

# Bahrain Monitor

A Monthly Newsletter on the Human Rights Situation in Bahrain



**Bahrain Human Rights Monitor**

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## Encouraging Bahrain to Address Abuses

As with any country, Bahrain's reputation is staked on its policies and practices. Only Bahrain can restore the country's reputation, which was damaged in the last few months, by improving its internal affairs and affirming its commitment to human rights. Using the media and a public relations campaign cannot improve the country's image unless the situation truly changes on the ground.

Before 14 February 2011, the Bahraini Government complained that international human rights organisations did not appreciate its political and human rights accomplishments and merely focused on the mistakes and breaches that occurred. In fact, some officials in Bahrain believed that no matter what the Government did, these organisations will not change their opinions.

This lack of interest and appreciation of the reforms that took place before 14th February, inadvertently, led to the recent political and human rights setback in the country. Of course, violations did occur, however, there was a constant focus on the negatives and sometimes inaccurate and exaggerated information was used.

During its transitional phase, Bahrain needed encouragement, support and constructive criticism. This is in order to encourage advocates of reform and avoid belittling their difficult accomplishments, bearing in mind the current circumstance of the area. Naturally, human rights organisations have the right to focus on the breaches that have occurred. However, their huge pressure had the opposite effect once the political situation exploded. Perhaps this led some officials to believe that violating human rights will not change the reactions of these organisations, in the same way that improving the situation did not change their negative stance towards Bahrain.

Despite any criticism, a commitment to human rights remains a national obligation. Bahraini officials should not merely focus on Bahrain's reputation outside the country, but concentrate on what is more important, which is satisfying and caring for the citizens of Bahrain through reforms and minimising mistakes and violations.

There were some shortcomings on the part of the Bahraini Government. These shortcomings are partly a result of an ignorance of the nature of the work conducted by international human rights organisations. In addition to this, the Government did not communicate enough with these organisations or attempted to clarify through the media the reforms and achievements in this field.

Bahrain could be ready today to enter a new phase after the recent setback. Its goals should be to amend the mistakes made in the context of human rights through the independent commission of inquiry. Politically, the goal is to improve the political process by undertaking constitutional amendments and reaching a political agreement with other political parties. We hope that there will be a better relationship with international human rights organizations in the future as this will help both the State and society to overcome this crisis and encourage more reforms and respect for human rights. This can be achieved without harsh criticism and by using constructive criticism as this will encourage correcting mistakes.

## Sectarian Divisions Deepen the Political Crisis

### It's Time to Promote Bahrain's National Unity

Perhaps the biggest loss resulting from recent political events in Bahrain is the huge social schism between Sunnis and Shias, as a reflection of deep sectarian and political divides. Throughout history Bahrain has never experienced this problem so intensely, and at this dangerous stage it is very difficult to determine the extent of the problem, as well as its long-term political, economic and psychological consequences.

Social divisions have transformed life in Bahrain, distorting its image both inside and outside the country. In the past, the Kingdom was seen as a good example of forgiveness and coexistence between different sects and religions. Unfortunately during a few months of this continuing political crisis social unity was seriously damaged by sectarianism, used by some politicians as indicator of national loyalties and a determinant factor of the interests of individuals, families, tribes and groups.

Political divisions have deepened sectarian divisions and vice versa, thereby worsening the chances of any fair and agreeable solutions. This has also created other psychological and economic divisions within Bahraini society and has eventually led to negative effects on inter-sect marriages in the country for example, which was not a problem in the past. Rising sectarianism has also led to applying selective policies in the housing sector and the employment policies of private companies, as well as a significant part of the public sector. It has affected all forms of commercial dealings, including individual shopping choices, due to decisions to boycott businesses based on sect. There are

many other examples that reveal how deep these divisions are, to the extent that any ordinary observer can clearly distinguish the existence of two different communities, separated mentally, politically and even physically.

