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The Political and Institutional Reform Process in Bahrain: A Catalyst for the Gulf-states

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1. Introduction

The current political and institutional reform process in Bahrain is in many ways unique and is likely to serve as a catalyst for further reform in the Arab world. Confounding expectations the incumbent power elites have themselves voluntarily initiated reform of the political system in the country, albeit in response to popular demand for greater participation and greater accountability. Just a few years ago, no one would have believed that such sweeping political transformation was possible in Bahrain or in any other country in the region within this short time frame. The extreme conservatism of the Arab world's political practices and social environment seemed to have rendered it impervious to the winds of change blowing in from different parts of the world since the 1990s. Nevertheless, in 2001 the Bahraini political elites set in motion far-reaching political reforms which marked a turning point in the political history of the country. The reforms, despite their imperfections, have profoundly transformed the political landscape in Bahrain. Bahrain is the only country in the Gulf-states that has transformed its traditional Emirate political system into a modern constitutional monarchy, which - on the surface, at least - seems to be a major step forward. This is particularly remarkable considering the deep-rooted and rigid autocratic background against which the political reform process has been initiated.

The political reform process in Bahrain was orchestrated by the established power elites as a tightly controlled top-down process and was implemented gradually and in a piecemeal manner. This contrasts strongly with the situation in Iraq where the established power elites were destroyed and new ones were created in a political vacuum. In this regard Bahrain and Iraq represent opposite ends of the contemporary political reform spectrum in the Middle East. Nonetheless, despite their different political transition trajectories there are important lessons that can be learned from both situations.

As yet, there is no national consensus in Bahrain on the most appropriate policy strategy to carry out the reform process. The government and the opposition are divided into two uncompromising camps on the issue of how to proceed further. The government is pursuing a strategy of gradual and piecemeal political reform for 'orderly' transition, whereas the opposition is keen to seize the momentum and is demanding immediate and wholesale reform of the political system.

It is too early to predict which of the strategies is best suited to carrying the political reform process forward without endangering the fragile political stability in the country. Perhaps, keeping in mind the specificity of the current social environment in Bahrain, it may be necessary to find a compromise formula designed to consolidate and build on the positive achievements so far gained from the reform process. On this issue Bahrain and other countries in the Middle East can learn something from the recent experiences of Eastern European countries. However, a word of caution is needed here: political transformation in most Eastern European countries was rapid, dramatic and revolutionary in nature because of the collapse of the communist state system. This rapid change is not likely to suit the current negotiated transitions in Bahrain and other countries in the Middle East. In the Middle East, it is highly probable that negotiated transitions may have a greater potential to bring about

fundamental and lasting political change if they are evolutionary and are implemented in a gradual and incremental manner.¹

The impact of the political reform process has been felt on different fronts in Bahrain. In particular, the drafting of the National Action Charter and the popular referendum upon which the Constitution Building Processes (CBP) was based have helped heal social divisions in Bahraini society. For instance, the bargaining of the important stakeholders and the popular participation in designing the National Action Charter have been a great success. The negotiating process resulted in a compromise formula that diminished violent social tensions, brought political stability, opened up limited political participation to the public and legitimised the government in the eyes of the outside world. In this respect, Bahrain has achieved a remarkable success.

The impact of the political reform was also felt beyond Bahrain, with neighbouring countries such as Saudi Arabia closely and apprehensively monitoring the process. More importantly, the American government now refers to Bahrain as a model of political freedom and democracy in the Gulf-states and frequently urges other countries in the region to look to Bahrain for guidance and inspiration. There is no doubt that today Bahrain is at the forefront of the political and institutional reform process in the Gulf-states. This makes Bahrain a perfect place to observe the dynamics of the contemporary top-down political reform process as it is unfolding in the Middle East. This is particularly significant as Bahrain is now going into its second parliamentary elections, which are scheduled for October 2006.

There are practical lessons that can be learned by other countries in the region from the Bahraini experiment in political reform. Urgent action is needed on the proposal of the International IDEA to organise a regional conference on the Constitution Building Processes (CBP) in the Middle East. Such a conference would enable the countries in the region to learn from each other and exchange experiences of the political reform process with respect to achievements and best practices, positive examples, innovative ways of overcoming practical challenges and set-backs that are inherent in the transition processes.

This report is divided into three parts. The first part briefly outlines the political background under which the current political and institutional reform process has taken place. The second part discusses the manner in which the political reform process was carried out. The third part considers the impact of the CBP on political transformation and democracy building in Bahrain and the challenges to be addressed.

¹ According to Baaklini, Denoeux and Springborg, "In the Arab world, a sudden lifting of political controls would probably transfer power to radical, anti-Western forces – not to committed democrats. Polarization between entrenched governments and Islamist oppositions virtually guarantees that a dramatic opening would result not in stable democracy but in instability and violence. Significantly, in the two Arab countries that experimented with rapid democratization – Algeria and Yemen – the results proved unsustainable.... In this context, negotiation, gradual incorporation of social and political forces, and progressive enhancement of the prerogatives of the legislature provide a viable path of democratization". See further, *Legislative Politics in the Arab World: The Resurgence of Democratic Institutions*, (London: Lynne Rienner, 1999).

2. Political Background

Bahrain is a tiny country consisting of a 33-island archipelago in the Persian Gulf located between the Qatar peninsula and Saudi Arabia. The population of Bahrain is about 700,000 of whom 200,000 are foreign workers. The native Bahrainis, who are all Muslims, are divided by religious denominations and cultural habits and practices. Seventy percent of the population are Shiite Muslims while 30% are Sunni Muslims, however the Sunni minority, which includes the royal family, have ruled over the Shiite majority for centuries. Furthermore, the social and human rights of the foreign workers in Bahrain are often violated because of the marginal position of the migrant workers in the social hierarchy of the Bahraini society. In 2002 the official name of the country was changed from the State of Bahrain to the Kingdom of Bahrain. In other words, Bahrain changed from an Emirate into a constitutional monarchy.

The political background relevant to the current constitution building process in Bahrain can be better appreciated if it is placed within the context of the country's short history of statehood. Bahrain became an independent country on August 15, 1971 having been a British protectorate for more than a hundred years. Afterwards, the Al-Khalifa family, who had already been de facto rulers of Bahrain since 1783, took control of the country.² However, the Al-Khalifa dynasty had to share some of their power with the public in order to avoid being seen as an absolute monarchy. The departing British Administration insisted that the Al-Khalifa ruler had to grant limited participation in the political affairs of the new state to the public. This conformed to the more general tendency of decolonised countries to imitate and adopt the governance system of the departing colonial power. Bahrain was no exception although the domestic social context was different. In addition, there were also growing domestic demands for democratic rights and more civil liberties. Particularly, the sympathisers of the National Front for the Liberation of Bahrain, banned during British rule, were adamant in their demands for the opening of a political space to the public. The combination of all these factors pressurised the Emir Sheikh Isa bin Salman Al-Khalifa to announce the establishment of a constitutional form of government in the country. Six months later, the Emir authorised by decree the formation of a Constituent Assembly that was mandated to draft the first constitution for the state of Bahrain. In December 1972, the first national election was held in Bahrain with the electorate being restricted to male citizens, as women were not allowed to vote or stand for election.³ Thereafter a Constituency Assembly of 42 individuals was formed.⁴ The individuals entrusted with drafting the constitution mainly represented the interests of the political elites and educated professionals such

² For a more detailed account, see Fuad Khuri, *Tribe and State in Bahrain*, (Chicago: University of Chicago Press, 1980).

³ At that time, some women's groups openly protested against the disfranchisement. They submitted a petition to the Emir requesting that voting rights be extended to female citizens but it was declined. Interview with Munira A. Fakhro, Associate Professor, University of Bahrain, March 2, 2005.

⁴ The Constituency Assembly consisted of 22 representatives directly elected by the people, 8 persons appointed by the Emir and 12 ministers who acted as ex-officio members. It is important to note here that the representatives elected by the people were the majority in the Constituent Assembly that was entrusted with the task of drafting a constitution for the country. This is an important point because the new constitution of 2002 which is at the heart of the current political crisis in the country is seen by many, and particularly the opposition, as having been drafted unilaterally by the government. According to them, this act violates the constitution of 1973, since the elected representatives of the people were not involved in its amendment and thus the constitution of 2002 is illegitimate.

as businessmen, religious figures, intellectuals, tribal notables, etc. Women were not represented.

