

Report of the Trial Monitor in the
Karzakan and Ma'ameer Cases
Bahrain, 2009

Abed Choudhury



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Preface

The IHRC sent Abed Choudhury to monitor the verdict hearing of 19 Bahraini men charged with the murder of a police officer. The hearing was held on 13th October 2009. This is a report of his observations and conclusions, as well as his observations pertaining to a further case in Ma'ameer.

At the time of writing up, Mohammed Al-Maskati, president of the Bahrain Youth Society for Human Rights, mentioned in the section Ma'ameer, below, had had charges brought against him under the 1989 Law on Societies, which effectively restricts the activities of societies and dictates the parameters in which they must operate.

Further information about Bahrain and IHRC Campaigns for Bahrain can be found on the IHRC website: <http://www.ihrc.org.uk>.

Multimedia information including photo galleries, articles, reports and action alerts are and will be available.

Introduction

Bahrain is a nation of extremes. It is a nation flooded with extreme wealth, the product of oil and foreign investment in a burgeoning financial and property market. Manama city is developing incessantly with buildings for banks, hotels, shopping malls and expensive hotels going up continuously at a rapid pace. But this is not the whole picture.

The wealth and development is a mirage that hides the less palatable face of Bahrain, the face the authorities do not want the world to see. The wealth of Bahrain is concentrated into the hands of a few powerful Bahrainis, the bulk of the wealth concentrated in the hands of the royal family of Bahrain. The majority of Bahrainis live in villages and towns outside the capital city. They have not benefited from the wealth enjoyed by the rich and wealthy of Bahrain. They stand on the outside watching as their nation marches forward to join the developed world, forced to fight and struggle for their share of their birthright.

Bahrain is currently gripped in a struggle that is political and sectarian. The government is accused of actively pursuing an immigration policy which is changing the religious/ethnic demography of Bahrain. This is coupled with a policy of targeting political opponents from the majority Shia population. This has created anger and resentment amongst the Shia community. The arrest and prosecution of political opponents and activists is straining relations between the government and the Shia community to breaking point. The tension is visible throughout Bahrain. From demonstrations and marches to tyre burnings on the streets and switching off street lights. There have even been threats of an intifada (armed uprising) if all political prisoners are not released.

Trial monitoring: Karzakan Case

Background

The Karzakan case involves 19 men from the village of Karzakan, Bahrain. The 19 were charged with murdering a policeman by throwing Molotov cocktails into his car during protests in April 2008. The trial itself has been a long drawn out process, with the defendants claiming their confessions were extracted under torture. A fact that was initially recognised by the trial judge when the evidence was presented to him, though according to the defence lawyer, Muhammad Al Tajer, the judge refused to acknowledge the torture at later hearings. The defence also claims that various underhanded tactics were used by the prosecution, including calling all the prosecution witnesses during a hearing that was being boycotted by the defence lawyers, thereby depriving the defence team the chance to cross-examine the prosecution witnesses. The case has generated a lot of interest in Bahrain and has intensified tensions between the government and Bahrain's Shia majority. There have been numerous demonstrations and protests in support of the 19 men, with threats of violence if they were convicted.

The hearing

The verdict hearing was held on 13th October 2009. The tension created by this case was visible throughout the city. Armed policemen had been deployed around the court building to maintain order. The court house had a security barrier in front and another was set up directly outside the courtroom itself. Security guards were only allowing in people who had legitimate business in the court house. Outside the court house a large group of people (mainly from the village of Karzakan) had gathered to show their support. The crowd were chanting slogans and were peaceful and orderly.

The courtroom was a small room that held around 60-70 people. One side of the room was for the defendants and the other for their lawyers and the public. There were several defendants from other cases with their lawyers present in the court room. There were 5-6 security officials in the court room as well as 3-4 plain clothed men who were also security officials sent in to maintain order (according to a member of the defence team). Before the Karzakan verdict hearing the judge heard 13 ordinary cases. These were mainly criminal cases in the initial stages of prosecution. The defendants along with their lawyers all presented themselves before the judge and proceeded to mount their defence. Worryingly the prosecutor did not speak during any of the 13 cases as he had already presented his case to the judge in writing before the judge sat in session. The judge nonetheless allowed each defendant to make his case.

After hearing the 13 ordinary cases (he did not pass judgement in these cases), the judge took a 15 minute recess. During this time the 19 Karzakan defendants were brought in. Each was handcuffed to another. They seemed in good spirits, chanting religious incantations in unison. One of the defendants was wearing a bandage around his fingers; I was unable to determine the cause of the injury. During the recess 15-20 journalists entered the courtroom and sat down. The judge entered the courtroom and read his judgment. It took him 2 minutes to read out after which he got up and left. As soon as he left the court room the defendants burst out into loud chanting, hugging one another and congratulating each other. They had been cleared of all charges. The 19 men were taken from the court house by the court security officers. Their lawyers claimed that before their release they were asked to sign an undertaking. The undertaking stated that they would not take part in any political activities that were critical of the government. They refused to sign the document and were released soon after.

General observations of the hearing

The hearing appeared to be open and public. Throughout the two sessions people were continuously coming in and out of the court room. Besides the two security barriers (which did not seem disproportionate given the tensions and heightened security concerns) there were no other barriers stopping people from entering the courtroom. During each hearing other defendants and their lawyers were always present. Furthermore there were journalists and a delegate from the French embassy (David Vanheessen-Genty) was present while the verdict was being read out. So it was very much a public trial in the sense that outsiders were able to observe the verdict hearing (though the writer is unable to comment on how many members of the general public besides lawyers and journalists were present). One of the journalists present said that he had been present at all the Karzakan hearings.

