



## Bahrain: an update

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In November 2011, the Bahrain International Committee of Inquiry published its hard-hitting report on the events in the spring of that year. The report recommended sweeping reforms to end impunity for torture and extrajudicial killings and to work towards the reconciliation of Bahraini society. Despite some changes, most reports suggest that the implementation of the reforms has been half-hearted at best. Unrest and reports of abuse continue and some fear an impending crisis. Some in the Bahraini government see a partial union with Saudi Arabia as a resolution to the crisis.

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## 1 The Bahrain Independent Commission of Inquiry

The Bahrain Independent Commission of Inquiry (BICI) was set up on 29 June 2011 to investigate the events of spring 2011 in Bahrain, to determine whether what happened constituted a violation of international human rights law, and to make whatever recommendations it saw fit. The Bahraini government appointed some high-profile international jurists to the commission, which lent credibility to the exercise:

Professor M. Cherif Bassiouni, Commission Chair

Judge Philippe Kirsch Q.C.

Professor Sir Nigel Simon Rodley

Dr. Mahnoush H. Arsanjani

Dr. Badria A. Al-Awadhi<sup>1</sup>

Its hard-hitting report was published in November 2011,<sup>2</sup> and catalogued credible allegations of human rights abuses including torture, which it pointed out was in contravention of Bahrain's treaty obligations as a signatory to the Convention Against Torture, and of Bahrain's legal code. It said that a culture of impunity existed among the security officials:

The Commission is of the view that the lack of accountability of officials within the security system in Bahrain has led to a culture of impunity, whereby security officials have few incentives to avoid mistreatment of prisoners or to take action to prevent mistreatment by other officials. The Commission received evidence indicating that, in some cases, judicial and prosecutorial personnel may have implicitly condoned this lack of accountability. In the light of this culture of impunity, the Commission acknowledges the immense courage that was required for the victims of torture and ill-treatment to report their experiences to the Commission.<sup>3</sup>

### **Recommendations**

The commission recommended:

- Investigating all the deaths and incidents of torture attributed to the security forces, with a view to prosecuting implicated individuals
- Setting up an independent body to examine all complaints of torture and other abuse by the authorities
- Instigating an extensive programme of training for public order officials
- Ending detention without access to lawyers and incommunicado detention
- Recruiting security personnel from all sectors of Bahraini society
- Providing training for the judiciary on the prevention of torture and ill-treatment

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<sup>1</sup> Profiles for the commissioners are available on the [Commission's website](#)

<sup>2</sup> [Report of the Bahrain Independent Commission of Inquiry](#), 23 November 2011

<sup>3</sup> [Report of the Bahrain Independent Commission of Inquiry](#), 23 November 2011, p418

- Recording all police interrogations
- Reviewing the convictions of those charged with political offences only
- Lifting death sentences
- Compensating the families of deceased victims and victims of torture and ill-treatment

It also said that those who had lost their jobs or been ejected from their university courses simply for attending demonstrations should be reinstated or otherwise treated fairly and that some demolished mosques should be rebuilt. It recommended giving the opposition more access to the broadcast and print media and that work should be done to encourage balanced reporting and stop incitement to sectarian hatred in the media. Likewise, the commission recommended a national reconciliation and tolerance drive in schools, universities and elsewhere.

King Hamad received the report with a speech in front of members of the commission and his own government. He said that European governments often receive criticism from bodies such as the European Court of Human Rights:

And yet the governments of these countries do not denounce the European Court. They do not protest or boycott the judges who have criticised them. To the contrary, they are grateful to the Court for having identified the ways in which they must improve if they are to be in harmony with international law and morality.<sup>4</sup>

The King said that Bahrain wanted to benefit from the inquiry in the same positive spirit. He said that Bahrain would reform its laws to be fully consistent with international obligations. According to the King, some law reforms had already been passed, and that the authorities had already set up a compensation fund and were looking into re-instatement of workers and students. A government working group would immediately be set up to act on the commission's other recommendations.