This great loss has affected every politician, clergyman, businessman, student and employee, as well as social and family relations. The current picture presents a totally different image of Bahrain than the

one before the events of February 2011. This loss is felt much more deeply in a social, rather than a political sense. All those involved in inciting the virulent sectarianism of recent months, be they officials, the opposition, clergymen, technocrats, journalists, or youths with a strong sense of sectarian identity, have all failed to realise the extent of the problem they have created. For not only have they destroyed the very fabric of Bahraini society by harming their fellow citizens and brothers in Islam, but they have also damaged their own national interests that can only be achieved through the full and equal participation of all Bahrainis.

Sectarian divisions can change the nature of the political scene and can also alter the kinds of solutions needed to resolve the current political crisis. This is because each group imposes representatives from their own sect, which could inevitably lead to a quota system rejected by many. However, by inciting sectarianism they leave others with no other choice but to adopt this system. This increasing division makes it extremely impossible to establish political societies on a national basis. It will also result in each side protecting the interests of its followers and not society as a whole, which can lead to confessionalist power-sharing of ministries, high positions and services, which is not in the interest of Bahrainis.

We should act quickly in order to limit the social losses resulting from the recent political crisis and in order to avoid the deepening of tensions. This can be achieved by adopting strong strategies which can withstand disagreements and political crisis,

#### **The King: Reminds Bahrainis of National Unity**

In a speech given on 28 August 2011 at the end of the holy month of Ramadan, the King of Bahrain reminded Bahraini citizens of the importance of co-existence, forgiveness, the shared future of all Bahrainis and the necessity of rejecting social divisions. He stated that 'the last period was painful to us all. Although we all live in one country, some of us have ignored the fact that co-existence is inevitable, and based on this we must not lose our trust and faith in a shared future. We should not lose trust in each other as brothers, colleagues and citizens despite our diversity. We all grew up on this land and our history shows that our co-existence has placed us among the civilised, open and developed countries. No one desires to live here alone and exclude others'. He added: 'our success lies in our cultural diversity, national unity and civilisation'.

including the following suggestions:

1. Government institutions should be impartial and uninvolved in sectarian disagreements. They should also strive to represent all segments of society by ensuring that the practices and statements of those working in governmental ministries and institutions are adequately monitored. It is wrong that some social segments of society are led to believe that the entire State is their enemy, or inherently against their interests. Encouraging such an attitude will make these institutions ineffective at solving the crisis that confront State and society.
2. The royal family should also be impartial and rise above social disagreements. It should act as a paternal figure and protector of the interests of all social segments. Any partiality on the part of Government institutions will only deepen divides and destroy any possibility of finding reasonable solutions to the problem. It will also cast doubts on the standing political structure, and will prolong efforts to resolve the crisis.
3. It is important to recognise that the State cannot overcome sectarian problems alone. The Government can indeed play an important role by resorting to the law or working as a mediator to bridge the gap between different sectarian groups. However, political and religious parties are also responsible, and should play an important role in easing tensions. This will only take place if religious and political parties are convinced that the spread of sectarianism will not benefit them strategically, even if it is deemed beneficial at the time. Today, Bahrain is in need of a unifying initiative by religious leaders from both

sects. Bahraini society expects responsible initiatives that can stop sectarianism, and put an end to divisions, which have destroyed relations between individuals, groups and families. Bahrainis are also waiting for a responsible national rhetoric, which rises above political disagreements and works towards creating a better future for all. Mutual visits between religious and political leaders, the issuing of joint statements on social occasions, religious issues and even local and regional political issues, are examples of positive steps that can help contain the danger of sectarianism. In addition to this, civil society organizations can also participate through organising seminars, programs and public statements in this regard.

4. Tackling the mistakes and violations that took place since last February, for there were many assaults on individuals and private properties, and many provocations occurred between the two sects, as well as breaches by the Government.
5. Sectarianism will not serve Bahrain and because all sides have contributed to it, to different degrees, all are required to understand the danger this poses to the country. This also demands that all parties to be fully aware of the reality of the situation on the ground, and the size of the threats to the country and its people. Secondly, they must stop causing losses to the community. Thirdly, they should contribute in finding a lasting solution to the political and sectarian crisis.

