven seats in the 2006 parliamentary election. Al-Menbar is regarded as more liberal than its conservative ally al-Asalah. A deal between the two parties was struck before the election to preclude a split in the Sunni vote. The party leader is Dr. Salah Ali.²⁹

Movement For Liberty and Democracy (also known as **Haq**) decided to boycott the 2006 elections on the grounds that the 2002 constitution, imposed unilaterally by King Hamad, was illegitimate. The organisation was founded in 2005 and included many ex al-Wefaq members. It recently had prominent members, including influential leader Hassan Mushaima, arrested on fallacious charges of terrorism.³⁰

It should be pointed out that whilst there are many areas of disagreement between the major opposition parties, politics in Bahrain is not necessarily conducted upon sectarian lines. The majority of parties are, more often than not, willing to work together, whether formally or informally, on issues that require a unified common front against the ruling government. In light therefore of the political situation in Bahrain, extensive discussion in and amongst the Bahraini opposition gravitates around a specific list of grievances held against the ruling al-Khalifa government, the most prominent of which are summarised here:

National Action Charter The opposition contends that the approval granted to the government by referendum was intended, at the very minimum, to facilitate a return to the 1973 constitution and an elected chamber with legislative powers. It is further argued that amendments made to the 1973 constitution by Amir Hamad were unconstitutional, rendering the Amended or “New” Constitution of 2002 illegitimate. Any future amendments proposed by the legislature require a two-thirds majority of both houses, rendering changes very unlikely.³¹

Constitutional Monarchy The National Action Charter urged that it was time for Bahrain to join “democratic constitutional monarchies with a view to meeting peoples’ aspirations”.³² Yet in reality, as the opposition points out, the new constitution subordinates the legislature to the executive, leaving the power to rule as well as reign in the hands of the King and/or Prime Minister.

Parliament Consisting of the elected Majlis al-Nawab (Chamber of Deputies or Council of Representatives) and the appointed Majlis al-Shura (Consultative Council) Bahrain’s bicameral legislature is the subject of much opposition criticism. Not only are both houses made equal in the number of seats they each hold (40) but the unelected Majlis al-Shura is given voting rights in the event of a tie, thereby granting a 51% majority to the appointed house. This is considered all the more unjust an arrangement in light of the promises made by Sheikh Hamad who had earlier claimed to envisage the role of the Majlis al-Shura as only consultative. A crucial difference between the 1973 constitution and that of 2002 is not only that under the amended constitution the King is able

to suspend parliament for four months without elections (as opposed to only two months under the 1973 constitution), but he is granted discretion to postpone elections without any time limit if advised by the government that new elections should not be held.³³

Allegations of Corruption

The ruling al-Khalifa family is seen by many Bahrainis as guilty of fostering a national environment in which corruption abounds and goes regularly unpunished. A lack of legislative oversight, government transparency and judicial independence is criticised by many who feel that they are excluded as a result of pervasive corruption and a lack of accountability of those involved.

Treatment of Foreign Migrant Workers

Human rights activists and opposition parties call for greater rights for migrant workers, particularly those employed in the domestic and construction areas. They also call for greater accountability for those exploited by the human trafficking black market.

Discrimination Against Bahrain's Shia

Is one of the central concerns for the largest opposition parties. Recent reports of discrimination against Shia Bahrainis as government policy have confirmed long-held views regarding the reasons for the disproportionate poverty and unemployment in Shia areas of the country.

Government Naturalisation Policy

Closely related to discrimination against Shia, many in Bahrain see the large amount of foreign workers and the arbitrary application of visa procedures as indicative of an attempt by the government to increase the number of non-Shia in Bahrain.

Conduct and Role of the Security Services

The security forces are accused of torturing prisoners in custody, using disproportionate force against protestors and disrupting the legitimate activities of political associations and civil society organisations.

The politics of socio-economic exclusion

Bahrain's current political structure resembles a 'liberalised autocracy' far more than it does a constitutional monarchy.³⁴ The socio-economic characteristics of the wider population do not resemble those akin to developed liberal capitalist democracies such as the United Kingdom (one of the countries upon which the Bahraini constitutional and legislative apparatus was apparently to be based).

In Bahrain an all-powerful executive branch of government with a stranglehold upon the public and private sector is able to exclude at will large sections of society from a socio-economic, as well as political, stake in the country. This in turn causes resentment and imbues a volatile combination of unemployment, economic hardship, social exclusion and political disillusionment amongst Bahrain's disenfranchised. Marginalising the country's largest constituencies calling for changes to the political system through economic and social policy may be effective in ensuring short term survival, but it does mean that the more autocratic the al-Khalifa government seeks to make its grip upon power, the less stable Bahrain's long term political and economic future.

I. Bahrain's Economy

Bahrain's macro-economic indicators are within the leading category of Gulf states. Annual GDP, as of the latest published Q4 2009 report, sits at \$26.9bn representing 6.7% growth on 2008. The average 7.2% five-year annual compound growth rate is due largely to rising oil prices and increases in property development and spending on construction projects.³⁵ Accurate population figures are difficult to come by; official government figures put the overall population of Bahrain at 1,039,297 in 2007³⁶ yet due to the drastically fluctuating numbers of imported foreign migrants and the fact that the last official census in 2001 counted 661,317 (409,619 nationals and 251,698 non-nationals)³⁷, determining the overall population is at best an inexact science.