The credibility of the commission, the very public and apparently enthusiastic reception accorded the report surprised and impressed some observers. However, even before the publication of the report, there were signs of a power struggle within the royal family over how to respond to the disturbances. Hardliners in the family, led by the Prime Minister and allegedly supported by Saudi Arabia, sought to marginalise the more liberal elements, which included King Hamad and Crown Prince Salman bin Hamad. Senior policemen were suspended, then re-instated. The King issued an edict for sacked workers to be re-instated but companies did not act on it. The report and the King's welcome for it can be seen as a move by the reformist faction against the hardliners within the royal family; the thoroughness of its implementation would be a measure of the strength of reformists.

## **2 Implementation of the report**

Before the publication of the commission's report, the government had already started to take some steps to address human rights concerns, including:

- the ending of the state of emergency
- the release of some detainees

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<sup>4</sup> "HM King Hamad Receives BICI's Report and Delivers a Keynote Speech", Bahrain News Agency press release, 23 November 2011

- the transfer of all trials from military to civilian courts
- the reinstatement of hundreds of workers and students to their positions.

## 2.1 National Commission

In the immediate aftermath of the report's publication, the government appointed a 19-member working group, the National Commission, to implement fully the recommendations in the report and set a deadline of the end of February 2012 to achieve that aim. The government also set up a new investigative body within the Public Prosecutor's Office.

On 20 March 2012, the National Commission submitted its report on the implementation of the Commission of Inquiry report recommendations.<sup>5</sup> Launching the report, the National Commission chairman said that the reform process had been unprecedented:

Unprecedented progress has been made in the implementation of the recommendations of the Bahrain Independent Commission of Inquiry (BICI), observed the head of the National Commission. All Bahrainis should be proud of the progress that was made in such a short time since the report was presented.<sup>6</sup>

The report details the reforms that had been made:

### **Police and security sector reforms**

- Widespread training programmes
- A new National Security Agency Inspector General
- A police ombudsman
- Transformation of the National Security Agency into an intelligence-only agency

### **Justice system reforms**

- Charges for speech-related activity dropped
- Attorney General to be responsible for investigations into allegations of torture
- Civil courts reviewing sentences handed down by military courts
- Training for judges and prosecutors

### **Accountability**

- Establishment of an independent unit within the public prosecutor's office to investigate abuse allegations
- Establishment of three compensation schemes

### **Reconciliation**

- Education programmes in schools

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<sup>5</sup> [Report of the National Commission to follow up the recommendations of the Bahrain Independent Commission of Inquiry](#), 20 March 2012

<sup>6</sup> "Unprecedented progress", National Commission press release, 21 March 2012

- Plans by Information Affairs Authority to improve freedom of expression and access for all to media channels
- Reconstruction of mosques
- Reinstatement of sacked workers.<sup>7</sup>

## 2.2 Response

According to human rights organisations, on the other hand, progress has been slow. Very few members of the security forces were brought to trial for alleged abuses. Of the eight low-ranking policemen brought to trial by February 2012, five were Pakistanis and one was a Yemeni, according to Amnesty International.<sup>8</sup> Amnesty also said that those judicial procedures that had taken place were shrouded in secrecy, and that many victims of torture and ill-treatment were still waiting for justice. Further allegations of torture and ill-treatment continued to be made, according to the organisation.

According to Human Rights Watch, the US-based organisation, beatings and other forms of abuse by the police were still taking place when representatives visited Bahrain in April 2012.<sup>9</sup> Unlike before the Commission of Inquiry's report, however, HRW said that ill-treatment was now taking place on the way to police stations rather than inside them; police practice was now to take detainees to waste ground or other informal detention areas and administer beatings or psychological abuse such as threats of rape.