In 1973 the Constituent Assembly after long deliberation endorsed the new constitution of the country and submitted it to the Emir.⁵ Subsequently, the Emir ratified and promulgated the constitution in June 1973. The constitution stipulated a wide range of civil liberties and political rights and called for the establishment of a National Assembly.⁶ This then paved the way for the election of a National Assembly in December 1973. As with the Constituent Assembly election, the electorate was once again restricted to male citizens as women were excluded from nomination and voting. As political parties were prohibited, the elected representatives were all independent candidates who pursued diverse and contradictory political interests. Their power base in society was also thin and fragmented. Nevertheless, the divergent political positions and aspirations of the assembly members could be grouped into three distinctive power camps. These were the People's Bloc comprised mainly of leftists and Arab nationalists; a Religious Block composed of teachers and religious court judges who were mainly from rural constituencies; and an Independent Middle group which stood between the government and the two blocs. In short, the National Assembly in the parliament of 1973 was composed of 30 elected representatives and 14 ex-officio cabinet ministers.

The Constitution of 1973

The constitution of 1973 made provision for a unicameral parliament in which the National Assembly members, both elected and appointed, sat together. Moreover, the constitution limited the legislative powers of the National Assembly, denying it the power to initiate or enact legislation. The assembly was only authorised to give advice, and consent to laws proposed by the Council of Ministers. Furthermore, the constitution stipulated that the Emir could dissolve the National Assembly at his discretion, after which new elections were to be held within two months. However, if the elections were not held within these stipulated two months the dismissed National Assembly should be reinstated as the dissolution would become null and void. In the parliament, although the National Assembly had no constitutional power to block the government from enacting legislation, it had the right to question policy issues and debate motions. As a result, the relative opening of the political arena encouraged lively and unprecedented public debates, which attracted wide interest among the public. The government was, however, less happy with what it saw a threat to its legitimacy. According to one of the National Assembly members interviewed, many issues were fiercely debated in parliament during that period. However, three issues were decisive in the dissolution of the National Assembly. The first issue to be seriously questioned by parliament was the unlawful distribution of land, which the Al-Khalifa family treated as if it was their private property rather than the property of

⁵ A point to note here is that in contrast to many other post-colonial countries, the text of the constitution of Bahrain was formulated by the Bahrainis themselves with the support of legal experts from Egypt and not by the departed British colonial power. The importance of this fact is that the constitution of Bahrain is an institutional framework which largely affirms the principles and values grounded on the indigenous cultural, religious, political and legal traditions of the people of Bahrain.

⁶ There were however serious deficiencies in the constitution as there were no specified laws against the political and economic discrimination under which the Shiite community in the country had suffered over the last three decades. Also, there were no specific laws ensuring equal opportunity for all. See the Constitution of the State of Bahrain, published in the Official Gazette, December 6, 1973

the people. This unlawful distribution of land is still practised by the ruling family and its entourage. The second issue was parliament's call for a limit on the expenditure of the Al-Khalifa family which was extravagant considering the meagre national resources at the time of independence. The third issue opposed by parliamentary legislators and which they attempted to block was the State Security Law, which empowered the Minister of the interior to order the detention of political suspects for three years without charge or trial. In a remarkable display of unity, the National Assembly members overwhelmingly supported a motion tabled by the representatives of the People's Block demanding that the proposed state security decree be ratified by parliament before its implementation. As a result of the heated debates in parliament over these issues the Al-Khalifa family began to fear that the National Assembly was bent on eroding the moral legitimacy of the monarchy and ending its rule over the country. This resulted in a tussle between parliament and the Al-Khalifa family which finally led to a showdown. In August 1975, after returning from its summer break, the Emir dissolved parliament on the ground that the National Assembly refused to cooperate with the government. However, although the constitution stipulated that new elections had to be called within two months after dissolving the parliament, this did not happen. One year later, in August 1976, the Emir announced that the parliament would remain dissolved for an indefinite period of time.⁷ The Al-Khalifa family then ruled the country without a parliament from 1975 to 2002.

There are three observations that can be made regarding the failure of this first constitution building process and the short-lived experiment with a parliamentary-based government in Bahrain. The first observation is that there was no real attempt at constitution building in the country. The whole exercise was intended to bolster up and legitimise the political dominance of the Al-Khalifa family.⁸ The second concerns the lack of political parties with a significant social base. The representatives in the National Assembly were largely heterogeneous individuals pursuing narrow political goals rather than any collective broad-based or national objective. This remains an issue as political parties are still outlawed in Bahrain. The final aspect was the limitation imposed on parliament's powers to legislate. The foremost duty of the parliamentarians is to draft and pass laws and to supervise the executive branch of the government. All these shortcomings have contributed to the failure of the constitutional form of government in Bahrain that lasted from 1973 to 1975.

Authoritarian Governance

The failure of the constitution building process in Bahrain resulted in the country being governed by royal decree rather than constitutionally based law. The rule of law was replaced by the decree of the Emir as authoritarian governance was instituted in the country, and this lasted until 2002. Immediately after parliament was suspended,

⁷ Interview with Ali Qassim Rabia, an elected member of the National Assembly in the parliament that was dissolved in 1975. Manama, February 27, 2005.

⁸ As a Bahraini scholar interviewed put it, "the 1973 constitution was a power arrangement which legitimised the rule of the Al-Khalifa family in exchange for a very limited participation of the public in the political affairs of the country. It was also a form of a contract which the Emir pledged that he would take care of the welfare of the Bahraini people by ensuring that they would get a share from the wealth of the country. In this respect, the ruling family bought the loyalty of the people by offering houses, free medical care and lavish social welfare which they could afford during that period because of the huge revenues derived from the sale of the oil. Furthermore, the population growth was not as explosive as it is today". Interview with Professor Baquer S. Al-Najjar, University of Bahrain, March 2, 2005.

the government imposed a state of emergency on the country. Furthermore, the Emir passed a succession of decrees nullifying many of the articles in the constitution that guaranteed basic civil liberties and political rights such as freedom of expression, freedom of association and assembly, and the right to organise peaceful demonstrations. The Emir also passed decrees which expanded articles of the penal code giving the state security courts the power to arrest political suspects, to detain them without the right of appeal and without trial and also to force them to go in exile. This repressive state practice which was in fact an unconstitutional rule by decree has already been comprehensively documented elsewhere.⁹ The unconstitutional and repressive state policy alienated a large section of society, particularly the Shiite community who reacted with defiance. This led to widespread unrest and increased hostility towards the government. As a consequence, Bahrain endured terrible social upheavals for more than two decades which hampered its progress, economic development and political stability. During the 1990s in particular, Bahrain experienced sporadic acts of sabotage, protests and massive unrest. For example, in 1994, social unrest exploded into clashes that left more than 40 people dead, while thousands were arrested and hundreds exiled. Given that the country has a population of only 700,000 the magnitude of this unrest is evident. That unrest was exacerbated by the arrest of prominent individuals who had petitioned for the restoration of democratic institutions in the country such as the National Assembly. These prominent individuals undertook this action in order to ease the political tensions crippling every aspect of life in the country.¹⁰ However the crackdown on the protests by the government led to a further deterioration of the political situation, and as the suppression intensified, the people became demoralised, restive and disoriented while the country became paralysed. The prolonged resistance and unrest among the people and merciless government repression after 1975 left the country in a state of domestic siege, facing economic bankruptcy and international isolation. It was against this oppressive and authoritarian political background that the transition which set in motion the current constitution building process in Bahrain came into being in 1999. Since then Bahrain has begun the process of transformation from an authoritarian regime to an emerging democracy or a controlled democratic system of governance.¹¹ The following section outlines some of the decisive elements that precipitated the political process of transition which effectively marked a turning point in the history of Bahrain.

⁹ For a comprehensive discussion of this aspect, see Human Rights Watch, 'Routine Abuse, Routine Denial: Civil Rights and the Political Crisis in Bahrain', New York, 1997

¹⁰ According to one of the prominent individuals who issued the petition, "the situation at the time was so bad that at times there were 2000 people in jail in a single day. And this is a country where most of us know each other by name because of our small population." Interview with Hisham Shihaby, Manama, February 27, 2005.

¹¹ This assertion however needs to be qualified as it depends on whom you ask since the reactions are mixed. The government describes the transition in Bahrain from Emir to a constitutional monarchy as democratic. By contrast, the opposition depicts the transition as a move from an Emirate to an absolute monarchy and, consequently, as undemocratic. Accordingly, although the transition has not promoted democratic culture it has certainly improved the oppressive political climate in the country in a significant way.

3. The Context of the Transition in Bahrain

The political transition in Bahrain was a response to intense popular pressure and a protracted domestic uprising, pressure from abroad and also the personal and political interests of the new king. The combination of these three factors encouraged the government to initiate a political reform process which would reverse the repressive authoritarian governance instituted in 1975 after the suspension of parliament. The complex domestic problems manifested themselves in persistent political violence, a constitutional crisis, an oppressive authoritarian regime, social fragmentation, sectarian tensions and economic stagnation. The pressure arising from this mutually reinforcing complex of factors could not be ignored by the government. In 1999, when the new king Sheikh Hamad bin Isa Al-Khalifa came to power, the country had already been brought to its knees by these problems. As noted above, since the 1980s, Bahrain had experienced recurring political unrest that had occasionally erupted into violence sparked off by the power struggles between government and opposition. The violent confrontation between the government and the opposition at the time had escalated dramatically and had it been allowed to continue, would have led to further upheavals that could have seriously disrupted the stability of the country. There was also pressure from abroad exerted by government allies, with the US and the UK along with the exiled opposition Bahrainis, pressurising the government to liberalise the country's political system. On top of these internal and external pressures, the new king both for personal and political reasons, was also keen to introduce a reform agenda and thus to change the political direction of the country.

