

BAHRAIN:

Concerns Regarding the Bahrain Independent Commission of Inquiry (BICI)

17 November 2011

First published in Great Britain in 2011 (November 17)
by Islamic Human Rights Commission
PO Box 598, Wembley, HA9 7XH
© 2011 Islamic Human Rights Commission

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any means electronic, mechanical, or other means, now known or hereinafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

BAHRAIN:

Concerns Regarding the Bahrain Independent Commission of Inquiry (BICI)

17 November 2011



2011

PUBLISHED BY

ISLAMIC HUMAN RIGHTS COMMISSION

www.ihrc.org.uk

The Bahrain Independent Commission of Inquiry was set up by royal decree on 29th June 2011 in order to investigate the civil and political unrest that has gripped the kingdom since pro-reform protests erupted in February of the same year.

The protests are related to the wider popular movement for political change in the Middle East dubbed the Arab Spring.

Specifically, the Commission was charged with determining whether the unrest and the state's response to it has involved breaches of international human rights law and norms.

To date some 40 civilians have died in the unrest and hundreds more have been wounded at the hands of law enforcement officials seeking to suppress the pro-reform campaign. Allegations of torture are rife and according to Human Rights Watch, at least four people are known to have died in custody, apparently as a result of beating and medical neglect.

Thousands more state employees such as teachers, doctors and other professionals have been removed from their posts for criticising the government. A special military tribunal set up in March after the government's declaration of a three-month long nationwide state of emergency convicted scores of individuals and leading politicians and handed down draconian sentences.

Establishment of the Commission

While the establishment of the Commission was universally welcomed - albeit guardedly by reformists – as a mechanism to tease out the truth from contesting narratives and heal the deep wounds left by months of conflict, it did nevertheless attract criticism from the outset on many fronts.

Foremost among these was that despite its stated "independence" the Commission was paid for by the Bahraini government, leading to the inevitable accusation that commissioners would soft-pedal if it came to criticising the ruling monarchy.

Those fears appear to have been vindicated by recent government comments appearing to equate the government crackdown with opposition abuses. In a pre-report interview with the BBC aired on 18th October (<http://www.bbc.co.uk/news/world-middle-east-15358707>) Fatima al-Beloushi, a Bahraini minister, acknowledged that while government abuses had taken place the inquiry had also uncovered evidence of opposition violations.

"It happened, later on, there were abuses of human rights. Those are mistakes – the government addressed them. Those mistakes were not just done by the government, was even by the demonstrators and those issues have been faced...." said Ms El-Beloushi. "Abuses happened from everyone, but were they systematic, were they gross? No they were not."

The remarks are worrying on two levels. Firstly in trying to equate government human rights abuses with those of the opposition the government appears to be seeking to airbrush its brutal suppression of the pro-reform campaign. It goes without saying that the casualties have been overwhelmingly of protestors or civilians. Hundreds of people have reported being beaten by the authorities, abducted, and/or tortured. Many others have been shot dead. The authorities have allegedly used rape as a weapon against dissidents, and also subjected children to extreme violence. The types of abuses have previously been highlighted by

the IHRC in a briefing paper published last May entitled Bahraini State Terror Continues. (http://www.ihrc.org.uk/attachments/9670_IHRC%20-%20Emergency%20Briefing%20on%20the%20Human%20Rights%20Situation%20in%20Bahrain.pdf)

The documentation of such instances is so voluminous and widespread that it would be futile to argue for any degree of equivalence between the authorities and the opposition. And even if there is any parity it does not absolve Bahrain, as a signatory to several international human rights conventions including the United Nations Convention Against Torture (UNCAT) and the International Covenant on Civil and Political Rights (ICCPR), from upholding its obligations.

The overwhelming majority – if not all - of the victims of the government's response to the popular uprising appear to have been targeted for their alleged participation in the pro-reform movement or for allegedly sympathising with it. Indeed the ferocity of the government's crackdown is strongly suggestive of a beleaguered regime using illegitimate force to snuff out any challenge to its authority.

Politicians and activists have borne the brunt of the crackdown. Ibrahim al-Sharif, general secretary of the country's secular leftist National Democratic Action Society, known as al-Wa'ad, was arrested on 16th March, one day after the announcement of martial law. He had been a regular fixture at Pearl Roundabout, which had for several weeks been the locus of opposition activities, known locally as the February 14th Movement.

The authorities said that al-Sharif had been detained along with several other members of a "sedition ring" - in actual fact all leading political opposition figures. Initially kept in solitary confinement, the 53 year-old veteran activist has written of his ordeal as he serves a 5-year prison sentence for "forming a terrorist group to change the constitution and its monarchical system".