## Calls to Promote National Unity

On 7 September 2011, the Minister of Education, Majid Al Niemi, stressed the necessity of unifying efforts between school administrations and the Ministry, and spreading the culture of co-existence between students. He said that the Ministry has put into place a plan to develop school curriculums and student activities regarding citizenship. With the help of international experts, teachers will be trained on how to communicate universal human principles to students and how to emphasize common grounds and avoid divisions. The Minister also highlighted the importance of the role of school headmasters and headmistresses, especially regarding the promotion of national unity and implementing the Ministry's recommendations, in order to overcome the negative effects of the unfortunate events that several schools have witnessed.

On the other hand, on 6 September

2011, the Minister of Human Rights and Social Development, Dr. Fatima Al Buloshi, met with a new group of charity representatives launching a national tolerance campaign to strengthen the social fabric and promote national unity, as this is the strongest weapon against the few voices calling for social division. The Minister highlighted the main goals of the campaign, which aims to strengthen the links between the public and official sectors, in order to overcome the effects of the recent events and spread the culture of tolerance within society.

On 6 September 2011, Al Wefaq Society encouraged students to concentrate on their education and refrain from political activities inside schools. It also called upon teachers and staff to lead by example in promoting national unity and overcoming the negative effects of the past.

## Give the Bahrain Independent Commission of Inquiry a Chance

The Royal Decree establishing the Independent Commission of Inquiry should be considered a turning point in the political and human rights fields in Bahrain. Its main purpose is to restore trust between various political parties, as well as citizens' trust in the system itself. In other words, the purpose behind establishing the Commission goes beyond holding particular sides accountable, rather it is designed to help overcome recent political and social setbacks, reduce tensions and provide new scope for permanent solutions to the problems in today's Bahrain.

Whatever the conclusions reached by the Commission, every Bahraini already knows that the recent events in the country were a result of mistakes made by both sides, be they political or field-related. This is not to suggest that different mistakes were all made at the same level, but to assert that everyone is responsible to some extent. It is thus incorrect that some in the opposition attempt to absolve themselves from all blame. The unfortunate events witnessed by the country stemmed from an accumulation of mistakes, which have harmed the people of Bahrain, the political system and also the Bahraini opposition.

The establishment of the Commission was welcomed locally and regionally. It becomes clear after reading the details of the Royal Decree that the King does not exempt anyone from within the Government or outside it from responsibility. Moreover, if it was the intention of the King to exempt the Government from any blame, the Commission would have been established differently, and it would not have been headed by internationally acknowledged human rights experts.

Also, the Bahraini elite should realise

that the purpose of the Commission is not to merely hold an individual or a side accountable, rather what is more important is what happens after the Commission's recommendations. This is why one should not stop at or fear the results of the Commission before they are even released. As for the mistakes and violations committed by all sides, these need to be addressed in order to restore hope and work towards a better future, after learning from the mistakes of recent events.

Currently, all sides should strive to look past their individual losses and understand that the country's loss as a whole is the most important. All parties should bear part of the responsibility for this, and we must now think about the future instead of merely dwelling on the past. Bahrain should be viewed as the priority over any party affiliation.

The legitimacy of the Commission stems from the Royal Decree which determined its mandate, time, method and mechanisms. The reactions of international political and human rights bodies regarding the establishment of the Commission was also positive, as it was seen as a step in the right direction to help prevent further escalation in the future. It is obvious that the Independent Commission of Inquiry was not established at the whim of any individual, party, institution or official apparatus. If this was indeed the case, then the Commission would not have received any attention or convinced anyone that there exists a huge and real effort to overcome obstacles and the political crisis.

The Commission was considered by



international bodies as the appropriate alternative for any other international commission of inquiry. The fact that the Commission was accepted by, and earned the cooperation of international bodies, should convince all sides of its professionalism and the soundness of its recommendations, which will pave the way for Bahrain's national reconciliation.

However, there are some who have criticised the Commission's work from the very beginning and also condemn any cooperation with it, believing that this is an attempt to achieve a hidden agenda, and stressing that the Commission's members can be easily manipulated. Others adopted a different view and began by giving the Commission orders and attempting to control its activities. There were also extreme positions which discouraged the public from cooperating with the Commission and considered it as a means of manipulating citizens' rights.