Similarly susceptible to a high margin of error is the most recent unemployment estimate of 2005 which stands at around 15%.³⁸ With 219,000 Bahrainis under the age of 14 (just over 21% of the total population)³⁹, this is likely only to increase in line with the wider explosive youth demographic of the region, as is the inability to sufficiently diversify

rentier Gulf economies away from dependence on oil and thus provide employment for the broader skills range current young people in the region are gaining but unable to exploit due to the diminutive size of alternative, non-petroleum based industries.

Despite being viewed as one of the least oil dependent economies in the Gulf, Bahrain's reliance on oil is still a crucial part of its current overall economic performance. Petroleum production and refinement account for over 60% of export receipts, over 70% of government revenues and 11% of GDP. In 2009 the government commenced plans to end its sponsorship system for expatriate workers, increasing the costs of employing cheap foreign labour in a bid to reduce national unemployment and quell unrest.⁴⁰

II. Poverty in Bahrain

Inflationary pressures, such as those encountered during the world financial crisis in 2007, have impacted the unemployed and those on low incomes hardest. These difficulties are somewhat mitigated by rentier-funded welfare provisions for Bahraini nationals, including unemployment benefits and the ability to unionise, but many foreign workers are not treated equally in this regard. Bahraini society exists as a three-tier social system in which nationals, predominantly of Sunni affiliation, are granted both legal protection of rights in the workplace and social welfare, as well as favourable employment status. Bahrain's majority Shia are granted welfare provisions but discriminated against when it comes to securing employment. And finally immigrant workers, largely from south Asia, are granted employment but often without the protection of accompanying labour rights and the safety net provided by social welfare. Whilst the state is careful to avoid absolute poverty within its borders, a significant number of Bahrainis are living in relative poverty.

In 2004 the Bahrain Center for Human Rights held a conference on "Poverty and Economic Rights" in Bahrain and released a report that claimed around 200,000 Bahraini nationals were residing in poverty and poor living conditions.⁴¹ The findings included the calculation that 20,000 to 30,000 who were of unemployed status, with their dependents the total exceeded 80,000, faced poverty. An additional 80,000 people survived on BD18 (Bahraini Dinars) per month, with the official Poverty Income Threshold defined at BD309 per month. Furthermore, attention to inadequate housing was drawn, with an estimated 44,000 lower income families having been kept on the "waiting list for Government subsidised housing for up to 12 years".⁴² Protests against poor living conditions and

unemployment take place frequently, particularly those held by disadvantaged Shia and young people. In 2007 the Bahrain Youth Society for Human Rights led a series of marches to draw attention to the issues of “unemployment, dilapidated housing, inflation, high cost of living and poverty, among others.”⁴³ Protests concerned with these issues continue to take place, albeit often in the face of government resistance.

In June 2008 Social Development Minister Fatima al-Balooshi rejected United Nations figures that claimed around two per cent of Bahrain’s urban population inhabited slum-like conditions, arguing that as “part of the UN’s Millennium Development Goals there is no absolute poverty in Bahrain, it is zero.”⁴⁴ According to the United Nations Development Programme in 2010, “Bahrain has made impressive strides in its development efforts over the past few decades, achieving a high level of human development, and rising to the rank of 39 out of 182 countries.”⁴⁵

In May 2010 however the satellite news channel Al-Jazeera was prohibited from broadcasting and carrying out media activities in Bahrain after a government decree ordered it to be shut down. The government statement accused the channel of a “breach of media norms” and “flouting the laws regulating the press and publishing.”⁴⁶ The fact that the ban was announced a day after Al Jazeera broadcast a documentary about poverty in Bahrain has led activists to argue that the government remains highly sensitive to any coverage of the issue.

III. Migrant Workers

According to statistics published by the Economic Development Board in Bahrain Economic Quarterly Q1 2010, non-Bahraini workers account for around 455,000 out of a total (employed) labour market of over 593,000.⁴⁷ The figure was just over 200,000 in Q1 2002. Bahraini nationals account for approximately 138,000 of the employed workforce – this number has remained relatively constant since Q1 2002. The influx of foreign workers since 2002 has risen in line with the overall demands of the labour market. This is in contrast to employed Bahraini nationals that in Q1 2002 constituted around 35 per cent of the overall workforce, but as of Q4 2009 this has decreased to nearer 18 per cent.⁴⁸ These figures suggest that instead of increasing employment rates among Bahraini nationals in line with a growing labour market, employment policies have instead looked to foreign sources of labour to meet increasing demand.

From a socio-economic perspective employment policy has caused unemployment amongst Bahraini citizens (the employment rate has

remained stagnant as the population rate amongst working-age nationals increases) and facilitated social tension as Bahraini nationals perceive themselves to have been bypassed by employers in search of a cheaper, lower-maintenance workforce. Migrant workers employed in technical and skilled industries largely benefit from the same legal protections afforded to Bahraini nationals working in the private sector.⁴⁹ However the status of manual and unskilled foreign workers, predominantly working in the construction and domestic sectors, is much less clear and these migrant workers find their rights routinely violated.