"...at first, cold water was poured on my bed, mattress, pillows, blanket, and myself while the air conditioning was running. The room was cold and sleep was impossible especially with all the water the mattress, pillows, and blankets had absorbed. Afterwards, a group of around 5-6 masked men barged into the room and asked me to stand in a corner where they took shifts slapping, boxing, and kicking me, in addition to cursing me. They asked me to repeat after them praises for the King and especially the Prime Minister. The same torture cycle continued for a week where they'd torture and hit me twice or three times daily as well as pour water on my mattress, blanket and myself. And since the cells were all close to one another, I was able to hear the screams of other detainees and the orders and profanity of the wardens...

Initially, I was asked to write all I knew about the February 14th Movement and my role in it. After two days, I was investigated by an investigator while I was blindfolded. The torture was continuous for almost two months and continued until a little before the court hearings, while the profanity and cursing continued until the month of June.

On the 13th day of my arrest, the Military Prosecution wanted to investigate me and record my sayings without the presence of a lawyer, so I refused. I later got a lawyer and submitted my sayings and told the prosecution that I was beaten the day before and asked for judiciary protection. I was reassured that beatings are not allowed and they will make sure that I will not be beaten or cursed at. However, the next day I was beaten twice as a result of my complaint, once in the morning from one of the military employees, and once in the evening by two masked men who I presume were from the National Guard. I was threatened to be beaten more severely than I was that day if I complained again. Additionally, the torture included standing for several hours with my hands stretched in the air."

Al-Sharif's experience is echoed by his opposition compatriots. Dr Abdul-Jalil al-Singace, the director of the Haq Movement for Civil Liberties and Democracy, was sentenced to life imprisonment in June along with seven other activists including the head of the al-Haq movement, Hassan Mashaima and the leader of the Wafa opposition party Abdul-Wahhab Hussein. At the same time 13 other activists were jailed for terms of between two and fifteen years. All those detained have reported being tortured in custody.

The sheer scale of the clampdown, which included the drafting in of Gulf Cooperation Council soldiers to help crush pro-reform protests, appears to contradict the government line that in the heat of battle both sides were guilty of lapses. To all intents and purposes the arrests of opposition leaders seemed deliberately designed to cripple the pro-reform movement.

The government also made it a point to target institutions that it deemed to be sympathising with or giving succour to the February 14 Movement.

This included the Salmaniyah Medical Complex, which was invaded by armed forces on March 16. The hospital had featured regularly in the mass media for treating those wounded in the protests and some of its staff had been very vocal in their condemnations of the Bahraini government. As the destination for civilian casualties the hospital had also become a focal point for protestors. The storming led to the arrests and conviction by a military tribunal on 29 September of 20 medical staff on charges of weapons possession, inciting sectarian anger and hatred against the regime, obstructing the law, destroying public property, jeopardising general security and "forcefully occupying" the medical complex.

Fatima el-Beloushi's remarks seem all the more worrying set against the backdrop of remarks made by the BICI chair Cherif Bassiouni, who in a media interview last July, sparked violent protests in Bahrain for saying that the regime's crackdown was "manageable" compared with the ethnic cleansing in the former Yugoslavia. Following the remarks demonstrators stormed the BICI headquarters in Manama and prompted the BICI to issue a statement denying that the Commission was prejudging the outcome of the inquiry.

The remarks are disturbing for yet another reason. The atrocities committed in the former Yugoslavia in the early 1990's were of a completely different order of savagery, probably comparable in recent history only with the genocide of Rwanda. So for the Commission to appear to be setting its human rights bar so high suggested to critics that it had set itself up to vindicate the Bahraini government for all except the least serious accusations.

Secondly, in her interview with the BBC, El-Beloushi appeared to be pleading the bad apple scenario: that a few bad officials and political failings were responsible for any abuses and that dealing with them would sufficiently address the concerns about Bahrain's human rights record.

However such a conclusion flies in the face of historical and current facts. For many years rights groups and opposition activists have complained of a systemic official disrespect and disregard for human rights in the kingdom which is manifested most brutally at times of political dissent. In a comprehensive report entitled "Broken Promises", published last year, the IHRC documented the scale and nature of official hostility to political reform. (http://www.ihrc.org.uk/attachments/9458_Report%20on%20Bahrain-Book-240x170-v05.pdf)

This is not the first time the al-Khalifa regime has faced the full glare of the human rights spotlight. Between 1994-1999 the country was convulsed by a popular uprising demanding reform, in particular the restoration of the 1973 constitution which had lapsed after just two years. Thirty-eight people were killed in clashes with the authorities and 15,000 people were arrested during this tumultuous period under the notorious State Security Act which allowed the government to hold suspects without trial for renewable

periods of up to three years. Many of the detained, which included leading opposition figures, were tortured. Foreign media personnel were ordered to leave.

