

## **Bahrain: segregation and repression are not an option to build a democratic future**

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During the months of February and March 2011, on the wave of similar demonstrations in Tunisia and Egypt, the people of Bahrain took to the streets and squares of the Kingdom. Their reason? To develop a democratic movement demanding more openness in the political process and sustained reform to enlarge the space for freedoms and rights enjoyed by Bahraini citizens. Protesters in Manama camped for days at the Pearl Roundabout, which became the centre of the protests, asking for greater political freedom and equality for the majority Shia population (be it in terms of in distribution of economic and political resources but also of enjoyment of fundamental rights).

Although democratic and cross-sectarian in nature – we could see swelling crowds of Sunnis and Shia calling in a single voice for greater political rights and freedoms-, Bahrain's Arab Spring was immediately depicted – and delegitimized - by the regime as sectarian and portrayed as part of an Iranian plot (and thus as an externalised threat) to overthrow the Al-Khalifa regime and threaten the balance of power in the Gulf.

Those streets demonstrations were met with violent repression by the police and armed forces. Peaceful protesters, human rights activists and democracy advocates faced extra-judicial detentions, imprisonment, ill treatment and torture in detention centres. The government also requested military assistance from the Gulf Cooperation Council (GCC) and, on 14 March, Saudi Arabia responded by sending troops and police and by leading the military intervention of the Joint Peninsula Shield Force. It was the first time that the GCC intervened militarily in one of its member states to suppress an internal revolt, as its founding treaty only considers intervention in the case of a foreign threat. A day later, the King of Bahrain declared martial law and a three-month state of emergency. During those three months, more than 80 died, hundreds were detained and entire villages and cities were cordoned off by GCC and Bahraini armed forces, who harassed people and indiscriminately blanketed entire neighbours with CS gases, also shooting them directly inside schools and private houses.

In June 2011, the King of Bahrain announced the establishment of the Bahrain Independent Commission of Inquiry (BICI), headed by renowned international law professor Mr Cherif Bassiouni, to investigate those events and their consequences. This could have been the first of the Arab Spring's transitional justice efforts and a tool to address some of Bahrain's problems, particularly to acknowledge victims and to erode the culture of impunity by creating a sense that people violating human rights will be held accountable for their actions. Many people held very high hopes for what would become known as the "Bassiouni Commission". Instead, it was the start of a chequered history of operations that were widely criticised, as the Commission did not reach out to the public to explain who they were and what they were doing and failed to engage non-governmental organisations fully in its work, casting doubts on its genuineness and independence.

Five months later, on 23 November 2011, the BICI released its 500-page-long Report on alleged human rights violations that occurred during mass protests in the country last February and March. The report confirmed that security personnel had used "excessive and unnecessary lethal force" and "terror-inspiring behaviour" against peaceful protesters during demonstrations and had arbitrarily arrested, detained, tortured, ill-treated and denied them fair trials. The BICI also noted that Bahrain's security forces operated within a "culture of impunity" and concluded that the abuses "could not have happened without the knowledge of

higher echelons of the command structure” of the security forces. The report included 26 recommendations to address past human rights violations and prevent future human rights violations by undertaking extensive judicial, legislative and institutional reform.

The report was officially welcomed, without reservation, by the King, who pledged to implement its recommendations fully. While considering it as partial and not exempt of flaws<sup>1</sup>, Bahraini civil society and several international human rights organisations also accepted the report, nurturing the hope that its implementation could be a springboard for deeper reforms and could open the way for accountability, reconciliation and respect for international human rights law in the country.

To date, five years after its violent response to citizens’ rallies demanding political reform, the promising stance of the government has not turned into concrete action. While the Bahrain Government did address some of the issues raised by the BICI report, its key and most sensitive recommendations have not been implemented and only partial and sluggish reforms have been carried out. Despite the Bahraini regime’s constant public claims of working towards enhanced accountability and respect of human rights, the facts on the ground blatantly speak to the contrary.

There is still widespread discrimination against the Shia majority of the population, which faces stark inequality in distribution of economic and political resources: 1) a lack of political power<sup>2</sup> and 2) effective representation within the society<sup>3</sup>. Maintaining a system of privileges, which favours certain ethnic and sectarian groups over others, can only foment widespread disaffection and set the country further along the dangerous path of disunity, rather than creating a social fabric founded on inclusiveness and peaceful coexistence.