The United States Department of State Trafficking in Persons Report 2009 placed Bahrain on a tier-two watch list, commenting that:

Men and women from India, Pakistan, Nepal, Sri Lanka, Bangladesh, Indonesia, Thailand, the Philippines, Ethiopia, and Eritrea migrate voluntarily to Bahrain to work as formal sector laborers or domestic workers. Some, however, face conditions of involuntary servitude after arriving in Bahrain, such as unlawful withholding of passports, restrictions on movement, non-payment of wages, threats, and physical or sexual abuse. In addition, women from Thailand, the Philippines, China, Vietnam, Russia, Ukraine, Morocco, Jordan, Syria, and Lebanon are trafficked to Bahrain for the purpose of commercial sexual exploitation.⁵⁰

Despite modest improvements, including Bahrain's first successful conviction for trafficking in 2008 and changes to the visa system that now allow migrant workers to change employers without the permission of their previous employer, the report pointed out that the government showed no evidence of progress in providing protection to victims or "prosecuting offences related to labor trafficking – the most prevalent form of trafficking in Bahrain."⁵¹

According to Bahrain's Migrant Workers Protection Society economic migrants in lower paid employment suffer from inadequate legal protection, nominal regulatory oversight of treatment in the workplace, exploitation by recruitment agents and arbitrary sponsorship arrangements often resulting in imprisonment and deportation. Sub-standard labour camps that fail to meet minimum industry standards in hygiene, the provision of basic amenities and facilities are described as "the rule rather than the exception."⁵² An incompetent and arbitrary judicial process for immigrant workers means that those workers brought before the courts by their employers must often survive without an income as alternative employment is prohibited. This is all the more concerning in light of the fact that many workers have families dependent upon a sole income for basic food and shelter.

Desperation amongst migrant workers often leads to self-harm and in May 2010 Migrant Rights reported on the case of four domestic migrant workers who attempted suicide in the space of a week, with two of the attempts resulting in death. Samantha Kumud (37) from Sri Lanka hung herself in her sponsors home and Mary Jane (40) from the Philippines was found dead in the swimming pool of her employers villa. Ethiopian maid Suse Abene (28) leaped from her sponsors moving car in Janabiya and suffered multiple injuries, and Edna Reyes Rosario (42), a Filipino maid, poured boiling water over herself in a suicide attempt in her sponsors home in Sitra. She was hospitalized with burns all over her body.⁵³ Unprotected domestic workers turn to suicide as exploitation and abuse leads them to believe there is little other option.

In 2004 Bahrain ratified the 2000 UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children. In concordance with this Bahraini law imposes fines from BD2,000 to BD10,000 and mandatory prison sentences of as long as 10 years for each offence. Anyone trafficking a person on behalf of a corporation faces a fine of up to BD100,000 and the same mandatory prison sentences. Trafficking of a woman or a child younger than 15 may double the fine and prison sentence.⁵⁴ Reformed labour laws however do not provide protection to almost 70,000 domestic workers, mostly women, who remain in danger of abuse, without recourse.⁵⁵ It must also be noted that since the incorporation of the January 2008 anti-trafficking statute there has been only a solitary prosecution – a case in which no Bahraini nationals were charged.⁵⁶

IV. The Role of the Royals

The lack of government transparency in Bahrain is a major cause of concern. Despite providing criminal penalties for corruption, Bahraini law does not require government officials to provide financial disclosure, nor does it grant citizens the right access to government held material. This lies in contravention of Article 19 of the ICCPR which guarantees the right of an individual of a member state to seek such information, stating: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print”. The prevailing view held by the opposition therefore is that not only is corruption rife within all levels of the government, including at its uppermost, but that such activities are subjected only to an institutional cover up which involves the highly partial judiciary and non-independent investigation committees.

According to the 2010 Index of Economic Freedom, in Bahrain:

Corruption is perceived as present. Bahrain ranks 43rd out of 179 countries in Transparency International's Corruption Perceptions Index for 2008. Corruption affects the management of scarce water resources, and significant areas of government activity lack transparency.⁵⁷

Prominent figures in the Bahraini government were implicated by the criminal investigation undertaken by the United States Justice Department into Pittsburgh based aluminium company Alcoa. The lawsuit was filed by Aluminium Bahrain BSC (Alba) in February 2008, and allegations included the bribery of senior Bahraini government officials by Alcoa.⁵⁸

Reports from non-governmental organisations in Bahrain indicate the possible involvement of former senior company officers and high ranking government ministers, including prime ministerial adviser Sheikh Isa bin Ali al-Khalifa, in the case of *Alba v Alcoa*, alleging that total bribes of around US\$2bn may have been received by some officials.⁵⁹ Activists in Bahrain call for a comprehensive and open investigation by the judiciary and Office for Public Prosecution and also claim that "leading officials accused in cases of corruption who received bribes or have taken over public lands remain not only on the loose but are clinging to their posts in complete impunity from monitoring or legal questioning, as they are either members of the ruling family or they are closely allied to one of the pillars of the regime."⁶⁰

Authorities are accused of using the press law (Law 47/2002) to restrict coverage of controversial matters including official corruption. One such case that gives credence to accusations of high level corruption and its concealment came to light on 21st March 2010 as King Hamad issued royal decree 11/2010, dismissing State Minister Mansoor bin Rajab from his position amid allegations of his participation in an international money laundering ring.⁶¹ Bahraini rights groups allege that subsequent coverage, and information regarding the particulars of the investigation, were withheld from the public due to the implication of senior al-Khalifa officials in the matter.⁶²

Additional evidence pertaining to corrupt practices at government level involves the illegal appropriation of public land by senior government figures. On 3rd March 2010 Bahrain's Council of Representatives published a report claiming that; "the areas stolen exceed 65km² from the area of Bahrain" and that "real estate designated for schools is registered in the

name of a member of the royal family.”⁶³ The report also pointed to the involvement of “several government officials, members of the ruling family and the Royal Court in the largest corruption scandal witnessed in the history of the country, which involved the taking over of land valued at US\$40 billion, some of which was earmarked for housing, educational and health projects, and public gardens.”⁶⁴

Though not the exclusive reason for relative poverty in Bahrain, the role of corrupt officials at the highest levels of government is an important contributing factor in relation to the unequal distribution of wealth, the protests of activists against institutional corruption and the undermining of Bahrain’s domestic legal system and international image.