We, however, believe that the Commission should be accepted and trusted. Let us give the Commission and its President the space they need to work without any pressure and search for new horizons for the future of Bahrain. We should also work towards spreading hope and tranquillity, and should strive to remain united and rise above our individual political and sectarian affiliations and interests. Bahrain is for us all and we should not focus on each other's shortcomings and mistakes, in order to build a better future.

## The Commission of Inquiry: Progress, Assessment and Challenges

**The Bahrain Independent Commission of Inquiry (BICI) was established by a Royal Decree in June 2011 to investigate the unrest in Bahrain since February 2011. The King has allocated ten issues for BICI to address including allegations of torture, deaths in custody, detentions on political grounds and the circumstance of detention, the reasons behind the crisis, incidents related to the Sulaymaniyah Hospital and the GCC Square, the role of the media in the crisis and whether or not foreign groups participated in suppressing the protests. All these controversial issues will be investigated by BICI and its recommendations will hopefully help to improve the situation.**

The establishment of BICI represents a political, legal and human rights way out of the crisis and an acceptable means of investigation in the eyes of international and public opinion. Moreover, the President of the BICI and its members are well known of their expertise and integrity in both international human rights and academic fields. The BICI team consists of; Dr. Cherif Bassiouni, Dr. Badria AlAwadhi, Sir Nigel S. Rodley, Dr. Mahnoush Arsanjani and Judge Philippe Kirsch.

Bahrain was advised by many organizations and the OHCHR to investigate the human rights violations which have occurred during months of unrest. The OHCHR was willing to take charge of the investigation itself, which the Bahraini Government preliminarily agreed to through its Minister for Human Rights and Social Development Dr. Fatima Blooshi. The establishment of the BICI is a partial response to the request of the OHCHR and may help ease foreign pressure on the Government, as well as helping it to regain its credibility and reputation which has been badly affected in recent months.

The United Nations High Commissioner for Human Rights, Navi Pillay, welcomed the establishment of the BICI, and said that it has suspended its previous request of sending a special UN mission to investigate. She said that the OHCHR encourages the use of credible national mechanisms instead of international ones and that she also trusts the members of the BICI. The SG of the UN Ban Ki-moon also welcomed the establishment of the new BICI, and stressed that the BICI must have access to all individuals, organizations and information concerning the investigation. He added that BICI should also be able to work independently and in accordance with international standards. The EU also issued a statement welcoming the establishment of BICI and said that it is 'a step in the right direction which will hopefully shed light on the reality of the events'. It also hoped that BICI will succeed in creating a better atmosphere for national dialogue and represents an important opportunity to reach meaningful reforms which fulfil the legitimate demands of the Bahraini people.

The USA, UK France and the countries of Arab League all welcomed the establishment of ICI as an important step to restore civil peace and respect human rights in Bahrain. Many local and human rights international organizations welcomed the step including Amnesty International, Human Rights Watch and the FIDH as well as local civil society organizations such the Bahrain Medical Society, BHRM, Al Wefaq, Waad, the National Unity Assembly and the Democratic Progressive Forum.

### Progress Made by BICI

BICI commenced its work early and met the King and several leading officials. The President of the BICI, Cherif Bassiouni, and his team met several ministers from the Ministry of Interior and Justice, Foreign Ministry, Human Rights, Education and Labour, as well as the Public Persecutor. Bassiouni gave a good impression of the development of the investigation and praised the availability of information and the level of the cooperation of officials. In his statement, Bassiouni was optimistic that problems will be solved and that the BICI will be independent, professional and impartial.

Later on, the investigation team met with all the political societies as well as the families of the deceased and detainees. The team also visited prisoners including some doctors and opposition leaders, including the Secretary-General of both Waad and Amal and the Presidents of Haq and

Al-Wafa Al-Islami. The investigation team also met with over 2000 complainants who presented BICI with their evidence. The BICI has created a website, an email address and an office in Manama for this purpose. Through its website and the local press, the BICI has repeatedly encouraged the public to contact it with any information, evidence or eye witness accounts, and has tried to keep all parties informed of its progress and activities online. Moreover, BICI has formed additional committees to aid its processing of information and has summoned experts from abroad to help with hunger strike cases. It has also sent some of these experts to tension areas, in order to observe the realities on the ground and to meet with youths and activists. The team has also brought in forensic doctors from abroad to help determine the reasons behind several deaths in detention at the height of the crisis.