Some opposition figures who had been convicted in military courts have been allowed to appeal to the Court of Cassation, where the trials were to be held in open court. The Bahrain Centre for Human Rights (BCHR) reports that only one family member per defendant was allowed to attend the trials, which were held under conditions of heavy security.<sup>10</sup> Some sentences have been reduced, but the whole process is plagued with delays and fails to meet international standards of justice, according to BCHR.

In other cases detailed by the BCHR, Bahraini students at a Saudi university were deported from Saudi Arabia and handed over to the Bahraini police, who tried them for crimes such as "inciting hatred of the regime". After being found innocent by the court, they found that they were unable to return to Saudi Arabia to finish their studies, because the Saudi authorities had placed a travel ban on them.<sup>11</sup>

The Bahrain Centre for Human Rights published a report on alleged human rights abuses since the publication of the Commission of Inquiry published its findings.<sup>12</sup> The organisation says that many have been killed since the Inquiry report was published, mostly suffocated by tear gas but three killed while being tortured. The BCHR says that at least 226 protestors have been arrested in 2012, many of them in night time house raids. Rebuilding has begun on only five of the 35 Shia mosques that were destroyed, according to BCHR. According to

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<sup>7</sup> [Report of the National Commission to follow up the recommendations of the Bahrain Independent Commission of Inquiry](#), 20 March 2012, conclusions, pp530-531

<sup>8</sup> [Bahrain one year on: accountability remains a distant aspiration](#), Amnesty International, 13 February 2012

<sup>9</sup> [Bahrain: Police Brutality, Despite Reform Pledges](#), Human Rights Watch, 29 April 2012

<sup>10</sup> ["First session of Court of Appeal in the case of the 21 political leaders and activists held under tight security procedures"](#), Bahrain Centre for Human Rights press notice, 20 May 2012

<sup>11</sup> ["Bahraini & Saudi authorities violating Bahraini students' rights: travel ban, new expulsion from study and sham trials"](#), Bahrain Centre for Human Rights, 22 May 2012

<sup>12</sup> [BCHR report on human rights violations since the publication of the BICI recommendations](#), Bahrain Centre for Human Rights 26 March 2012

Amnesty International, more than 200 people dismissed for political reasons have not been reinstated to their jobs.<sup>13</sup>

Amnesty International also reports that little has been done about the Commission's broader recommendations to heal the divisions in society: to fight against discrimination and to end the incitement to sectarian hatred in the official media.<sup>14</sup> There has been no formal re-start of the political dialogue with the opposition, although al-Wefaq, the biggest opposition party, approached the government for political discussions. The meeting had no major outcome.

### **3 Recent situation on the streets**

#### **3.1 Formula One**

Many commentators worried that the controversial staging of the Formula One race in Bahrain would be the scene of violent disruption. The event passed off peacefully in the end: there were no bombs or other disruption. But it was not the public relations success that the authorities had wanted. Bahrain did not appear to the world as normalised and peaceful. At one point clouds of smoke were visible, coming from demonstrations against the event, reportedly attracting 50,000. A Channel 4 television crew was arrested for covering the demonstration, while a *Telegraph* journalist was arrested simply for passing through a Shia neighbourhood.<sup>15</sup>

#### **3.2 Nightly disturbances**

Although the situation in Bahrain is no longer so prominently reported in the international press, peace never really returned to the island. While the security forces have generally regained control of the centre of Manama and Pearl Square is closed, the situation in the mainly Shia-majority villages and suburbs around the capital is increasingly unstable. There are nightly demonstrations against the authorities. The police use large amounts of tear gas against demonstrators, to the extent that deaths have been caused (see the Bahrain Centre for Human Rights report, above). Demonstrators have become increasingly violent, using Molotov cocktails against the security forces. On 25 April, a bomb injured four policemen, representing a very significant escalation.

#### **3.3 Abdulhadi al-Khawaja**

One of the highest profile prisoners is Abdulhadi al-Khawaja. He was co-founder and, for a time, president of the Bahrain Centre for Human Rights. Al-Khawaja was arrested on 9 April 2011 and allegedly repeatedly tortured, to the extent that he needed to be hospitalised. He was tried in a military court in May 2011 and found guilty of plotting against the state. He was given a life sentence.