V. Judicial Oversight

Bahrain’s supposed move to a system of constitutional monarchy has been rendered a failure in respect of the fundamental principle of separation of powers – a key element of other democratic constitutional monarchies that ensures the executive, legislative and judicial branches of government enact a division of power so as to stand in opposition to the absolute power of the Crown, parliament or any other body. The Bahraini system of checks and balances is almost non-existent; indeed there are no legally required obligations of accountability with which the ruler must comply and the constitution renders the king as head of the executive, judicial and legislative branches of government.

The king appoints all judges by royal decree and also serves as chairman of the Supreme Judicial Council – considered the highest court in Bahrain. The Constitutional Court gives final judgement on the constitutionality of laws and statutes. Membership of this court consists of a president and six members, all appointed by the king to nine-year terms. As seen in the case of Mansoor bin Rajab, in which the Office of the Public Prosecutor imposed a gag order on reporting of the money-laundering scheme⁶⁵, Bahrain’s judiciary is often seen as complicit in covering up matters involving government officials that it is argued should be subjected to public scrutiny.

Furthermore, it is apparent that Bahrain’s judiciary is unwilling to investigate allegations of torture made by many of the prisoners brought before the courts to face trial and sentencing. For many defendants the case of the prosecution often rests almost entirely upon the admission of confessions made by prisoners as evidence of guilt. Numerous defendants claim these statements have been extracted under duress. In March 2009

three Shia activists, Hassan Meshaima', Dr. Abduljalil Alsingace and Mohammad Habib al-Muqdad, appeared before the High Criminal Court along with 32 other defendants facing charges of financing and planning acts of violence with the intention of overthrowing the government.⁶⁶ The charges were suspended in accordance with a royal pardon issued by King Hamad (although this has not been published in the official gazette).⁶⁷ The case highlighted two central flaws of the Bahraini judiciary. Firstly, the basis of their collective acquittal was carried out arbitrarily and was left unexplained – a royal pardon is not required to elaborate on the legal reasoning behind both the arrest and detention of suspects, nor their subsequent acquittal. This represents both the politicisation of a judiciary that is on many occasions directed by executive orders issued by the head of state, and the lack of consistency in applying principles of jurisprudence to legal cases, as opposed to political expediency. Secondly, none of the many allegations of torture relating to evidence presented by prosecutors in the above case were investigated.

Sectarianism & the policy process

At the centre of the ruling regime's strategy for survival lies the systematic disenfranchisement of 60 to 70 per cent of Bahrain's overall population. The Shia majority is excluded almost comprehensively from the security and intelligence services, and from most government posts. Their presence in upper-level private sector positions is similarly under-represented. Shia villages on the outskirts of urban centres suffer from a lack of affordable housing and insufficient infrastructural investment. Furthermore there is evidence to suggest that the al-Khalifa government has formulated policy on sectarian lines with the specific intent of disenfranchising the Shia majority in almost every aspect of Bahraini society. This includes altering the sectarian demographic of the country, developing sectarian divisions within Bahrain and attempting to manipulate the results of the 2006 election.

I. Al-Bandar Report

In September 2006 Dr. Salah al-Bandar, then adviser to Bahrain's Cabinet Affairs Ministry, presented a 216 page report to King Hamad and the Prime Minister Sheikh b. Salman al-Khalifa in which he detailed the existence of a vast conspiracy, formulated at the highest levels of government, that involved attempts at rigging elections, manipulating Bahrain's sectarian demography and instituting complete Sunni control over the country's majority Shia population.⁶⁸ As a Sudanese-born British citizen, al-Bandar was deported to Britain in 2006 and was on 19th April 2007 convicted in absentia by Bahraini courts for his exposure of the scandal and sentenced to four years in prison.

The report implicated several senior officials including the head of the Central Informatics Organisation (CIO) and member of the royal family Sheikh Ahmed bin Ateyat-Allah al-Khalifa. Sheikh Ahmed was highlighted as the main financier, providing most of the BD1,000,000 expended upon activities of a secret group tasked with implementing an agenda designed to increase sectarian tension in Bahrain. The money was used to finance "a media group, an electronic group, an intelligence team, a newspaper, a Shia to Sunni conversion programme, and civil societies."⁶⁹ Each of these instruments was employed for a specific purpose, with the wider aim of ensuring institutional discrimination against Bahrain's Shia in all aspects of life as a secret network headed by a member of the royal family.

Despite the fact that the report contained hundreds of articles of evidence and supporting material, including cheques, hotel bills, accounting sheets and notes, incidentally more than sufficient to warrant at least an investigation under Bahraini law into the matter, no action was taken against any of the individuals implicated in the Al-Bandar Report. The government instead proceeded to implement a ban on any media discussion of the scandal and the Higher Criminal Court repeatedly ruled in favour of this decision. Numerous web sites were shut down in 2006 for mentioning the report and many of them remain blocked.⁷⁰ The media ban was enacted alongside the deportation of Dr. Salah al-Bandar.