Complex Domestic Pressures

The political reform agenda, despite being a strictly controlled top-down process, was initiated in order to find solutions to the complex and accumulating domestic crises that had plagued Bahrain for a quarter of a century. The reforms were initiated to diminish the enduring political tensions in the country and in this they have to a large extent succeeded. The violent conflicts in Bahrain have now ceased, at least temporarily, as both the government and the opposition have opted to resolve their political differences by non-violent means. However, there are obvious latent social tensions that remain simmering and which could still destabilise the fragile political stability in the country if they are not adequately addressed. This is the stage of the conflict cycle in which Bahraini society now finds itself.

In addition to the persistent political violence, the political reform process was set in motion to address the constitutional crisis and the oppressive authoritarian regime that had been the source of the violent conflict in the country since 1975 when the first constitution of the country was abrogated and the parliament was dissolved. The authoritarian system of rule has now been transformed into a system of parliamentary governance which is participatory to a certain extent. However the amendment of the new constitution is still a potential source of dispute between the government and the opposition. Furthermore, the constitutional reform process was initiated in order to find a solution to the social fragmentation and sectarian tensions that divided the tiny population of Bahrain into Sunni and Shiite camps. There is still a very deep mistrust between the two communities which had been exploited by the ruling Sunni royal family in order to accentuate a widening political and economic divide among them over the past two decades. However, although the relationship between the Sunni and

Shiite communities has improved since the initiation of political reform, sectarian tensions remain that have yet to be resolved. For instance, the Shiite community still suffers from a wide range of discriminatory practices relating to issues such as participation in the political system, employment and appointment to government jobs.¹²

In addition to the political and social crises, the stagnation of the economy was also a matter of concern. The economy had come to a standstill with the exhaustion of the country's oil resources while investors were staying away because of the prevailing instability of the political situation. Worryingly, given the depth of the economic crisis, population growth was outstripping the number of available jobs and much of the population lacked any form of social protection. The rampant unemployment particularly affected the Shiite community which constitutes, what the Bahraini Human Rights Society calls, the country's *underclass*.¹³ Shiites comprise 70% of the total population and yet it was estimated at the time that more than 30% of them were unemployed. Many of the unemployed youth were resentful and frustrated and as such they constituted a human time bomb which could not be ignored.

Pressures from Abroad

The combined pressures of all these complex and accumulated domestic crises precipitated the launch of the current transitional process in the country. But there were also pressures from outside that the new king and the government could not ignore. The West was demanding political reform so as to prevent impending social turmoil aggravating the political situation in the country and jeopardising its geopolitical and strategic interests in the area.¹⁴ Particularly, the Americans whose Fifth Fleet had been headquartered in the Persian Gulf in Bahrain since the start of the first Iraq war in 1990 were adamant because of the high stake they had in the country. Britain also has an air force base in Bahrain. However, while the Americans demanded political reform that would diffuse the social tensions and thereby protect their strategic interests, they did not seek the far-reaching political reform now demanded by the opposition.¹⁵

Pressure on the king and government was also being exerted by international organisations such as Human Rights Watch and Amnesty International through their respective publications and lobbying and advocacy campaigns in the international arena.

¹² Interview with Sayed Radhwan Al-Mosawi, Secretary General of the Islamic Action Society, Manama, February 28, 2005. For an extensive analysis of how the Shiite community is systematically discriminated against and marginalised, see the recent report of the International Crisis Group, "Bahrain's Sectarian Challenge", Middle East Report No.40 – May 6, 2005.

¹³ 'Underclass' is the term that the Bahraini Human Rights Society uses to highlight the magnitude of the problem and the systematic marginalisation meted out to the Shiite community over the last three decades. Interview with Abdulnabi Alekry, Bahraini Human Rights Society (BHRS), Manama, March 1, 2005.

¹⁴ Bahrain is located in a central position among the Persian Gulf countries, making its stability a matter of great importance. The proximity of Bahrain to Iran on the one hand, and Saudi Arabia on the other, gives it a very significant strategic value to the West that should be protected at all costs.

¹⁵ Americans were not prepared to push through far-reaching political reform that would result in radical Islamists taking power and eventually compromising their strategic interests in Bahrain. Interview with Ebrahim Sharif Alsayed, National Democratic Action Society (NDAS), Manama, February 27, 2005. This is one of the four political societies that have boycotted the national parliamentary elections held in October 2002. Formal political parties are still forbidden in Bahrain. However, the government permits political societies or groupings to operate and organise activities in the country.

Some of the publications by these human rights organisations were instrumental in exposing the serious human rights abuses in Bahrain including arbitrary and prolonged detention and torture, to the outside world.¹⁶ Bahrainis in exile, particularly those Bahraini dissidents exiled in Britain, such as the London-based Bahrain Freedom Movement (BFM), also lobbied hard to galvanise international support which in turn put considerable pressure on the king and the government to improve its pitiful human rights record.¹⁷ The international human rights organisations mobilised powerful international forces and countries that left the king and the government of Bahrain with only one option. If they wanted to avoid international isolation (to which the ruling elites are highly sensitive) they would have to address seriously the human rights crisis in the country.

The Reform Agenda of the King

For both personal and political reasons, the new king, Sheikh Hamad bin Isa Al-Khalifa, was planning to institute reforms while he was still a Crown Prince. On the personal side, when Sheikh Hamad became Emir after the death of his father, he inherited a kingdom but very little independent power. His father Sheikh Isa bin Salman Al-Khalifa had been content to be an Emir and had delegated most of his executive power to his younger brother, Sheikh Khalifa bin Salman Al-Khalifa. In so doing he effectively reduced the power of the Emir to that of a purely nominal head of state. Real power resided with Sheikh Khalifa bin Salman Al-Khalifa who, as Prime Minister, became the de facto ruler of the country from 1975. From that period onwards, it was the Prime Minister through his government who ran the country as an absolute autocrat. When Sheikh Hamad took over from his father, he realised he was powerless, and being a very ambitious person, he wanted sufficient power to exercise his authority. The political reform agenda in Bahrain was ambitious in design as the intense popular pressure and the complexity of the political crisis could not have been easily handled and regulated through an incremental process. It was to this end that the king set about reforming the fundamental distribution of power within the kingdom.¹⁸ This was one of the aspects that made the reform of the political system in Bahrain possible. Hamad then initiated a reform programme which was to transform the kingdom from a hereditary Emirate into a constitutional monarchy. This initiative was primarily in his own interest as, by becoming a constitutional monarchy he would secure the political power he needed to execute his programme for political and institutional reform. Emir Hamad bin Isa Al Khalifa was eventually proclaimed king in February 2002. Hamad had transformed himself from Emir into a king and had regained some of the powers that his father had delegated to the Prime Minister and the government. Hamad appropriated these powers from his uncle, the Prime Minister who was disliked by the people because of his oppressive policies and the widespread corruption that was a feature of life for the decades under his rule.¹⁹ Thus, as king, Hamad had considerably more power than his father. This has now become a point of

¹⁶ See Human Rights Watch, "Routine Abuses, Routine Denial: Civil Rights and the Political Crisis in Bahrain" (London: Human Rights Watch, June 1997).

¹⁷ For a comprehensive analysis of this issue, see Munira Fakhro, "The Uprising in Bahrain: An Assessment", in Gary G. Sick and Lawrence G. Potter (ed.), *The Persian Gulf at the Millennium: Essay in Politics, Economy, Security, and Religion* (New York, 1997), pp.167-188.

¹⁸ Interview with Abdul Hasan Ebrahim Bu-Hussain, a member of the Shura Council, Manama, March 1, 2005.