### **Pressures and Polarization**

It is clear from the establishment of BICI that the Government is willing to admit that it had made mistakes and take responsibility in order to solve the political crisis. This was affirmed by the President of BICI in a news conference that took place on 30 June 2011. He stated that 'for the first time a country is taking the initiative to establish a Commission of Inquiry in order to look into events relating to itself without controlling the Commission's work and results'. He added that this is the 'first initiative of its kind in the Arab and Muslim world' and that the King has 'agreed to reinstate journalists and employees dismissed from their jobs during

the crisis; as well as recommending scholarship programs for students'.

According BICI, the Government has been very cooperative so far and has taken into account its recommendations even before the final results of the investigation, such as the following: releasing a large number of detainees, including doctors, women and individuals accused of committing offences, reinstating hundreds of dismissed workers, recommending scholarship programs inside and outside the country.

However, from the day of its establishment, BICI has faced many challenges as a result of social and sectarian divisions. For there is an opposition wing which does not believe in the political process, is suspicious of BICI and calls upon its followers to not cooperate with it. This stance has been supported by the Bahrain Human Rights Centre (BHRC) which has not produced a statement regarding the establishment of BICI. However, the statements of its President, Nabeel Rajab, and his interviews on TV reveal his opposition to BICI as he considers it a governmental commission whose purpose is to polish the image of the regime, hide its violations and mislead public opinion. He also added that BICI will not achieve justice for the victims.

Other political opposition parties, such as the Shia Wafaq Society, have welcomed BICI, and invited

citizens to cooperate with it. They have also established committees which document information and Government violations in order to present them to BICI. Some Sunni parties have done the same thing, but document the human rights violations committed by the opposition with the support of human rights bodies. Many articles have expressed the



*The President of the Independent Commission Cherif Bassiouni*

concern that the opposition, and particularly Al Wafaq or the National Unity Assembly, will control the scene and attempt to influence BICI in ways that will serve their own interests and political purposes.

It is easy to take advantage of the results of BICI politically and this is a temptation for competing sides. The opposition wants to expose Government's human rights violations in order to strengthen their negotiation position. As for the Sunni political parties, they do not want Al Wafaq to have an advantage over them.

The early attempt to politicise the results of BICI has put pressure on its members and work. This would not have been the case if not for sectarian division, conflicting interests and a lack of agreement between political

parties.

## Heated Debates

In this charged atmosphere where all sides are competing to provide BICI with information, its President, Charif Bassiouni, made a statement to Reuters on 5 August 2011 stating that 'what I have found so far is the extraordinary willingness of the Interior Minister to listen to anything we bring to his attention and act on it, whether it's suspension of police officers, arrest of police officers, or release of detainees.' He also added: 'it leads me to believe that on his part there was never a policy of excessive use of force or torture...that doesn't mean it didn't happen. I think it was a case



*Bassiouni meets opposition leaders in Prison*

of people at the lower level acting, and there not being an effective chain of communication and control.'

This statement did not satisfy some opposition groups and human rights activists and in particular BHRC. Bassiouni's statement also triggered a debate on the internet regarding the independence of the BICI and was again accused of misleading

public opinion. Others spoke of the opposition's lies and exaggerations. On 9 August, Nabeel Rajab wrote a letter to Bassiouni in which he expressed his disappointment in his recent statements which suggest that he is adopting the Government's points of views before the investigation is completed. Rajab also described Bassiouni's statements as inaccurate, hasty, harmful to the credibility of BICI and contradictory to the content of human rights reports. According to Rajab, it is also difficult to believe that torture was not systematic and stated that he doubts the legitimacy of BICI and its results.