II. Shia Exclusion

Poverty is by no means exclusive to Bahraini Shia, but a confluence of factors leads them to suffer disproportionately from high levels of unemployment and inadequate housing, as well as a deprivation of wider opportunity for political and socio-economic progression. Exclusion and inequality creates a sense amongst Shia Bahrainis that they are treated as second-class citizens in their own country, and the trend towards further exclusion seems only to be compounding the situation. As Sheikh Hamad took power in 1999 Shias accounted for around 25 per cent of high-ranking public posts. This has decreased to nearer 13 per cent as of late 2009.⁷¹ With the overall Shia population numbering 60 to 70 per cent, the regression in public representation is a major cause of social unrest. Amongst those central public institutions that have no Shias at all in senior positions are the Ministry of Defense, the National Guard, the Ministry of Interior Affairs, the Ministry of Cabinet Affairs, The Royal Court, The Crown Prince Court, the Central Informatics Organization and the Supreme Defense Council.⁷²

Not only are Bahrain's Shia discriminated against institutionally leaving many in relative poverty due to unemployment, they have no official political recourse or representation in central government to address such issues. Parliamentary representation does not lead to political change as legislative authority rests with the unelected chamber and the King. Parties, including al-Wefaq, point out that gerrymandering by the government has resulted in an unfair allocation of parliamentary seats, whereby the uneven distribution of voting districts has resulted in much fewer seats for Shia parties in both the elected chamber and parliamentary committees. Oppositional activities such as demonstrations constitute one of the very few unofficial channels through which Bahrain's majority is able to call for political change, and even non-violent activism is met with suppressive and violent reprisals from the state.

Representation of Shia in the security forces is even less proportional than in the government. The police, military and intelligence agencies are comprised overwhelmingly of Sunnis, many of them brought in from regional countries including Syria, Iraq, Jordan and Pakistan with the intention of both numerically increasing Sunni citizenship vis-à-vis Shia Bahrainis, and excluding specifically Shias from such employment. The use of foreign mercenaries by Bahrain's security services has been criticised, particularly when deployed during demonstrations and protests in which tensions run high.⁷³ The government controversially argues it is unable to trust Bahraini Shias in such sensitive positions and there is little doubt that discriminatory practices in public sector employment amounts to an illegally prejudiced policy carried out on sectarian lines. This lies in contravention of both the Bahraini constitution, which prohibits discrimination on the grounds of religion and creed, and international human rights treaties to which Bahrain is a party.

In its submission to the 2008 Universal Periodic Review carried out by the United Nations, the Asian Centre for Human Rights (ACHR) found that 'educational, social, and municipal services in most Shi'a neighborhoods are reported to be inferior to those found in Sunni communities'⁷⁴ In the same report Haq, Interfaith and the ACHR also found that Shia face discrimination 'in matters of land allocation, provision of public funding, building permits and/or authorizations for refurbishment in places of worship and mosques.'⁷⁵ In light of the current rate of unemployment and poverty amongst Shia in Bahrain, as well as the increasing number of demonstrations and socio-economic unrest in Shia villages, there is little to suggest the situation has improved since this most recent submission to the UN in 2008.

III. Political Naturalisation of Foreigners

The opposition also accuses the government of attempting to dilute Bahrain's demographic character by pursuing a policy allowing, over a long term period, tens of thousands of foreigners into Bahrain, almost wholly Sunni, and granting them citizenship, preferential housing provisions and guaranteed employment, often in the army and security services. Bahraini rights groups estimate that between 30-50,000⁷⁶ people have been granted extraordinary citizenship over the last decade. They argue that immigration and citizenship laws have been applied arbitrarily, as the vast majority of those granted residence and nationality are of Arab or Asian background, with applicants of other religious backgrounds denied entry as they are seen as incompatible with the political objectives of the government; that is to implement a policy that seeks to gradually

supplant Bahraini Shia as the majority in the country, replacing them with ideologically alike Sunnis that the government perceives as more loyal to, and less willing to question, the political status quo.

In October 2009 thousands of demonstrators formed a three kilometre human chain in Manama to protest against what opposition figures saw as attempts by Bahraini authorities to alter the demography of the country by granting citizenship to tens of thousands of Syrians, Jordanians, Pakistanis and Indians who they claim were illegally naturalised ahead of elections in 2004.⁷⁷

Significant aspects of Bahrain's social structure and top down public policy process in terms of the Shia majority represent sectarian apartheid and religious discrimination. Whilst Bahraini law prohibits discrimination on the grounds of religion or creed⁷⁸, evidence suggests that governmental policy is observing neither constitutional requirements nor international treaties including the ICERD and the ICSPCA. Not only is institutional discrimination against Bahrain's Shia population illegal and in denial of basic human rights, sectarianism is a threat to Bahrain's internal stability and economic development. It is from institutional discrimination and resultant poverty that demands for political change arise and the ostensibly sectarian nature of divisions within Bahrain must be seen in light of government policy that seeks to exclude the majority of Bahrainis from the political process.

Observing human rights

As of 2010 Bahraini authorities stand accused of arbitrarily arresting and imprisoning activists and protesters, subjecting many of those detained to torture and beatings. Political opponents and demonstrators are repeatedly denied their legal rights to freedom of protest and association as security services aim to prevent many public gatherings from taking place and suppress those that do with disproportionate force. Human rights campaigners claim that Bahrain's politicised law enforcement, comprised intentionally of foreign mercenaries and hostile Sunni elements, is the cause of violence and tension between citizens and security services. The Bahraini government is identified as ultimately responsible through its domestic policies and deployment of such forces. The government has also remained unwilling to cede its strict control of the media and continues to command coverage of events that activists argue should be a matter for public debate and investigation.