In February 2012, he started a hunger strike. He claims that he has been drugged and force fed, but that the medical treatment that he is receiving in the Bahrain Defence Force hospital has been good.<sup>16</sup> The Court of Cassation, a civilian court, reviewed his case and that of several other defendants and, on 30 April 2012, overturned the verdict of the military court, saying that there should be a retrial at a civilian court. He was not, released, however. His wife, Khadija al-Moussawi, rejected the verdict of the Court of Cassation: "They are playing

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<sup>13</sup> [Flawed Reforms: Bahrain fails to achieve justice for protesters](#), Amnesty International, 17 April 2012

<sup>14</sup> *Ibid.*

<sup>15</sup> "Channel 4 crew arrested as their driver is 'beaten'", *Daily Telegraph*, 23 April 2012

<sup>16</sup> "[Bahrain activist Khawaja to continue hunger strike](#)", *BBC News Online*, 1 May 2012

for time, and should have transferred his case to a civilian court at the first hearing not the third."<sup>17</sup>

On 28 May, Mr al-Khadija ended his hunger strike, saying that it had served its purpose and drawn attention to the situation in Bahrain. The decision followed the release on bail of another activist, Nabil Rajab. Rajab is the current head of the Bahrain Centre for Human Rights. Both Rajab and al-Khawaja are Shia Muslims.

#### **4 Bahrain and the UK**

There was controversy recently when King Hamad Al Khalifa had been invited to lunch at Windsor Castle on 18 May to celebrate the Diamond Jubilee. A Foreign Office spokesman responded to the criticism, saying that Britain was encouraging reform and an end to impunity for those accused of abuses in Bahrain:

On human rights we support the reforms already under way in Bahrain and we want to help promote that reform. We have consistently encouraged the Bahraini Government to take further urgent steps to implement in full the recommendations of the Independent Commission of Inquiry as his majesty the King has committed to doing. This includes bringing to account those individuals responsible for human rights abuses.<sup>18</sup>

On 21 May, Alistair Burt, minister for the Middle East, answered a question about UK assistance to the Bahraini government in implementing the recommendations of the Commission of Inquiry. He gave the following answer:

The British embassy in Bahrain is developing a programme of reform support, including for the implementation of the recommendations of the Bahrain Independent Commission of Inquiry (BICI), which will be funded by the Arab Partnership Participation Fund and the Conflict Pool. This support is likely to focus on two key areas central to the BICI recommendations: reconciliation, and promoting human rights and the rule of law. In 2011-12, the Arab Partnership Participation Fund supported bespoke human rights training in the UK for officials from the Bahraini Ministries of Justice and Social Development.<sup>19</sup>

In another answer, Mr Burt added:

In 2012-13, Bahrain is likely to be the Arab Partnership Participation Fund's main focus in the Gulf.<sup>20</sup>

#### **5 Outlook**

The Bahraini government has often accused Iran of being behind the unrest, seeking to highlight the sectarian nature of the conflict. In fact, Sunnis were involved in the original demonstrations against the authorities, which were more about corruption, incompetence and a lack of public participation in government than about removing the Sunni monarchy and installing a Shia-led government.<sup>21</sup> The BICI report said the Commission had found no

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<sup>17</sup> *Ibid.*

<sup>18</sup> "King of Bahrain lunches with Queen as human rights storm rages", *Daily Telegraph*, 18 May 2012

<sup>19</sup> HC Deb 21 May 2012, c445W

<sup>20</sup> HC Deb 21 May 2012, c450W

<sup>21</sup> An interesting account of the complexities of the Bahraini political scene is given in Reza Akbari and Jason Stern, "[Bahrain's triangle of conflict](#)", *Foreign Policy*, 17 May 2012

evidence of Iranian involvement in the unrest, although the government said that it had intelligence evidence that it could not reveal.<sup>22</sup> Partly as a result of government's failure to promote reconciliation effectively, the conflict is taking on an increasingly sectarian nature, which will make a negotiated settlement far harder to achieve.