¹⁹ Interview with Faisal Hassan Foolad, a member of the Shura Council, Manama, March 3, 2005.

contention between the opposition and the government. The opposition argues that the king cannot claim to be a constitutional monarch while he enjoys greater power than his father possessed while he was an Emir.²⁰ The government responds to this charge by stating that the king needs sufficient power to execute the political reform programme that he single-handedly initiated.²¹ The political difference between an hereditary Emirate and constitutional monarchy is still vaguely defined within the Bahraini context but the transformation marks a move from a traditional to a modern and “civilised” form of governance.²² This unclear definition of the two political titles is creating confusion with respect to the limits of the power that the king can exercise.²³

The government over which the king presides is divided on his political reform agenda. The moderates within the government believe that the political reform initiated by the king is absolutely necessary but should be conducted in a way that does not alienate the interests of the already established powers. On this point their position and interests converge with those of the royal family. The moderates endorse the reform process because they are realists in the sense that if the government does not change the political direction of the country peacefully and constitutionally, it will eventually be changed violently by the people. For this reason the moderates claim that political reform is now needed for the sake of the future stability in Bahrain. Furthermore, the moderates believe that the international environment has changed rapidly and the Bahraini power elites cannot ignore this fact and simply continue with their old governance practices. For these reasons the moderates side with the king in his reform initiative against the conservatives in the government who fervently oppose it. The moderates are interested in political reform because the outcome of the process will enhance their power and profile in the government while diminishing that of the conservatives who have the upper hand. The moderates in the government hope that the outcome of the political reform process will help their stance prevail in the new power arrangement in the country.

The hardliners in the government on the other hand oppose the political reform and are doing their utmost to block or slow down the whole process. The king’s reform initiative took the hard-liners by surprise.²⁴ The hard-liners were not prepared to share power with elected legislators and a parliament, having run the country’s affairs

²⁰ According to Jalila Sayed Ahmed, “the transition of Bahrain can be described from authoritarian transition to authoritarian transition. The traditional title of Emir was changed to king. The role of Emir was ceremonial and nominal, but the role of the king is not. The king now calls himself a constitutional monarch, but in effect he has obtained more political power. He now has executive power. This is a contradiction between constitutional monarchy and the executive power which the king is now exercising”. Interview with Jalila Sayed Ahmed, Attorney and spokeswoman for the opposition on constitutional and legal matters. Manama, February 26, 2005.

²¹ Interview with Dr. Hashim Hasan Albash, a member of the Shura Council appointed by the king. Manama, March 3, 2005.

²² See the Constitution of Kingdom of Bahrain, February 2002.

²³ For instance, according to the dictionary definition, in a constitutional monarchy the powers of the ruler are restricted by the constitution while the Emir is a leader who rules by decree.

²⁴ According to an insider in the government establishment, “the king had been thinking about reforming the political system in the country for a while but he was waiting for the right time. When his time came he took a swift move which took many people in the country by surprise, and of course the hardliners in the government have the most to lose from political reform and therefore they are resisting the change. As there are moderates and hardliners in the government, there are also moderates, hardliners and Islamists in the royal family. Similarly, the hardliners in the royal family are also resisting the change. In this context, the king is not in an easy position at the moment as he has to balance different and contradictory interests that are pulling the reform process in different directions.” Interview with Dr. Khalid Al-Khalifa, a member of the royal family and also a member of the Shura Council in the parliament appointed by the king. The interview took place in the parliament house at Manama, March 4, 2005.

without them for more than a quarter of a century. The king's uncle, the prime minister, Khalifa bin Salman Al-Khalifa, who has been the de facto ruler of the country since 1975 is a particularly extreme hard-liner who opposes opening up a political space to the opposition.

4. The Constitution Building Process in Bahrain

The current constitution building process in Bahrain began in 1999 when the new king Sheikh Hamad bin Isa Al-Khalifa came to power. Hamad took the throne in March 1999 on the death of his father Emir Sheikh Isa bin Salman Al-Khalifa, who had ruled Bahrain since independence in 1971. The change of leadership marked a turning point in Bahrain's political history. The death of the Emir Sheikh Isa bin Salman Al-Khalifa ended a turbulent era in the political history of Bahrain. The country then entered into a new era to which the new king, Sheikh Hamad bin Isa Al-Khalifa, was determined to give a new direction. Immediately after taking over power, Hamad single-handedly initiated a programme for political and institutional reform in the country.²⁵ The centrepiece of his reform agenda was to transform the country from an Emirate into a constitutional monarchy in which the Al-Khalifa family's supremacy would be balanced by an elected parliament. Hamad undertook the political reform process in the country in three phases which were sequentially implemented.

National Action Charter

The first phase of the political reform process involved drafting a National Action Charter.

In mid-2000, the king proposed drafting a National Action Charter and appointed a national charter committee comprising members of government, the opposition and some independent intellectuals to bring this about. In total the committee comprised 44 members, of whom six were from the opposition including a number of prominent personalities such as Dr. Hassan Badi (a famous lawyer) and Dr. Abdulaziz Abul. The committee then tabled the first draft of the National Action Charter in December 2000. The quality of the draft text was poor and it had been carelessly written, thus the opposition members demanded certain changes in the document. On being told that these changes would not be made they resigned from the committee. The charter text was, however, redrafted by the government members with the technical support of some intellectuals close to the government. And, as they were under pressure, they finally produced a reasonable document which was acceptable to all, albeit without input from the opposition.

When the National Action Charter was ready, the king wanted the document to be approved by a caucus chosen by the king himself from prominent political and civil society figures. But this course was not acceptable to the general public. The king originally intended to nominate prominent public figures who would vote on the Charter and thus rubber stamp his 'way of reform', as a member of one of the opposition political organisations puts it.²⁶ Sensing the mood prevailing among the general public, the members of the charter committee advised the king to seek popular

²⁵ According to Dr. Hashim Hasan Albash, "The king single-handedly initiated a very ambitious political reform programme because he is a very wise man. He studied abroad and in this respect the king is very much exposed to the contemporary reality around the world. The king is very much aware that the international environment has changed and that is what he reacted to. Internally, there are profound socio-economic problems that need to be dealt with urgently and that also cannot be effectively addressed without reforming the political system". Interview with Dr. Hashim Hasan Albash, a member of the Shura Council appointed by the king. Manama, March 3, 2005.

²⁶ Interview with Ebrahim Sharif Alsayed, National Democratic Action Society (NDAS), Manama, February 27, 2005.

support and get a wider consensus on the document. It was thus considered advisable to hold a national referendum rather than appointing a caucus of 1000 public figures to approve the charter. The charter committee also advised the king that if he proceeded with the idea of choosing prominent figures, then the National Charter would not get popular support. The king was finally convinced of the necessity of holding a National Referendum if he was to secure popular consent on the Charter. In January 2001, the Charter document was submitted to the king. The king then publicly announced that a National Referendum would be held in February 2001.

The king then instructed the charter committee to organise workshops and open meetings to explain the document to the people and thereby secure popular consent for the Charter. The charter committee did as instructed although at most of the workshops and open meetings the majority of the audience were members of opposition parties. In these meetings, discussion of the document was conducted in a frank and participatory manner with the audiences actively airing their views. More importantly, the charter committee, having sought the views and the suggestions of the audiences, took these into account for the first time in the political history of Bahrain.²⁷ At the time of the consultation, the government sensed that the opposition parties were gaining more public support and had the power to mobilise the people to boycott the national referendum and reject the Charter if certain demands were not met. Their grievances were mainly related to the lack of reform on the ground and specifically to the fact that during the consultation for the new Charter there were still hundreds of political prisoners in jails as well as in exile. As one commentator puts it, at the time the people thought “this is just another document and the government will not honour its promises and we cannot trust promises keeping in mind past experience”.²⁸

Consequently, in the public meetings, one after another, the people, led by opposition activists, demanded tangible results. For example, they demanded that the new National Charter produce tangible actions to show the sincerity of the government reform promises, such as freeing political prisoners and permitting the return of exiles. These public demands placed the king under very heavy pressure and he finally conceded to the people’s requests.²⁹ The king then set about releasing political prisoners, permitting the exiles to return home, freezing the repressive state security laws, declaring the state security law would be reviewed and promising to hold elections and allowing limited freedom of speech and association. These far-reaching concessions, which took many by surprise, dramatically improved the social relations

²⁷ “This was an indication of how the political history of Bahrain was in a process of a dramatic change. The old Emir Sheikh Isa bin Salman Al-Khalifa used to say while addressing the public, ‘I want to do it for you’. The slogan of the new king Sheikh Hamad bin Isa Al-Khalifa is that ‘I cannot do it without you’. So the consultation process on the National Action Charter was a concrete example of the mood of change of the new king”. Interview with Faisal Hassan Foolad, a member of the Shura Council appointed by the king. Manama, March 3, 2005.

²⁸ Interview with Jamal Al-Salman, Arab Nationalist Democratic Society, Manama, February 26, 2005.