I. Torture

Bahrain acceded to UNCAT in 1998. The convention states that all state parties must 'ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.'⁷⁹ Torture is also explicitly prohibited by the Bahraini constitution which states that 'No person shall be subjected to physical or mental torture, or inducement, or undignified treatment' and any 'statement or confession proved to have been made under torture, inducement, or such treatment, or the threat thereof, shall be null and void.'⁸⁰ The Arab Charter on Human Rights also forbids the practice of torture.

As proven by several well documented cases spanning a number of years there is evidence that Bahrain has not fulfilled its domestic and international legal obligations with respect to preventing the use of torture by its own security services and further failing in many such cases to prosecute those responsible for carrying out torture. There are also instances in which confessions gained from suspects have been obtained through torture and permitted as evidence during the prosecution trials of defendants. As previously stated, the use of statements made by suspects subjected to torture is inadmissible as evidence in Bahraini courts. It should be noted that due to a royal decree issued by Sheikh Hamad in

2002, all individuals in the security forces accused of torture have been granted legal immunity from prosecution for alleged crimes related to torture previous to 2002.

The Bahraini governments historical record on prohibiting the use of torture within its borders has been extremely poor. Under the rule of Sheikh Isa al-Khalifa torture was employed routinely by the security forces to extract confessions, intimidate protesters and suppress political dissent. 1975-1999 was an era in which the state security laws were used to detain without trial or criminal charge large numbers of activists, many of whom were tortured when in custody. It was hoped that the reign of Sheikh Hamad would signal a retreat from the use of illegal practices such as torture, and the abolition of the state security laws and court in 2001 was greeted positively by activists within Bahrain and international human rights observers. Contrary to expectations that torture would be irrevocably eradicated within Bahrain, evidence suggests that, despite some improvements in this regard since he took power in 1999, torture has continued to be used habitually by the security forces.

In 2005 the United Nations Committee Against Torture expressed concerns over the lack of a comprehensive definition of torture in the domestic law of Bahrain as set out in article one of UNCAT, the absence of data on complaints of torture and ill-treatment and reports of the beating and mistreatment of prisoners during three strikes in 2003 at Jaws prison.⁸¹ Concerns were also raised in January 2008 as the BCHR reported on the case of:

Shaker Mohammed Abdul-Hussein Abdul-Al, Majid Salman Ibrahim Al-Haddad and Nader Ali Ahmad Al-Salatna, members of the Unemployment Committee, who had been arrested between December 21 and 28, 2007 by the Special Security Forces in the framework of a violent wave of arrests¹, were released on January 10, 2008 and have since then reported that they had been submitted to acts of torture and ill-treatments (beatings, verbal abuse, threats sleep and food deprivation as well as solitary confinement and prolonged use of handcuffs and eye blindfolds). The three men were released with no explanation and they remain charged of “illegal gathering” as well as “theft of a weapon and ammunition and possession of weapon and ammunition without permission”.⁸²

Human Rights Watch in February 2010 published a report in which it concluded that since the end of 2007 security personnel in Bahrain had carried out torture on numerous occasions for the purpose of extracting confessions from suspects held in custody.⁸³ Of additional concern is the

recognition of such practices as systemic within Bahrain's penal system. The report found that since December 2007 Bahraini security forces have:

- used electro-shock devices against detainees;
- suspended detainees in painful positions;
- beat detainees' feet with rubber hoses and/or batons;
- slapped, punched, and kicked detainees, and beaten them with implements;
- forced detainees to stand for prolonged periods of time; and
- threatened detainees with death and rape.⁸⁴

Experts identify Bahrain's General Directorate of Criminal Investigations (CID) as the agency responsible for the vast majority of cases involving the torture of those imprisoned in the capital Manama.⁸⁵ The CID reports to the Ministry of Interior, which in turn administers jails and detention facilities under the supervision of the Ministry of Justice. Officials and Ministers deny that torture is commonplace within Bahrain's penal system.

Such practices are in flagrant violation of domestic and international law and amount to torture under the Bahraini constitution, the national criminal code and international treaties. Human Rights Watch received no response to correspondence that it sent to the Ministry of Interior and Ministry of Justice, naming those alleged to have participated in torture and requesting information regarding the extent, if any, of the investigations undertaken into the actions of those individuals identified by victims in Bahrain.

II. Freedom of Assembly, Protest and Association

Many of those subjected to ill treatment in custody are human rights activists and demonstrators. Protestors are routinely arrested, detained and tried for public order offences, often for little other than exercising their legally protected right to protest. In recent months Bahraini security forces have shot at several young men during demonstrations that typically take place in the poorer Shia villages and suburbs of Bahrain where unemployment and poverty are at their most acute. Bahrain's constitution indicates that 'public meetings, parades and assemblies are permitted under the rules and conditions laid down by law, but the purposes and means of the meeting must be peaceful and must not be prejudicial to public decency.'⁸⁶