Worse, and despite the continuous call of the international community in various human rights monitoring mechanisms, including through the Universal Periodic Review (UPR) conducted by the United National Human Rights Council, Bahraini authorities continues to suppress peaceful dissent through repressive and retaliatory practices on a daily basis. It does so by using State institutions to attack and control the population, creating an atmosphere of mistrust and fear. Severe restrictions on the right to freedom of expression and association persist unabated, including through repressive laws recently passed (amendments passed in 2013 and 2014 to the country’s anti-terrorism legislation have been used to keep political opponents in detention either without charge, or with accusations of inciting violence and jeopardizing the stability of the country).

Prominent civil society activists and human rights defenders, including minors, are still being exposed routinely to harassment, arbitrary detention and imprisonment, ill-treatment and unfair and politically

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<sup>1</sup> The BICI Report’s conclusions and methodology were not without faults, its recommendations falling short of what was required by the facts exposed in the report itself. Its comparable emphasis on crimes committed by individuals and crimes against humanity committed by the State appear to be an inexcusable attempt to balance the two. Furthermore, certain recommendations, although progressive, are incongruous. For example, the Report recognises that thousands of peaceful demonstrators were arrested, imprisoned without trial and often tortured. However, rather than advocate for their immediate and unconditional release, it instead proposes that they receive fair trials – regardless of the fact that their initial “crime” of peaceful demonstration was no crime at all, but in fact their fundamental right.

<sup>2</sup> Shiite citizens are systematically underrepresented in Bahrain’s elected lower house of parliament due to rampant electoral gerrymandering

<sup>3</sup> Bahraini Shiites are far less likely than Sunnis to obtain jobs in the public sector, and they are almost entirely disqualified from police and military service. Moreover, those Shiites who do hold government jobs fill lower ranking occupations on average compared to equally-qualified Sunnis. Public services in the highly-segregated neighborhoods and villages where a majority of Shiites reside tend to be inferior to those in Sunni-dominated areas.

motivated trials leading to harsh sentences for having participated in peaceful demonstrations or criticised officials. This campaign of repression has expanded further to encompass leading opposition figures engaged in the ongoing National Consensus Dialogue process that the Bahraini authorities have been touting as part of the reform process. A further red line has been crossed with the conviction and detention of Ali Salman, leader of al-Wifaq, the Shi'ite opposition group that arguably forms the largest political bloc in the country. In such context, it is not surprising that the parliamentary elections of November 2014 were largely boycotted by the opposition, who rightfully alleged that the election process discriminated against the Shi'a through gerrymandering and outright flaws, as well as the generally impotent state of the parliament.

Despite this continued repression, Bahraini civil society is persevering in its critical role as a watchdog of the country's alarming human rights records and in its fight for the establishment of open and more democratic institutions. These advocacy and monitoring efforts must be supported. The commitment of the majority of Bahrainis to reform geared towards a political system based on respect for human rights, application of the principle of non-discrimination and accountability for violations still gives hope for a better future.

If the Government is sincere about reform aimed at anchoring the country's future to democratic values, it needs to respect the Rule of Law, stop fuelling sectarian division, distrusts and hatred, eliminate systematic religious or confessional-based discrimination in all its forms and ensure equality before the law for all its citizens, irrespective of religion, family ties or official status.

Critically, this also means protecting human rights, in particular the rights of citizens to be free from fear of harassment, imprisonment and torture. It is imperative that all remaining prisoners of conscience and human rights defenders in detention for exercising their right to free expression and peaceful assembly be released without further delay.

The Government of Bahrain must also establish credible and impartial accountability mechanisms to address past violations and to prevent continuing abuses, as recommended by the BICI report and the UPR mechanism. It must also effectively investigate all allegations of torture, ill-treatment, enforced disappearances and other human rights violations and bring those responsible before a court of law. These would be important steps to break the prevailing culture of impunity and, crucially, for ensuring acknowledgement and justice for the victims. To succeed, these processes cannot be based on granting impunity for human rights violations, nor can measures designed to end impunity be carried out by those who have used the judicial system to inflict terror and persecution. All those who ordered or committed torture must be removed from positions of authority, investigated and prosecuted<sup>4</sup>.