²⁹ Although the king initiated the political reform agenda the process was further accelerated by the pressing demands of the people which in fact took the king by surprise. Even allowing the referendum on the National Charter was something which the king had not anticipated. The circumstances forced him to let it happen. That is why since 2002 the momentum has slowed down. The main reason is that the king and the established political elite are retreating from their earlier commitment to the transitional process. Interview with Abdullah Janahi, General Secretary of the National Democratic Action Society (NDAS), Manama, February 26, 2005.

and political climate in the country. There was widespread popular euphoria and the people began to regain some faith and confidence in the political system. As one interviewee put it, “2001 was a good year for Bahrain. There was a honeymoon between the government, the opposition and the public. The sudden improvement of the political climate in the country was something which many people had neither expected nor imagined would ever happen in Bahrain, let alone so soon”.³⁰

The goodwill gesture from the king convinced the people of the sincerity of the reform agenda initiated by the government and they approved overwhelmingly the National Action Charter in February 2001. Turnout for the referendum was 90 percent of which 98.4 percent voted for approval. The people of Bahrain overwhelmingly endorsed the reform agenda to create a constitutional monarchy with an elected parliament, separation of powers with an independent judicial branch, and rights guaranteeing women’s political participation. Thus, both the high turnout and the high rate of popular approval gave the king the support necessary to go ahead with his programme for political and institutional reform.

Drafting the Constitution of 2002

The second phase of the political reform process involved drafting a new constitution. In the National Action Charter principles and amendments were outlined that were proposed for inclusion in the new constitution. For example, in the National Action Charter, it was clearly stated that the old constitution of 1973 would be amended in order to create a bicameral parliament with an appointed upper house holding power equal to that of the elected lower house. Furthermore, the Charter specified the inclusion of rights guaranteeing equal opportunity for all, safeguards against political and economic discrimination against marginalised groups and ensuring women’s right to vote and stand for elections. In this respect, the principles in the National Action Charter which were negotiated and endorsed by different stakeholders in society, had been the basis of the new constitution.

After the Charter was adopted it was agreed between the government and the opposition that a ‘constitutional commission’ would be constituted and tasked with proposing amendments to the constitution of 1973. However, a constitutional commission was never appointed and the government secretly breached that solemn agreement as a member in the opposition camp formulated it.³¹ The government started revising the old constitution of 1973, without consulting the public or the opposition, as they had with the National Action Charter. The government made amendments to the new constitution with the argument that it was popularly mandated by the people through the National Action Charter. By contrast, the opposition accused the government of secretly revising the old constitution without consulting important stakeholders in society or the wider public. As opposition leader Abdulaziz Abul noted, “the new constitution was secretly drafted by the executive branch of the government. The whole process was so secret that even the elected assembly in the parliament was not involved in the process. This makes the process of drafting the

³⁰ Interview with Abdullah Janahi, General Secretary of the National Democratic Action Society (NDAS), Manama, February 26, 2005.

³¹ Interview with Abdullah Janahi, General Secretary of the National Democratic Action Society (NDAS), Manama, March 3, 2005.

constitution suspicious and also unacceptable”.³² Thus, according to the opposition, this unilateral act by the government contravenes the agreement made in the National Action Charter. The drafting of the new constitution has been the main sticking point between the government and the opposition since 2002. It is the major source of the current political crisis, and has not yet been resolved. The problem of the constitution seems so grave that unless the constitutional crisis is first resolved, no significant political reform is possible. In other words, resolving the constitutional problem is the key to reforming the political system in the country. This is the position of the opposition.

The Restoration of Parliament

The third phase of the political reform process was the restoration of the parliament which had been suspended since 1975. After the constitution was put in place, municipal elections were organised for May 2002. Turnout was 51% with a large number of female voters exercising their voting rights for the first time in history. The opposition political associations participated successfully in the local elections. As a result, most of the elected candidates in the municipal elections were from the mainly Islamist opposition. As a result elected Islamists primarily from the Al-Wefqa National Islamic Society now practically control the local government in the country. This is a clear indication of the strong social base that Islamists -- both Sunnis and Shiite -- have already constructed in Bahrain. The Islamists in Bahrain have established their social base mainly among the impoverished masses that have been badly neglected by the government in the last decade. In concrete terms, the Islamists have assumed this social responsibility by providing many basic public goods to the marginalised poor through their charity organisations. Thanks to these social welfare activities, Islamists have effectively occupied the public terrain in the contemporary Bahraini society. The Islamists are now trying to consolidate their power base by institutionalising it through participation in the municipal and national parliamentary elections. In this respect, the Islamists have an important stake and are keen participants in the current reform process.

Subsequently, national parliamentary elections were organised for October 2002. Turnout was 53% in the first round and 43% in the second round. The large discrepancy between the two rounds is due to the fact that most of the opposition political organisations boycotted the election. While some of the minority opposition political organisations did participate in the parliamentary elections, the main four organisations, including the Al-Wefqa National Islamic Society boycotted it.³³ The other three opposition groups are: the secular National Democratic Action Society (NDAS); the Arab Nationalist Democratic Society; and the Islamic Action Society. These groups boycotted the parliamentary elections on the grounds that the new constitution promulgated unilaterally by the government accords even less power to the parliament than the one dissolved in 1975. As noted earlier, the new constitution

³² Interview with Abdulaziz Abul, Manama, March 1, 2005. Abdulaziz Abul is in Charge- International Relations Secretariat General of the Constitutional Conference

³³ According to Sheik Ali Salman, “We boycotted the national parliamentary elections because the government had restricted our political campaigns before the election day. Interview with Sheik Ali Salman, the highest spiritual leader of the Shiites and the President of the Al-Wefqa National Islamic Society, Manama, March 4, 2005

divides the parliament into two chambers with equal powers³⁴ - the directly elected Council of Deputies, and the Shura Council, whose members are appointed by the king. The king created the Shura Council with a calculated political purpose: to ensure that any power dispute between the elected Deputies in the parliament and the executive branch does not result in a showdown such as that which led to the dissolution of parliament in 1975.³⁵ The constitution stipulates that while Deputies may prepare proposals for draft laws, only the government may bring draft laws to a vote, and the king has the final word in any legislative dispute. This constitutional limitation imposes constraints on parliament's ability to play a meaningful role as a counterweight to the executive branch.

The boycott by the main opposition organisations, particularly the Shiite Al-Wefqa National Islamic Society, was also motivated by the government's electoral gerrymandering through which it is attempting to reduce the electoral power of the Shiite majority. To do this the government drew electoral districts in a manner that gave unfair advantage to candidates from the Sunni minority over those of the more populous Shiite. For instance, the sparsely populated districts in the southern part of the country inhabited largely by Sunnis have been allocated six seats. By contrast, the predominantly Shiite districts in the heavily populated northern part of the country are allocated only nine seats.³⁶ As a result a Sunni candidate needs only a few hundred votes to win while a Shiite candidate require thousands of votes to be elected.³⁷ Thanks to this electoral gerrymandering, Sunni candidates have won 27 of the 40 seats. This unfair electoral practice is an aspect that the members of the both chambers in the parliament interviewed have also recognised as a deficiency that needs to be addressed before the forthcoming elections. A fair electoral policy would require putting in place a system that ensures more proportionate representation, particularly in densely populated areas in the country.

The last parliamentary elections divided the opposition, a fact which is of concern to some of the elderly notables among the opposition.³⁸ Nonetheless, the opposition associations that took part in the parliamentary elections have won most of the seats. Today, most of the 40 elected Council of Deputies in the parliament are Sunni and

³⁴ The equal powers proclamation is very much disputed. The opposition argues that the equal powers declaration is only on paper but in actual fact the Shura Council has more powers than the elected Deputies. This is also a point of contention between the opposition and the government. According to Abdullah Janahi, "The king has signed a letter in which he stated that the elected Deputies and the Shura Council have equal powers. But the letter was meant for public media consumption. It was not a genuine commitment on the part of the king and the government to ensure that it is true not only on paper but also in practice". Interview with Abdullah Janahi, General Secretary of the National Democratic Action Society (NDAS), Manama, March 3, 2005.

³⁵ Interview with Dr. Khalid Al-Khalifa, a member of the royal family and also a member of the Shura Council in the parliament appointed by the king. Manama, March 4, 2005.

³⁶ In the parliamentary elections the 40 seats contested among the five governorates in the country are allocated as follows: Capital (8), Central (9), Muharraq (8), Northern (9) and Southern (6). See further, "Bahrain's October 24 and 31 2002 Legislative Elections", National Democratic Institute, Washington, DC, November 2002.

³⁷ Interview with Ebrahim Sharif Alsayed, National Democratic Action Society, Manama, February 27, 2005.

³⁸ "This division among the opposition's political organisations is worrying us and it is an issue which we are planning to address urgently. The division is weakening the power and the bargaining position of the opposition vis-à-vis the government. It is only with unity that we can be a formidable opposition that is in a position to put heavy pressure on the government to push forward the political reform as we did during the consultation on the National Referendum" Interview with Ali Qassim Rabia and Hisham Shihaby, elected members of the National Assembly in the parliament that was dissolved in 1975. Manama, February 27, 2005.