On 17th May 2010 Hasan Ali Darwish suffered severe injuries in the village of Karkazan as security forces used live shotgun ammunition to disperse protestors. The twenty year old was left with a punctured lung and internal bleeding. According to the Bahrain Center for Human Rights, such occurrences are commonplace, as teargas, live ammunition, and rubber bullets are routinely employed by mercenary security forces sent to confront protestors.⁸⁷ In May 2010 Amnesty International called upon the Bahraini authorities to investigate the shooting of Hassan 'Ali who received shotgun wounds during a protest in the village of Karzakan. Hassan 'Ali claims he was not involved in the protests and was shot when outside his grandfathers house.⁸⁸

An event to protest against land theft was scheduled to be held on 14th May 2010 but had to be abandoned after the Interior Ministry refused to grant permission to the political associations concerned.⁸⁹ Article 21 of the ICCPR protects the right of freedom of assembly, but authorities circumvented this edict by invoking Bahraini Law 32 of 2006 which requires the organisers of any public meeting to notify the head of Public Security at least three days in advance, ostensibly in the interests of ensuring public order. The law further authorises the official to determine whether a meeting warrants police presence on the basis of "its subject ... or any other circumstance." The law stipulates that organisers are responsible for "forbidding any speech or discussion infringing on public order or morals." What specifically constitutes "public order or morals" is left undefined.⁹⁰

Protests are a regular occurrence in Bahrain and the Interior Minister Lieutenant General Sheikh Rashid b. Abdulla al-Khalifa argued that all force used against protestors, including live ammunition, was proportionate to the threat faced by the security forces.⁹¹ Evidence suggests however that in the vast majority of cases protestors have been completely unarmed, and that tyre-burning and marching whilst shouting anti-government slogans is insufficient provocation on the part of the demonstrators to warrant the use of live ammunition by the security forces.

The International Federation for Human Rights (FIDH) and the Arab Institute for Human Rights (AIHR) point out that in Bahrain, 'freedom of association is restrictive and gives the authorities a wide scope of control regarding the formation of an association.'⁹² Many associations and independent non-governmental organisations in Bahrain suffer from harassment by the authorities due to what the governing regime perceives as a threat to its own rule posed by political dissent.

In 2009 Haq party leaders were imprisoned on terrorism related charges that were suspended after protests.⁹³ The Bahrain Center for Human Rights was closed by the government in 2004 and had its website blocked after it circulated the Al-Bandar report and just before the commencement of the 2006 elections. In September 2009, Mohammad al-Maskati, president of the Bahrain Youth Society for Human Rights, was charged for operating the organisation without having officially registered it and he faced imprisonment of over 6 months.⁹⁴

In a disturbing long-term trend evident throughout Bahrain's history under al-Khalifa rule, the authorities arbitrarily arrest and detain members of the opposition and independent civil society groups with little legal justification, before either acquitting or pardoning them with no reasonable explanation offered for their initial imprisonment. This policy is carried out with the intent of disrupting oppositional activities and tarnishing the character and intentions of individual activists to damage their credibility in the wider view of national and international observers. Article One, clause (e) and Article 27 of the 2002 Constitution of the Kingdom of Bahrain guarantee the right of freedom of association including political associations, trade unions and non-governmental organisations, as does the ICCPR.

Recommendations

In light of the findings of this report, IHRC recommends the following:

To the Government of Bahrain

Recognise and enforce the demands for democratic reform as demanded by the majority of Bahraini people. This includes a re-instatement of the legislative authority of the elected Chamber of Deputies.

Investigate and eradicate all instances of corruption alleged to have taken place by senior members of the government and other public officials. Such cases should be held to public and judicial accountability.

Provide domestic migrant workers with the same legal protection afforded to other foreign workers and Bahraini citizens. The government should also work to ensure that employers abide by Bahraini law at all times in their treatment of migrant workers, including ensuring fundamental human dignity and legal rights in the workplace.

End illegal discrimination in all matters pertaining to Bahrain's Shia majority. Socio-economic and political policy must observe domestic and internationally recognised standards of equality and fairness. The government should also re-consider its current stance on Shia employment in the country's security apparatus and end all discriminatory practices on sectarian lines in Bahrain, including but not limited to employment, local investment, violent confrontation and politically motivated demographic engineering.

Re-examine the fundamental requirement of judicial independence and ensure that all defendants are granted access to a fair and public trial. All allegations of confessions obtained from prisoners under duress should be investigated and, if found to have been acquired by coercion, such statements should remain inadmissible in court and all those involved in torture investigated and punished, in accordance with Bahraini law.

Comply with domestic and international law that prohibits the use of torture in all circumstances and promulgates the investigation and prosecution of offenders found guilty of ordering or partaking in such practices.

Cease the intimidation of protestors and the use of disproportionate force to confront demonstrators. All legitimate protests should be permitted to take place without arbitrary restrictions and impediments.

Release all political prisoners imprisoned ostensibly on security grounds but defined by international human rights organisations as prisoners of conscience.

Respect the right of the press to discuss and debate issues deemed important to the public interest in an environment free of government censorship and media control.

To the International Community

Question Bahrain's human rights record in light of the fact that it is a member of the United Nations Human Rights Council.

Refrain from presenting Bahrain as a model of reform in the region. Despite some modest improvements the country remains fundamentally undemocratic with government policy designed to exclude the majority of people from the political process.

Exploit Bahrain's economic success by applying pressure upon the government to observe fundamental human rights and democratic reform as belies its position as one of the regions most well developed and liberal economies. Economic development aided by international cooperation and integration must be considered in the context of the domestic human rights situation in Bahrain.

Western governments including the United States, the United Kingdom and France should reconsider their security ties with Bahrain in light of the fact that many of the security forces trained in Bahrain by western governments go on to participate in the torture of detainees and use disproportionate force against legitimate and peaceful protestors.