Bahraini authorities should also cooperate fully with the human rights monitoring mechanisms of the United Nations and its Special Rapporteurs, in order to allow for an independent assessment of human rights conditions, particularly on freedom of association and assembly, on the situation of human rights defenders, torture and free trial.

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<sup>4</sup> To be fair, the authorities did investigate and prosecute some low-ranking security officials in connection with cases of alleged torture and unlawful killings. However, no high-ranking official at the Ministry of Interior or at the National Security Agency have so far been held responsible for alleged unlawful or negligent acts resulting in the mistreatments, torture and deaths of civilians. No official from the Bahrain Defence Forces is known to have been investigated, although the military played a leading role in the 2011 campaign of repression. As such, nobody with the legal authority to make the decision for these things to happen, or to punish their having happened, has ever been charged, let alone prosecuted or convicted. Moreover, the government has failed to commute the sentences and release all persons charged with offences involving political expression, as the BICI report recommended.

These are the minimum conditions to demonstrate real commitment towards implementing the recommendations from both the BICI report and the UPR process. Unfortunately, at the time of this writing, the Bahraini authorities have not yet engaged in a serious political dialogue on the implementation of these measures nor do they seem ready to do so.

Finally, the international community has a responsibility to ensure that the Bahraini authorities do not persist in this “smoke screen” strategy of cosmetic reforms rather than complying with their obligations under international human rights laws and norms.

This means supporting those political forces inside Bahrain that are tirelessly working to develop a peaceful and nonviolent process towards meaningful political reforms. With the adoption of the EU Strategic Framework on Human Rights and Democracy in June 2012, the EU pledged to throw its “full weight behind advocates of liberty, democracy, and human rights throughout the world”. As highlighted by the latest resolution condemning human rights abuses in Bahrain adopted by the European Parliament in July 2015, we therefore expect the High Representative and EU Member States do all in her power to secure the release of those individuals who have been imprisoned solely for exercising their rights to freedom of expression, association and assembly in Bahrain.

It also means establishing mechanisms of early warning within the diplomatic community in Manama, ensuring that trials are monitored and facilitating regular and frequent meetings with civil society organisations and individuals at risk of harassment and prosecution. The international community should use international fora and international mechanisms, such as the UN Human Rights Council in Geneva and the relevant UN Special Rapporteurs, to pressure the Bahraini authorities to respect international conventions and uphold universal human rights. Ultimately, the international community should foster the establishment of an international monitoring mechanism with the mandate of monitoring the implementation of the BICI recommendations and the overall situation of human rights in Bahrain, according to a specific and precise timetable. This could be done by scheduling a special session on Bahrain at the UN Human Rights Council and adopting a Resolution that calls upon the Bahraini authorities to end the crackdown, ensure accountability and cooperate with UN human rights mechanisms.

Sadly, the response of the international community has, so far, been weak and deaf to the plight of the Bahraini citizens. The Bahraini authorities have used this approach as a green light to persevere in their repressive and retaliatory practices rather than engage in a real and inclusive dialogue with the peaceful opposition leaders and human rights advocates.

Justice and peace are integral elements of a democratic system and the international community has a duty to stand by the people of Bahrain in their nonviolent quest for democracy, rule of law and respect of fundamental human rights. A truly democratic transition in Bahrain will be achieved only if all those who are committed to peaceful and nonviolent dialogue are able to contribute fully to the political process, with a view to establish open and accountable institutions and to ensure equality of all citizens before the law.

\* The Campaign for Accountability and Human Rights in Bahrain is jointly supported by **No Peace Without Justice (NPWJ)** and **Droit au Droit (DAD)**. The purpose of the campaign is to support Bahraini human rights organisations and activists in their efforts to promote a democratic and nonviolent political reform in Bahrain. It focuses on assisting human rights defenders and human rights advocates to secure effective and genuine accountability for past and ongoing violations of human rights, including through outreach, monitoring and documentation. For more information, check: <http://www.npwj.org/node/5743>