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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

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

[13 February 2017]

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

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Sectarian Persecution in Bahrain: Jaafari Endowments an Example*

Among the religious particularities of the Muslim Shiites is what is called “legitimate (religious) endowment”, in accordance with the Shiite sect. The Shiite jurisprudence allows the Waqf (endowment) of things, places, and buildings, in accordance with special controls. In case the “waqf” was carried out in accordance with legitimate conditions, what’s subject to waqf would no longer be a property of the party that conducted this waqf upon it. It become money that cannot be granted, inherited, or sold unless in special cases provided by books of jurisprudence. These are usually used for religious purposes; as a person who buys a piece of land and builds a place of worship on it and calls it “waqf”, it therefore no longer remains as his property, but becomes subject to the Shiite sect’s jurisprudence provisions.

It’s worth noting that international laws grants religious sects the right to manage their own endowments according to their social convictions, legitimate controls, and religious interests. However, the [Bahraini] State has been confiscating the right of Islamic Endowment management for decades now. Here, we’re tackling the rights’ status of the “Jaafari Endowments” in Bahrain, as an example for the sectarian persecution practiced against the Shiite majority.

First: The Imposition of Official Custody over Endowments

Despite claims that the The Jaafari Waqf (Endowments) Directorate (JWD) is an independent department, its council is appointed by governmental power. The council head, along with 10 members, are appointed by royal decrees. The appointed council reports to the Minister of Justice and Islamic Affairs of the Kingdom of Bahrain. As such, these appointments occur without the consideration of the sectarian peculiarities guaranteed by international covenants. The appointment is carried out in individual power, trespassing the will and choice of hundreds of Waqf bodies, which the JWD ought to supervise, develop, and protect from damages and losses.

The JWD never gained its complete administrative, organizational, and financial independence since its establishment in 1928 by Sayed Adnan al-Moussawi. The authorities dominated the Jaafari Waqf under pretexts of organization, development, institutionalization, and plotting, therefore leading the Waqf affairs to be under the authorities’ tutelage and political operation in the present era. Therefore, this led to the weakening of its role, dispossessing it of its independence, prestige, value, and effectiveness. This reality led to serious human rights abuses.

Second: The Non-Registration of endowments based on Judicial Decisions by Judge Sayed Adnan

Among the registered waqf challenges in Bahrain, is the non-registration of endowments, for which a judicial decision was made by Judge Sayed Adnan al-Moussawi, as legislations, law of pleadings, and real estate regulations state that proving ownership of a property is done through litigation.

Meanwhile, it would had been possible to conduct a simple real estate process to issue waqf documents based on the Judge Sayed Adnan’s decision; a process registered in Sayed Adnan’s Notebook. As a result, the right of many endowments was lost; as documents were not issued proving the status of properties as endowments, which is an issue considered an inherited right for endowments recorded in Sayed Adnan’s notebook. Many of those endowments were lost and registered under the names of powerful figures and authorities.

The negligence of the endowment authority could be confined with the following:

- The deliberate negligence.
- The Bahraini government’s advisor Charles Belgrave had the exclusive right to resister endowment properties under dispute, leading to the non-registration of many endowments.

- The JWD inaction in tackling the issue after the governmental decision issued in the 80s, which necessitated the presence of “endowing” party to register the endowment.
- Non-measuring the endowment (properties) based on what’s recorded by Sayed Adnan’s notebook.
- Non-following up the matters of registration in an organized way, or preparing a technical real estate report for each endowment.
- Not allowing the endowment deputy to follow up the registration of endowment under his jurisdiction.

Third: Depriving hundreds of endowment authorities and foundations of their rights

Depriving the Jaafari sect from managing their own endowments is a clear evidence of the sectarian exclusion, opinion expropriation, absence of freedom, the authority’s unlawful control of monies, properties, public, private and religious premises. The imposition of official custody over the Jaafari endowment, and imposing specific kinds of management, led to the spread of financial and administrative corruption in the Jaafari endowments. This also led to the exploitation of organizations’ endowment monies, in an illegitimate, illegal, and unlawful manner for decades. The state is fully responsible for this, as it deprives the followers of the Jaafari sect of their natural right to manage their own endowments, in according to their jurisprudence, social, and administrative perspective, without having to impose successive managements over them.

Hundreds of endowment foundations in Bahrain are deprived of their legal, economic, and civil rights. Endowment foundations are considered to be “juristic persons” in accordance with the domestic and international law. Article (17) of the Bahraini Civil Law, Any group of persons or properties are recognized as juristic persons by virtue of a provision of the law. Article (18) of the Bahraini Civil Law stipulates, “A juristic person enjoys, within the limits established by law, all rights with the exception of those rights which are inherent in the nature of an individual. A juristic person shall have its own patrimonial, legal capacity, the right to sue, its own domicile and a representative to express will.”

Also, a group of international laws and rights confirms that the endowment and civil organizations have the right as juristic persons, to have an independent legal existence. However, the state insists on depriving the endowment organizations this right, which is guaranteed by domestic and international law.

Endowment institutions, including obsequies, mosques, and others, should be aware that endowment institution have rights, and have an independent financial responsibility. No one is entitled to do anything with the endowment without the permission of the endowment owner or his deputy. The mix in the money of the endowment institutions and the JWD account is considered a legal trespass.

Fourth: Loss of Ability to Protect Jaafari Endowments

In all countries of the world, the mosques and places warship enjoy their legislations, legal obligations, religious and civil rights stipulated by local constitutions or international laws, in order to open the door for the practice of religious freedom unconditionally. Moreover, there are international articles that provide legal immunity and security protection of places of worship, as mentioned in international declarations and conventions. Article (18) of the Universal Declaration for Human Rights and article (18) of The International Covenant on Civil and Political Rights, sated that “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community”.

International laws grant places of worship and mosques legal and security immunity in times of war. Article (27) of the 1907 Hague Convention said that “In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion (...), like churches and mosques. The 1949 Geneva Convention confirmed, along with its two annexes, that the places of worship represent a cultural and spiritual heritage for the people, and should be protected from violence, destruction and vandalism. Article (53) of the 1949 Geneva Convention annex, criminalizes the reprisals directed against historic sites, places of worship, which represent the cultural and spiritual heritage of the peoples.

The Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, firmly banned any reprisals against historical sites and places of worship, which represent a cultural and spiritual heritage for the peoples and all mankind and societies.

The UNESCO Universal Declaration on Cultural Diversity explicitly stressed the need for measures to be adopted by countries, to prevent the occurrence of targeting cultural and spiritual heritage of community components.

Taking all the aforementioned into consideration, it is very normal for human society to consider the demolition of the over 450-year old Al Buraighi mosque, a violation to all international laws and regulations, human, moral and civilizational norms. Its demolition cannot be seen but a violation of human heritage, a destruction of a national history building, and a churlish trespass over the feelings of the citizens, and religious and civilizational norms of the peoples. Moreover, the demolition of 38 mosques, registered in the Jaafari endowments, is considered a violation of the sanctity of these sacred civilizational and historical sties. This action fall under the UN description in its 1954 Memo, of the crimes seeking civilization genocide, i.e. abolishing and eradicating a civilizational component, that is authentically rooted, from the cultural, social and political map of countries and states.

The violation of demoliting 5% of mosques registered in the Jaafari endowments raises an important question about the ability of the Jaafari endowment to protect these mosques, and the ability of the appointed directorate boards to gain its independence.

*Bahrain Forum for Human Rights (BFHR), NGO without consultative status, also shares the views expressed in this statement.