Appendix A: IHRC work on Bahrain

IHRC's front of scene work on Bahrain includes the following. More details on all of these can be found on our website www.ihrc.org.uk.

Advocacy

Trial Observer Visit of barristers David Gottlieb and Osama Daneshyar, March 2009.

IHRC took up the case of the three prominent human rights activists who were arrested on 26 January 2009. Mr Hassna Mushaime, the Secretary General of Haq Movement, Sheikh Mohammad Habib Al Miqdad, a prominent religious figure and public orator and Dr Abdul Jalil Al-Singace, a university lecturer. IHRC arranged for two barristers Osama Daneshyar and David Gottlieb to visit Bahrain to monitor the trial which was held on 24 March 2009.

Trial Observer visit of Abed Choudhury, October 2009

IHRC sent Abed Choudhury to monitor the trials of the 19 men in the so-called Karzakan and Ma'ameer cases. See link to report below.

Trial Observer visit of Abed Choudhury, June 2010

IHRC sent Abed Choudhury to monitor the end of the trial, judgment and sentencing of the Ma'ameer 10.
See link to report below.

Campaign

BREAKING NEWS / PRESS RELEASE: Bahrain – 7 of 10 Ma'ameer detainees found guilty and sentenced to life
5 July 2010

Action Alert: Bahrain – Bahraini authorities close down Nursing Union
24 March 2010
Bahrain authorities close BNS after firing live ammunition at unarmed demonstrators.

URGENT ALERT: Bahrain – Director of Bahrain Youth Society for Human

Rights charged under controversial 1989 Law on Societies
12 November 2009

URGENT ALERT: Bahrain – Bahraini authorities prevent Dr Abdul Jalil Al Singace from travelling outside the country
29 April 2009

Update Alert: Bahrain – Haq Movement leaders on trial in Bahrain
26 February 2009

PRESS RELEASE: Bahrain – Haq representative Dr Abdul Jalil Al-Singace on hunger strike with others in protest of arrest of political activists
20 February 2009

Alert Update: Bahrain – Haq Movement representative Dr Abdul Jalil Al-Singace on hunger strike with several others to protest detention of political activists
17 February 2009

Alert Update: Bahrain – Haq Movement representative Dr Abdul Jalil Al-Singace and others face trial on 23 February 2009
13 February 2009

URGENT ALERT: Bahrain – Haq Movement representative Dr Abdul Jalil Al-Singace arrested
27 January 2009

PRESS RELEASE: Bahrain – Haq Movement representative Dr Abdul Jalil Al-Singace arrested
27 January 2009

UPDATE ALERT: Bahrain – Five detained human rights activists excluded from general amnesty
7 August 2008

URGENT ALERT: Bahrain – Detained human rights activists given harsh jail sentences
25 July 2008

ALERT: BAHRAIN – Youths referred to court after being subjected to torture
8 May 2008

URGENT ALERT: BAHRAIN – Detained Human Rights Activists

Continue to be Ill-treated
23 April 2008

URGENT ALERT: BAHRAIN – Medical Report Asserts Torture of Human Rights Activists
22 April 2008

URGENT ALERT: BAHRAIN – Human Rights Activists Collapse After Hunger Strike
2 April 2008

URGENT ALERT: BAHRAIN – Detained Human Rights Activists To Appear in Court on Monday
14 March 2008

Press Release: Bahrain – Detained Human Rights Activists in Court Session
22 February 2008

Press Release: Bahrain – Detained Human Rights Activists Continue to be Ill-treated
15 February 2008

URGENT ALERT: BAHRAIN – Human Rights Activists Detained and Ill-treated
15 February 2008

Press Release: Bahrain – Human Rights Activists Detained and Ill-treated
6 January 2008

Prisoners of Faith campaign – Sheikh Al-Jamri, 1997 - 2001

Research

Bahrain: Submission to the UN Universal Periodic Review, 2006

Report of the Trial Monitor in the Karzakan and Ma'ameer cases, Bahrain, 2009, ISBN 978-1-903718-66-7, 13pp., November 2009

Report of the Trial Monitor in the Ma'ameer Cases, Bahrain, 2010, ISBN 9781903718704, forthcoming, August 2010

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between the rulers and the ruled. As Nakhleh puts it, Sheikh Isa “viewed the Constitution as a gift from him to the people – an expression of royal benevolence.” (See Emile A. Nakhleh, “Political Participation and the Constitutional Experiments in the Arab Gulf: Bahrain and Qatar,” in Tim Niblock (ed), *Social and Economic Development in the Arabian Gulf* (New York, USA: St Martin’s, 1980) pp. 166-167).

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"This extensive new report provides an unparalleled overview of the deteriorating political, economic and human rights conditions in Bahrain, bringing together the escalating trends of government repression, widening inequalities, institutional discrimination and state-sponsored sectarian tensions into a disturbing picture of a country in crisis. The report challenges the widespread image of Bahrain as a model of regional success, and demonstrates clearly that without urgent reforms - outlined in the form of a set of comprehensive recommendations - Bahrain will face intensifying social and state failure over the coming decade, with deleterious consequences for regional and international security. As such, this report is essential reading for policymakers, scholars and practitioners working on issues in the Middle East and Gulf regions."

Dr Nafeez Mosaddeq Ahmed, Executive Director, Institute for Policy Research & Development; author, *A User's Guide to the Crisis of Civilization*

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