Shiite Islamists. Thus, Sunni Islamists won 19 of the 40 seats. By virtue of this numerical strength the Islamists now control parliament. In other words, the opposition Islamists now control both local government and parliament and are the absolute winners in the new power dispensation in the country.³⁹ This is a development which no one foresaw when the political reform process was initiated. There was a need to liberalise the political system in the country but it was not clear in which direction the process would lead, or what its final outcome would be. No one thought that the reform process would result in an Islamist dominated parliament. There is now an Islamist bloc in the parliament which has become a great concern to the established political interests and their foreign allies. This may be one of the underlying reasons why the political reform process which began with such a fanfare in 2001 has been put on hold since the new government took office in 2002. As one interviewee put it, “when the king initiated the political reform process he knew that the political arena in the country was dominated by the Islamists. At the time the king asked ‘who will take over power if we go fast and change everything quickly?’ Even then the answer was clear – it would hand power to the Islamists who would Talibanise our society. And that is what is now happening. The moment they entered parliament, the first motion that the elected Islamists tabled was to enforce women to wear a veil while driving. That proposal has now been adopted and has become law.⁴⁰ This fear of the government, however, is not shared by the opposition liberals who view the Bahraini Islamists as moderates who mostly accept the separation of state and religion.⁴¹ The Islamists like Sheikh Ali Salman, the highest spiritual leader of the Shiites and the President of the Al-Wefqa National Islamic Society endorse the analysis of the opposition liberals. In an interview, Sheikh Ali Salman stated that “I am in favour for the separation of the state and religion. This is the reason that the Al-Wefqa National Islamic Society collaborates with other opposition political organisations such as the communists, liberals and left-oriented Arab Nationalists”.⁴²

There are also other explanations for the sudden slowing of the reform process. According to the opposition, the reform of the political system in the country made significant progress between 2001 and 2002, but afterwards, the hard-liners in the government succeeded in frustrating reform and are determined to kill the whole reform process in order to safeguard their entrenched interests. This view is not only held by the opposition, but is publicly voiced by many other stakeholders in society. It seems that the hard-liners have now gained the upper hand in the reform struggle as no

³⁹ An Islamist member of the council of representatives in the parliament interviewed stated that “we are now in a position to propose laws and suggest amendments to the constitution. Whatever issue we raise in the parliament is now immediately picked up by the media. This was not the case when we were outside the political arena. Before even if we could shout, no one had an interest in paying attention to our demands. But now we have political power and that makes a big difference”. Interview with Dr. Salah Ali Abdulrahman, a member of the council of representatives in the parliament. The interview took place in the parliament house, Manama, March 4, 2005.

⁴⁰ Interview with Dr. Hashim Hasan Albash, a member of the Shura Council appointed by the king. Manama, March 3, 2005.

⁴¹ According to Abdulaziz Abul, “the Islamists in Bahrain are indeed moderate. Their position is that Sharia should be applied to certain social issues like family laws, hereditary, etc. But matters such as economic development, trade and international relations, etc should be run by secular laws and institutions which are legislated by the parliament”. Interview with Abdulaziz Abul. Manama, March 1, 2005.

⁴² Interview with Sheik Ali Salman, the highest spiritual leader of the Shiites and the President of the Al-Wefqa National Islamic Society. Manama, March 4, 2005.

new important steps in the reform process have been made since the new government was installed in 2002. Nevertheless, the government as a whole -- the moderates and the hard-liners as well as the royal family -- is anxious that the current political reform process secure it the legitimacy – both at home and abroad - which it has lacked since the dissolution of parliament in 1975. In this it has been relatively successful, probably more so abroad than at home. For example, the Americans now frequently refer to Bahrain as a model of political freedom and democracy in the Gulf-states, thereby giving legitimacy to the current regime in the eyes of the outside world.

Key Divisive Issues Addressed

The key divisive issues in the current constitution building process in Bahrain are as follows. Firstly, the disagreement between the government and opposition on the manner in which the constitution of 2002 was amended. The government revised the old constitution of 1973 without seeking the consent of the people. This unilateral act by the government disappointed a large section of the public and angered the opposition who refused to recognise the new constitution which they regard as illegitimate. The wrangle over the new constitution between the government and the opposition has now resulted in a serious political deadlock which is crippling the reform process in the country. Thus, the crisis of the constitution is the major source of the current political conflict in Bahrain and has not yet been resolved.

The second issue is the creation and the power of the Shura (Consultative) Council. The opposition views the Shura Council as an outdated and undemocratic institution that should be abolished. The king appoints the members of the Shura Council and their role in parliament is simply to safeguard his interests as they are accountable only to him. Furthermore, there was no Shura Council in the parliament of 1973 as it was a place for popularly elected representatives and not appointed councils. The official statement of the government is that there are advantages in creating a bicameral parliament. The two councils system “allows the utilization of the wisdom of experienced people that are available in the appointed council, in addition to the interaction of viewpoints of all types and directions of people in the elected council.... Therefore, the Kingdom chose the Shura (Consultation) which is the ideal method for ruling in Islam and allows the participation of people in exercising authority which is the basis of modern political thinking”.⁴³ There is however an unofficial version which has been already cited above. Another related aspect is the size and the power of the Shura Council.

The new constitution stipulated that the National Assembly should comprise 40 popularly elected members and 40 members appointed by the king, who would share equal powers. The opposition rejects this power arrangement. They demand that the legislative power of the elected representatives be enhanced by reducing the size of the appointed councils and that its role should be purely consultative.

The third issue concerns electoral procedure. In the last parliamentary elections, the government was guilty of gerrymandering in order to ensure that Sunni candidates won most of the seats in the parliament, despite being a minority in the population. This unfair electoral practice annoyed the main opposition groups, particularly the Shiites who boycotted the last parliamentary elections of October 2002.

⁴³ For a more detailed account on this issue, see, ‘The Guide to Consultative (Shura) Council’, Public Relations: Media and Protocol Directory 2004.

The opposition is now also threatening to boycott the forthcoming elections if the government does not redraw the electoral districts in a manner that reflects the demographic reality in the country.

These three key divisive issues can, if they are not addressed, jeopardise the fragile political reform experiment in Bahrain. The dispute and deadlock between the government and the opposition over these issues is already crippling the reform process in Bahrain. However, the king retains a great deal of authority and could break the impasse and push forward to institutionalise the political reform agenda he has initiated.

5. Thematic Perspectives

Gender Perspective: The current constitution building process (CBP) takes the gender perspective into account. The constitution of 2002 clearly stipulates that women have a right to vote and stand for elections. This marks a step forward in the political rights of women in Bahrain and in this respect, Bahrain is at the forefront of all the countries in the Gulf Cooperation Council. Bahraini women have always enjoyed more freedom than other women in the region because of the relatively liberal and tolerant nature of the society. Indeed, the new constitution guarantees more rights and political powers to women but they still remain on paper. In practice matters are different. For instance, since the beginning of the political reform process in 2001, women have been very active. They actively participated in the referendum on the National Action Charter and also the municipal and parliamentary elections and yet not a single woman has been elected to political office. Nevertheless, the current political reform process has opened up a limited political space for women for the first time in the history of Bahrain. For example, in 2001, the lawyer Lulwa Al-Awadi was appointed to the position of the Secretary General of the Bahrain Supreme Council of Women. As such, Al-Awadi is the first Bahraini woman to hold a ministerial post in the country since its independence in 1971. Furthermore, in order to enhance the participation of women in the decision-making process, the king appointed six women to the Shura Council.

With regard to social rights, the women in Bahrain still face many challenges because of the predominantly patriarchal organisation of the society. To address some of the challenges, the Bahraini Women's Petition Committee issued a petition in April 2004. The petition, which was signed by 1,700 people, was issued with the aim of reforming the personal status and family laws regarding women. This petition was strongly opposed by many leading religious scholars who do not want the laws governing personal and family status to be removed. Despite this setback there is now a proposal in parliament tabled by Sunni Islamist Deputies which, if it is adopted as law, would redress one of the social rights of single divorced mothers with children. In Bahrain if a man divorces his wife, he is obliged to maintain her. But in many instances the man remarries again and fathers children from another wife whom he must also support. Many men who have remarried find it impossible to maintain their ex-wives. This new proposal will ensure that single divorced mothers with children who cannot get alimony from their ex-husbands receive financial support from a special fund set up by the government.⁴⁴ In short, the social and political challenges that the Bahraini women face cannot be addressed only by amending the constitution as they also require the transformation of the patriarchal organisation of the society that assigns women a subordinate social position.⁴⁵

The Role of International Assistance: There has only been very limited international assistance in the constitution building process in Bahrain. The CBP was very much internally driven and owned. International actors did play a role in putting pressure on the government to reform the political system in order to create a stable political climate in Bahrain. But the CBP was initiated domestically and it is still being

⁴⁴ Interview with Dr. Salah Ali Abdulrahman, a member of the council of representatives in the parliament. Manama, March 4, 2005.