### **Saudi Arabia**

Moderates within the Bahraini ruling family have been marginalised, particularly since the failure of the early reconciliation talks with al-Wefaq, the main opposition party. The hardliners who now seem to have the upper hand are counting on their supporters in neighbouring Saudi Arabia rather than on reconciliation to resolve the problem. Following the Saudi-led military intervention in Bahrain in 2011, Saudi troops remain in the country. In December 2011, Saudi Arabia called for moves towards unity in the Gulf Cooperation Council countries, in order to put up a united front against Iranian threats. Other Gulf countries such as Kuwait were not enthusiastic about the suggestion, but the real purpose of the move may be to bring about a near-merger between Saudi Arabia and Bahrain, thus effectively eliminating the problem of the Shia majority in the smaller nation. Iran's reaction was predictably hostile, but many commentators are convinced that a mini-federation between Saudi Arabia and Bahrain is likely. Ayham Kamel of the Eurasia Group suggests that this may lead to more regional instability rather than less:

A Saudi Arabia-Bahrain confederation would do little more than formalize Riyadh's leverage in Bahrain's affairs. Most importantly, a confederation would almost definitively put an end to prospects of a negotiated compromise with Bahrain's Shia population. Iran would consider the mini-confederation as Saudi Arabia's de facto annexation of Bahrain, and would feel that it needs to be more proactive in confronting Sunni monarchies in the Gulf. Meanwhile, the failure of the broader confederation means that other Gulf states must continue to rely on the US security umbrella. None of this fits nicely with US aspirations to extricate itself from the region, or with hopes for a calmer oil market.<sup>23</sup>

### **Opposition**

While hardliners are in the driving seat in the government, the Bahraini opposition has also become more extreme. Not only has the level of violence in the nightly protests increased, many young protesters are also abandoning al-Wefaq, seeing it as too ready to compromise with the regime. Protesters are now openly calling for the fall of the monarchy, and many support the head of the Bahrain Centre for Human Rights, Nabil Rajab, who is seen as more radical and in closer touch with the real opposition.<sup>24</sup>

With increasingly entrenched divisions in Bahraini society and a lack of will on the part of the government to pursue reforms and national reconciliation, combined with a quickening tempo of unrest that is turning increasingly violent, the prospect of a negotiated solution seems remote. If the Bahraini monarchy turns to Saudi Arabia as its saviour, Bahrain is likely to get Saudi-style repression and an end to the limited political openness and relative social liberalism that it has enjoyed in recent years.

In an interview with the journal *Foreign Policy*,<sup>25</sup> Cherif Bassiouni, Chairman of the Commission of Inquiry, defended the pace of implementation of the recommendations in his

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<sup>22</sup> *Report of the Bahrain Independent Commission of Inquiry*, 23 November 2011, p387

<sup>23</sup> "Riyadh's elusive quest for Gulf integration", *Foreign Policy*, 22 May 2012

<sup>24</sup> "Bahrain's Al-Wefaq may be losing touch with more radical youth", *Daily Star Lebanon*, 16 March 2012

<sup>25</sup> "Cherif Bassiouni: The FP Interview", *Foreign Policy*, 18 April 2012



report. He said that the establishment of the inquiry was in itself a major achievement, and that it would take time to build up the institutional capacity to flesh out the reforms.

On the other hand, he was pessimistic about the polarisation in the country and the failure of the elite to embrace genuine political and social reform. At the heart of the country's problems, according to Professor Bassiouni, is the determination of the Sunni minority to hold on to absolute power: "That can't be. Things have to change. These are the causes. Unless you change the causes, they are still going to have these problems."<sup>26</sup>

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<sup>26</sup> "Cherif Bassiouni: The FP Interview", *Foreign Policy*, 18 April 2012