The crisis only eased when the government announced a reform package which included the release of political prisoners and women's suffrage. More importantly, after reaching agreement with opposition leaders, the incoming monarch Hamad bin Isa al-Khalifa promised the transformation of the Upper House into an elected chamber within five years. These reforms became part of a National Action Charter which was put to the electorate in a referendum in 2001 receiving over 98% support.

However, instead of honouring his pledge to institute an elected assembly and retain a merely advisory role for the appointed Upper House (rather like the relationship between the House of Lords and House of Commons in the United Kingdom), King Hamad took the dramatic step of promulgating a constitution giving both houses equal powers but granting the Upper House the deciding vote in case of deadlock.

Bahrain's judiciary is similarly a tool of the executive branch of government. The ruling monarch is head of the judiciary. He is responsible for appointing all judges and is the chairman of the Supreme Judicial Council, the country's highest court. He himself is not bound by any laws.

If it wasn't disturbing enough that the ruling monarchy has reneged on promises of enacting democratic reform its backsliding has gone hand in hand with an active marginalisation of the country's majority Shia and a campaign of intimidation designed to cow them into submission.

In 1999, when Sheikh Hamad came to power, Shias, who account for some 60-70% of the total population, made up about a quarter of the government workforce. By 2009 this figure had dropped to 13%. Hundreds of Shia professionals have been removed from their posts in the ongoing crisis. Gerrymandering has reduced the number of seats that can be won by Shia parties in both the elected chamber and parliamentary committees whilst a policy of naturalising Sunni foreigners has attenuated the Shia majority. In 2008 the Asian Centre for Human Rights reported to the United Nations that educational, social, and municipal services in most Shia neighbourhoods were inferior to those found in Sunni communities.

Shia representation in the security forces is marked by its near total absence, and there are hardly any Shia holding senior positions in the Ministry of Defense, National Guard, Ministry of Interior Affairs and the Ministry of Cabinet Affairs. In fact, as human rights groups have noted, the security forces responsible for suppressing the 1995 protests were mainly recruited from Pakistan, Jordan, Syria and other Arab nations. Many of those dragged from their beds and homes in the dead of night during the current crisis have reported that their tormentors spoke with Saudi or other foreign accents. There are also reports of Pakistani mercenaries being paid to run amok in Shia neighbourhoods.

Intimidation has escalated since the February 14 uprising. The government has continued to demolish Shia mosques and places of worship under the pretext that they were built without official permission. Students abroad who joined the protests have had their funding withdrawn. Girl's schools have been raided by the police and girls as young as 12 threatened with rape. The country's only opposition newspaper has been shut down; before its closure in April al-Wasat was the only newspaper not connected to the ruling family.

The Bahraini royal family has long tried to present calls for reform as a subversive sectarian conspiracy orchestrated by Iran. The fact that most, though by no means exclusively all, of the pro-reform campaigners are followers of the Shia tradition has allowed the al-Khalifas to play on the fears of the patronised, politically dominant Sunni majority. A report published in 2006 by Dr Salah al-Bandar, a Sunni of Sudanese descent who worked for Bahrain's Cabinet Affairs Ministry, revealed a conspiracy at the highest levels of

government to foment sectarian hatred against the Shia and exclude them from daily life. For his troubles, Dr al-Bandar was deported to the United Kingdom and later convicted in absentia.

It is evident that Bahrain's human rights problems lie deeper than with a few bad apples. They are rooted in the desire of the centuries-old ruling family to maintain an absolute grip on power, regardless of the rights and wishes of other inhabitants. While publicly appearing to be supportive of calls for democratic reform, in reality the government has proceeded in the opposite direction. In doing so it has been and remains in clear violation of its own human rights laws as well as international human rights obligations.

Even as the BICI has been finalising its report, now postponed until 23 November 2011, state violence has continued against civilians. On Wednesday 2 November, 78-year-old Ali Hasan al-Dehi was beaten to death by riot police according to the Bahrain Centre for Human Rights while returning to his home in the village of Dehi. His death sparked furious clashes between protestors and police in Manama. Dehi was the father of Hussein al-Dehi, the current leader of the opposition al-Wefaq.

Given the lip service that the al-Khalifa regime has historically paid to human rights, and the narrow remit of the BICI, it is far from cynical to have low expectations of the inquiry. Despite the fact that thousands of people have fought back their fears of official reprisals to file complaints the BICI can serve at best as a stepping stone to a wider, externally funded, externally managed, independent inquiry into human rights in Bahrain. As Khalil al-Marzooq, the deputy leader of the country's largest opposition party al-Wefaq, has said, by focusing on individual cases of abuse Bassiouni's commission wouldn't be able to get at the larger problems. Bahrain's problems lie with a rotten political system that is in urgent need of root and branch reform, not a charm offensive to clean up the monarchy's battered image.