⁴⁵ Interview with Farida Ismael Ghulam, Bahrain Women's Union. Manama, March 1, 2005.

negotiated by different stakeholders. It is an ongoing process. The National Democratic Institute (NDI) has maintained an office in Bahrain since 2002, but its role is currently limited to providing voter education and training civil society cadres in election procedures. The NDI does not undertake research and does not produce policy-oriented documents regarding the constitution building process in Bahrain.⁴⁶ In April this year the NDI office in Bahrain was closed.

Spoiling Factors: The spoiling factors that are now impacting on the CBP are mainly the consequences of the stakeholder actions. The first serious spoiling factor is the drafting of the constitution by the government without seeking the consent of the people. This unilateral act by the government disappointed the public and angered the opposition who refused to recognise the new constitution as they see it to be illegitimate. And the wrangle over the new constitution between the government and the opposition has now resulted in a serious political deadlock which is crippling the reform process in the country.

Another spoiling factor is the clash of expectations from the political reform process. The opposition is demanding the total and immediate reform of the political system in the country. By contrast, the government is saying that this demand from the opposition is neither realistic nor possible and the most sensible way to implement an orderly political transition is through gradual change. According to one interviewee, “what the opposition is demanding is unrealistic. They are demanding a total change. From having nothing to having everything which is not possible. It is only four years since we started the reform programme and you cannot change everything within such a short period of time. Patience is required in politics. Our main task is to develop a gradual participation in the political affairs in the country. Responsible democracy is required and through education and awareness about democracy a lot can be improved”.⁴⁷

A third factor spoiling the CBP is the behaviour of some of the opposition political associations. The reform of the political system has delivered considerable freedom, including the freedom to organise open meetings and demonstrations. However since 2003, some opposition groups have taken advantage of this freedom to organise street protests against American interests in the region, while America is a very close ally of the government. These demonstrations have made the government very apprehensive and nervous about the political behaviour of the opposition and have contributed to the slowing down of the political reform process in the country.⁴⁸ As a member of the ruling family stated: “when we gave the people freedom they have started going through traffic lights while they are still on red, claiming that they have the freedom to do so. This is not a responsible use of freedom; it is in fact a misuse of the freedom because freedom must have limits”.⁴⁹

Limitation of Inclusiveness: In Bahrain the inclusion of the marginalised stakeholders in the political system is a tool that the government is using to increase its legitimacy both at home and abroad. Of course, in Bahrain, the participation of the marginalised

⁴⁶ Interview with Fawzi Guleid, the representative of NDI in Bahrain. Manama, March 2, 2005.

⁴⁷ Interview with Dr. Hashim Hasan Albash, a member of the Shura Council appointed by the king. Manama, March 3, 2005.

⁴⁸ Interview with Munira A. Fakhro, Associate Professor, University of Bahrain. March 2, 2005.

⁴⁹ Interview with Dr. Khalid Al-Khalifa, a member of the royal family and also a member of the Shura Council in the parliament appointed by the king. Manama, March 4, 2005.

stakeholders in the political system has altered the previous power structure in the government. For instance, for more than two decades the Al-Khalifa family ruled the country without a parliament. But now the government has to share power with parliament. This has altered the previous power arrangement. The new constitution is a reflection of a partial new social pact and it is not a completely new social pact based on common vision and values. In Bahrain, the constitution limits the power of the elected Deputies in the parliament. In this respect, their inclusion in the political system is mainly aimed at enhancing the legitimacy of the government and the ruling family. After all, in Bahrain, the real power lies in the hands of the king.

Sustainability: In the current situation a reformed constitution which has been amended in a manner that is inclusive can be sustainable although this is not a guarantee, as the abrogation of the constitution of 1973 illustrates. What is not sustainable, as the current experience of Bahrain shows, is drafting a new constitution outside of a participatory process. Bahrain now has a new constitution but it has been unilaterally drafted by the executive branch of the government without the consent of the people. This is the underlying reason for the current constitutional crisis. The reactions from the establishment and other stakeholders in the new political arrangement are mixed. The reaction of the established political and economic elites was positive as the new political arrangement was designed to protect their entrenched interests. However the reaction from the opposition has been negative as they feel that they have been cheated. According to them, this new power-sharing formula does not work and cannot be sustained because it has no popular support.

Three suggestions have been advanced that could probably make the current political system in Bahrain more sustainable. The first is to amend the constitution in a manner which is inclusive and acceptable to all important stakeholders in society. The second is to invest in institutions that will sustain the democratisation process in the country. According to an interviewee, “what Bahrain today needs is a *knowledge democracy*. It needs knowledge about modern democracy which will feed into democratic practice. Without this knowledge, the democratic practice in the country cannot be appropriately sustained”.⁵⁰ The third need is for a strong parliament that has a much wider popular support base than at present. And this can will only be possible provided that a conducive environment is created beforehand which would enable the main opposition political organisations to participate in the forthcoming elections in October 2006.

The combination of all three of these aspects will be required to make the political reform process in Bahrain more sustainable in the coming years.

⁵⁰ Interview with Jasim Al-Ajmi, Chairman of the Bahrain Transparency Society. Manama, March 2, 2005.

6. The Impact of the Constitutional Building Process on Democracy Building in Bahrain

This section brings together some important issues identified and examined in the previous sections of this report and draws a number of conclusions. This case study set out to examine the constitution building process initiated in 2001 and the impact it has had on transforming the political system in Bahrain. The case study found that the CBP had indeed improved the political climate in the country. There is a freedom of speech and association. People now feel free to organise meetings and demonstrations without being harassed and arrested by the state security services as was the case before the transition was initiated. The political reform programme despite being a top down and closely controlled process also helped diminish the political tensions in the country as both the government and the opposition have now opted to resolve their political differences by non-violent means. In this respect, the CBP had opened up opportunities for the reconciliation of erstwhile political enemies and thereby assisted in regulating and managing the conflict of interests in a peaceful manner. The political space that the CBP has opened up permitted previously marginalised opposition groups like the Shiites and others to participate in the new power arrangement, albeit in a very limited way. The CBP thus assisted in fostering the previously marginalised groups' participation in the political system in the country.

The CBP has not only improved the political climate in the country but more importantly it has restored the parliament that was suspended in 1975. There is now a parliamentary system of governance in Bahrain where the National Assembly, despite its limited constitutional powers, is in a position to oversee the government and question individual ministers about policies and to withdraw confidence from any minister. Thus, the CBP in this respect has also promoted a democratic political climate. Within a short period of time, the whole political landscape of Bahrain has indeed changed in an unprecedented manner – something that was unthinkable just a few years ago.⁵¹ As one interviewee put it, “the relaxation of the political climate in the country since 2001 freed the people from fear and depression, gave confidence in the political system and released joy and energy that you can see on our faces. We finally regained our human liberty and the freedom to exercise our social and political rights. It is only after 2001 that we started flourishing socially, politically and economically. I therefore believe that in democracy we can do far better. This is the experience that we want to share with the outside world”.⁵² The political reform process has helped in redrafting the old constitution of Bahrain. In the new constitution of 2002 certain important articles are included that guarantee equal opportunity for all, safeguard against the political and economic discrimination of the marginalised groups and ensure that women have a right to vote and stand for elections. These additional articles therefore improved to some extent the constitution of 1973. In short, the CBP had a positive impact on transforming the violent power conflicts between the government and opposition, improving the political climate in the country and laying down formal democratic institutions. In this respect, the impact of the CBP reached beyond the development of the constitution. And on several fronts,

⁵¹ Interview with Jasim Al-Ajmi, Chairman of the Bahrain Transparency Society. Manama, March 2, 2005.

⁵² Interview with Munira A. Fakhro, Associate Professor, University of Bahrain. March 2, 2005.

Bahrain today is at the forefront of the political and institutional reform process in the Gulf-states. It is a perfect place to watch closely how the contemporary political reform process in Bahrain and in other countries in the Gulf is unfolding. This is particularly significant as Bahrain is now going into its second parliamentary elections, which are scheduled for October 2006. The outcome of such a process can provide important lessons for the future of other countries in the region.

Nonetheless, the CBP set in motion a new political history in Bahrain which despite its successes still remains a precarious experiment. Perhaps, it may not be possible to go back to the authoritarian regime of the past because the benefits gained from the political reform already by all the sectors of society are tremendous.⁵³ It is thus imperative to consolidate and build on the positive gains so far achieved in many fronts since 2001. However, despite the positive developments that the political reform process materialised in Bahrain, there are still challenges to be addressed in order to push the reform process forward.