The ruling itself appears to be fair and independent. The head of the defence team, Muhammad Al Tajer, commented that the ruling showed the independence of the Bahraini judiciary. Though such a sweeping judgement about the Bahraini judiciary is beyond the scope of this report, the judgment in this case does appear to be independent. It is worrying that the basis of the judgment was not expressed in the courtroom when the verdict was read out as is customary in most legal systems. A document was released later that same day explaining the reasoning behind the judgment. One must ask why it was not expressed at the time; did they come up with a reasoning afterwards to explain what was essentially a political decision to ease tensions in Bahrain? Nonetheless, the reasoning is indicative of a judicious decision, based on a good grasp of the facts and sound knowledge of the law. The judge recognised the extensive use of torture on the defendants and argued that information obtained under torture could not be used to convict these men.

Ma'ameer

Ma'ameer is a small village on the island of Sitrah just off the main island of Bahrain. The people there face many difficulties including unemployment and high levels of pollution being emitted from nearby refineries. It is a poor community that has not benefited from the economic prosperity of Bahrain.

I visited Ma'ameer on 14th October 2009. I was taken there by Mohammed Al-Maskati, president of the Bahrain Youth Society for Human Rights. He was my translator during my trip to Ma'ameer. In Ma'ameer I met with the Ma'ameer Detainees Families Committee (MDFC). This was a committee made up of individuals who were related to the ten men who are currently being tried for the murder of a Pakistani truck driver, Shaikh Mohammed Riaz. The authorities allege that the ten men threw Molotov cocktails at the truck Riaz was driving. Riaz was left with severe injuries and died several weeks later, on 21st March 2009, at the hospital. The committee described the circumstances surrounding the arrest and detention of the ten men.

Essa Ali Sarhan

- Issa is 17 years old. He was arrested at home. The police entered the home using force and damaged property as they searched the house. He was attacked by the officers and beaten before being taken from his house at gun point. At the station he was kept handcuffed for three days during which time they threatened to beat him and rape his mother and sisters as a result of which he signed the confession they put before him.

Ahmed Ali Ahmed

- He was arrested in similar circumstances as Issa. He had a water hose put into his anal cavity and told that they would blast water inside him. They did not enact this as Ahmed agreed to sign the confession.

Hussain Hamza Sarhan

- His arrest was similar to the above cases. Most of the torture Hamza sustained was to his head and legs. When his family visited him he was limping. At the time of my visit Hamza was still waiting for a medical examination by a doctor.

Sadaq Jaafar Mahdi

- He was visited by his family two weeks after his arrest. He informed them that he had been handcuffed to the ceiling and left hanging for three days. They had also used pepper spray on him to temporarily blind him. He signed a confession after threats to rape his mother and sisters were made.

Jassim Hasan Ahmed

- Jasim's arrest was also a violent affair. He was beaten in front of his young nephew during his arrest even though he did not resist arrest. He was left hanging from the ceiling at the police station for several days; they also used pepper spray on him. Jasim's case is extremely worrying as his family claim that the public prosecutor, Usama Al Asfoor, threatened to rape Jasim's wife and personally torture Jasim unless he signed the confession.

Mohammed Ahmed Ali

- Mohammed was 15 at the time of his arrest. He was arrested when he tried to renew his passport. He was beaten and was limping when his family went to see him. He was released on bail three months after his arrest.

Ali Ahmed Hussain

- He is being tried in absentia. Police have visited his family home on multiple occasions and used force to gain entry into the house. They have destroyed property and threatened his elderly father, at gunpoint, so that he reveals the whereabouts of Ali Ahmed. They have even threatened to arrest and detain his father if he did not reveal the whereabouts of Ali Ahmed.

Kumail Hussain Abdul Hasan

- Kumail was arrested while he played football with friends. He was beaten, hung from the ceiling and they also administered electric shocks to various parts of his body. The torture was so severe that his sister was unable to recognise him when she saw him being removed from the police station three days after his arrest. Police threatened to rape his wife; they even went looking for her at their family home.

Mohammed Hasan Ahmed is also awaiting trial. His case was not discussed during the meeting. Ebrahim Jaafar Mohammed has also been allowed out on bail.

The ten men were pardoned in April 2009 by the King of Bahrain. The Public Prosecutor nonetheless felt that the ten men were still personally liable to the victim's family and so should still answer for the alleged crime.

The MDFC are extremely well organised. Initially each family campaigned for their own family member. With the help of local NGO's they have been able to organise themselves into an effective campaign/pressure group campaigning for all ten men at once. They have been taught, by the NGO's, non-violent means of protest as well as different ways of highlighting their campaign in Bahrain and the international community. They have held charity football matches/marathons, regular marches and rallies outside the Ministry of Justice as well as the UN office and switching off street lights in protest. They have highlighted their campaign on various websites, printed t-shirts with pictures of the ten men on them as well as distributing CDs that contain all the pictures and information detailing the torture the ten men have been subjected to.

Conclusion

Whilst the writer is unable to make generalisations regarding the fairness of trial procedures in Bahrain, his observations of the Karzakan case indicate that there has been substantial improvement of procedures since the transformation of Bahrain's political system from absolute to constitutional monarchy. Claims of lack of due process persist but the writer cannot comment on these based on his observations.

The prevalence of torture by police and security services, however, is still a major issue in Bahrain. Aside from the cases cited above, human rights groups and activists state that the use of torture persists. IHRC strongly recommends that those countries and international organisations that hold sway with the Bahraini authorities, including but not solely the United Kingdom, Saudi Arabia, the OIC and the Arab League, take issue with Bahrain over the culture of torture that exists and demand an end to it and the culture of impunity that ensures that both the policy makers perpetrators of such acts remain in positions of authority.

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