Challenges to be Addressed

The foremost challenge to be addressed is the constitutional crisis in the country that is now putting the whole reform process in jeopardy. The constitutional crisis has already brought a halt to the dialogue between the government and the main opposition political organisations who boycotted the last national parliamentary elections. If a solution is not found to the constitutional crisis before the forthcoming elections, it is certain that some of the main opposition political organisations will boycott these elections too. Some opposition political organisations have already stated that they would boycott the coming parliamentary elections if the constitutional crisis is not resolved before then.⁵⁴ Should this happen again, the popular support for the elected parliamentarians will be very shallow, as is currently the case. The problem with the new constitution is that it was unilaterally promulgated by the government without popular consent. For this reason the opposition refuses to recognise the constitution and the parliament, as they regard both as illegitimate. This is an area where the international community can play a role in finding a formula acceptable to all parties in a win-win situation, as an opposition member put it.⁵⁵ According to Abdulaziz Abul, “the international organisations like IDEA can help us formulate alternative proposals and models that can work in the context of Bahrain and deliver concrete results. There are still issues where the stakeholders in the current political process have yet to agree on how they should appropriately be addressed because of lack of prior knowledge, experience and expertise”.⁵⁶

⁵³ According to Obaidli Obaidli, “the transformation of the political system has brought many benefits to the country within a short period of time. The business community is now getting confidence in the system and is investing in the country. The reform has reduced the political tensions in the country that forced the business people to invest their money elsewhere. The stable political climate has now attracted foreign investors to the country. The economy is booming and Bahrain is prospering once again after years of serious economic stagnation”. Interview with Obaidli Obaidli, a member of the Bahraini Chamber of Commerce, Manama, February 28, 2005.

⁵⁴ Interview with Abdullah Janahi, General Secretary of the National Democratic Action Society (NDAS); and Jamal Al-Salman of the Arab Nationalist Democratic Society. Manama, March 26, 2005.

⁵⁵ Interview with Ebrahim Sharif Alsayed, National Democratic Action Society (NDAS), Manama, March 27, 2005.

⁵⁶ Interview with Abdulaziz Abul. Manama, March 1, 2005.

Another challenge which is often underestimated in countries in transition to democracy such as Bahrain, is the scarcity of organisational and institutional capacities which can carry the process forward. Building those skills and capacities cannot be done overnight. This problem now confronts the elected parliamentarians and opposition in Bahrain. Of course drafting a new constitution, organising elections and installing a parliamentary system of governance are all necessary pre-conditions for the democratisation process in a country. But they are not sufficient to democratise the power that is already concentrated in the hands of the established power elites who are not willing to give it away or share it with others easily. Building a democratic system of governance will therefore require, among other things, the democratisation of power relations in society. Authority and power needs to be diffused and fairly distributed among stakeholders. However, this can only happen in countries like Bahrain if the elected deputies in the parliament and the opposition undertake to build the infrastructures of their own institutions through which they can upgrade their organisational and institutional capacities which would enable them to acquire certain institutional powers. It is only through enhancing their institutional capacity that they can gradually draw some power from the established power elites. The public now complains that the elected deputies in parliament have no power to deliver the promises they have made to their constituencies during the elections. However, the elected deputies reply that the problem is not that they have no power to perform better, but that there is a lack of organisational and institutional capacity, expertise as well as experience in dealing with cumbersome parliamentary procedures for the first time, and that this is slowing down the whole process.⁵⁷ Thus, support in building the infrastructures of knowledge institutions that enhance the organisational skills and institutional capacities of the parliamentarians and the opposition, through which they can appropriate certain institutional powers, is also an area where international organisations like IDEA can play a significant role.

A third challenge which the current political transition in Bahrain has brought to light is how far the reform process can go and can be permitted to go in Bahrain or any other country in the Middle East at present. This is a serious matter in Bahrain and is complicating the process of the political transition. The opposition says that the political reform process is too slow and has not yet gone far enough. The king and the government promised the people total political reform which began with a fanfare in 2001, but to date they have only delivered half-hearted political reform which is now effectively on hold. The government respond to this charge with the claim that they have already gone far enough in reforming the political system in the country. To go any further would endanger the interest of established powers even beyond Bahrain. They claim that they are already under pressure from neighbouring countries like Saudi Arabia who are frightened by the high speed of the reform process. More importantly, the government argues that the Americans appreciate the far-reaching political reform they have already implemented in the country. This is the reason why America repeatedly states that Bahrain is an example of democracy in the Middle East and urges other countries in the region to look to Bahrain for guidance and inspiration. This, they say, is proof of how far Bahrain has gone in reforming the political system keeping in mind that Bahrain is in the Middle East.

⁵⁷ Interview with Yousif Zain Al-Abeddin Zainal, a member of the council or representatives in the parliament. Manama, March 2, 2005.

Despite the government's arguments, this is a serious point of contention between the government and the opposition in Bahrain. As one opposition member put it "you cannot raise the expectations of the people and then say to them wait a minute we will now go gradually. This is not a serious political reform".⁵⁸ An important lesson that we can learn from the experience of Bahrain is how far the established power elites in the Middle East can permit the political reform process to go without jeopardising their entrenched interests. More important to note, is that the interests of the established power elites in those countries are very much intertwined with the interests of their foreign allies both in the region and beyond.⁵⁹ This is indeed a challenge which goes beyond the internal power struggles of any given country and cannot be appropriately addressed without considering this added external dimension.

⁵⁸ Interview with Abdullah Janahi, General Secretary of the National Democratic Action Society (NDAS), Manama, February 26, 2005.

⁵⁹ According to Ebrahim Sharif Alsayed, "we have three powers that influence Bahrain. The USA is the number one, Saudi Arabia is probably number two and the UK is number three. Saudi Arabia is because of its financial support to Bahrain. We have an oilfield inside Saudi Arabia's territory and they have generously decided to give it to us. In this respect, we are significantly influenced by the political interest of Saudi Arabia. And the Saudi political interest is pulling Bahrain to zero democracy. So there are external forces whose influences are pulling and pushing the political reform process in Bahrain in different directions. I think the US wants some reform in Bahrain but it does not want the reform to get out of hand. The US does want not to see a strong parliament that could decide to remove the American base from Bahrain or to stop the American planes flying from Bahrain to bombard Iraq. I think the US wants some political reform because it is good for the stability of the country and the Gulf-states in general. But they do not want to go so far as to compromise American interests. In a nutshell, what the US wants at the moment is a controlled reform which we are now experiencing in Bahrain". Interview with Ebrahim Sharif Alsayed, National Democratic Action Society (NDAS). Manama, February 27, 2005.

ANNEX

Person interviewed

Abdul Hasan Ebrahim Bu-Hussain, member of the Shura Council

Ali Qassim Rabia, member of the National Assembly of 1975.

Professor Baquer S. Al-Najjar, University of Bahrain

Sayed Radhwan Al-Mosawi, Secretary General of the Islamic Action Society

Abdulnabi Alekry, Bahraini Human Rights Society (BHRS)

Ebrahim Sharif Alsayed, National Democratic Action Society (NDAS)

Faisal Hassan Foolad, member of the Shura Council

Jalila Sayed Ahmed, Attorney and spokeswoman for the opposition on constitutional and legal matters

Dr. Hashim Hasan Albash, member of the Shura Council

Dr. Khalid Al-Khalifa, member of the Shura Council

Faisal Hassan Foolad, member of the Shura Council

Jamal Al-Salman, Arab Nationalist Democratic Society

Abdullah Janahi, General Secretary of the National Democratic Action Society (NDAS)

Abdulaziz Abul, Charge- International Relations Secretariat General of the Constitutional Conference

Sheik Ali Salman, highest spiritual leader of the Shiites and the President of the Al-Wefqa National Islamic Society

Hisham Shihaby, member of the National Assembly of 1975

Dr. Salah Ali Abdulrahman, member of the council of representatives

Farida Ismael Ghulam, Bahrain Women's Union

Fawzi Guleid, National Democracy Institute (NDI)

Munira A. Fakhro, Associate Professor, University of Bahrain

Jasim Al-Ajmi, chairman of the Bahrain Transparency Society

Obaidli Obaidli, member of the Bahraini Chamber of Commerce

Yousif Zain Al-Abeddin Zainal, member of the council of representatives

Ismail E. Akbari, member of the Shura Council

Fareed Ghazi J. Rafia, member of the Shura Council

Abbas Bu Safwan, journalist local newspaper, Alwasat

Abdul Nabi Salman Ahmed Naser, member of the Shura Council

Mohamed Ahmed Abdulla, Lawyer

Dr. Abduljalil Singace, Al-Wefaq National Islamic Society

Abdulhadi A. Marhoon, Council of Representatives, 1st Depute Chairman

Dr. Abdullah Awil Mohamoud is a researcher in the areas of development cooperation, conflict and postconflict development, migration, and diasporas and has established SAHAN, a research and advice bureau in Amsterdam. He holds a doctoral degree in state collapse and post conflict development in Africa from the University of Amsterdam and has authored numerous publications on peacebuilding processes, postconflict social reconstruction, diasporas, and promotion of peace with regard to Africa.

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