On 9 August 2011, Bassiouni replied in detail to these accusations stressing the independency of BICI and that

it does not adopt the Government's points of view. He regarded these allegations as an insult to BICI who is 'working 14 to 16 hours a day to serve the cause of human rights in Bahrain. All of us have well-established records in the field of human rights and this speaks for itself. We

are neither bought by nor at the service of anyone. We are at the service of human rights and will continue to act as such.' He continued saying: 'once we have concluded our investigations, it will be possible to determine whether such a large number of violations are the product of "state or organizational policy". This is separate from the individual determination of individual

cases of torture under the Convention Against Torture to which Bahrain is a state party.' He also added: 'I am sure you know the legal differences between individual criminal responsibility and the responsibility of superiors, which is more difficult to establish. In particular with respect to the latter, we need to establish whether superiors in the chain of command failed to take appropriate measures to prevent torture when they knew or should have had reason to know that torture took place. There is also command responsibility, when those in the chain of command failed to investigate and prosecute those who commit such a crime.'

With regard to international organization reports, Bassiouni said 'I am sure that as a lawyer you will agree that their reports are considered secondary evidence. We need to either have access to the facts upon which they reached their conclusions, or to be able to determine those facts on our own. Since we are not a human rights organization, as you yourself stated, we need to ascertain the facts not only for their broader significance, but also with a view to determining where the system went wrong, who in the system initiated wrongful policies or carried them out, and how to correct these wrongs.'

Bassiouni also stated that 'in light of the scope of what has happened, the polarization and radicalization that exists, the climate of suspicion and distrust, and the scale of the violations claimed, I am sure you will agree that it is premature to reach any conclusions. Any focalized or limited statements such as the one I made to Reuters cannot be used as a basis for the

type of generalizations to which you and others have arrived'. Bassiouni concluded saying that 'I understand that you were interviewed by an online newspaper article today in which you claim that the BICI is not looking into the deaths of persons. This is simply incorrect and you know this, since you yourself have an appointment with the BICI to accompany witnesses with evidence concerning deaths. Furthermore, I found it disheartening that you deemed it necessary to personally attack me in that interview. The BICI will continue its work as an impartial, fair, and neutral body dedicated to the service of human rights, irrespective of any criticism or any political perspectives that are at play. We are here for the truth and nothing but the truth. We remain open to any constructive criticism and to any constructive ideas that may improve our work'

On 15 August 2011, Bassiouni said that, so far, BICI has no evidence proving the occurrence of systematic violations. However, his previous statements provoked the street and calls were made to encourage the public to go to BICI's offices in order to testify or protest. On 14 August, the office of BICI and its staff were attacked. On 15 August, BICI issued a statement clarifying the extent of the sectarian division and political polarization in Bahrain. The statement said that 'in light of recent allegations that the Bahrain Commission of Inquiry has reached a determination on its investigation, as well as verbal and physical attacks on its staff, the BICI wishes to make the following statement. Despite misleading headlines in recent news articles

claiming that the Commission has determined that the government of Bahrain committed no crimes against humanity during the demonstrations that have occurred over the last several months, the Commission would like to clarify that it has not made any such determination. The Commission's investigation is ongoing and will continue until all relevant evidence has been gathered. Its staff [are] still in the process of interviewing victims and witnesses, collecting evidence, and evaluating the circumstances. The Commission will not make a determination as to the extent of human rights abuses in Bahrain until its investigation is complete. Because certain media outlets and activists have misrepresented the comments of the Commission Chair, Professor M. Cherif Bassiouni, in order to support their political positions, for the time being, the Commission will no longer entertain interviews to the media. Should the Commission decide that a public statement is necessary, it will provide this information on its website, [www.bici.org.bh](http://www.bici.org.bh). The Commission will not allow itself to be used as a political tool for any group. Additionally, the Commission's office is hereby closed until further notice.'

The statement also asserted: 'hundreds of people forced their way into our office, having been angered over what they believed to be the Commission Chair's "conclusions" on the investigation, and additionally

having been directed by activists on Twitter and through mass texts to come to the office to report their complaints. The Commission believes its doors should be open to anyone who wishes to come forward and provide information on human rights abuses. However, as we have advised on our website and on Twitter, appointments must be made in order for our investigators to best serve the witnesses and victims. After attempting to accommodate the crowd by offering to take down their information in order to schedule appointments, some



*Bassiouni meets some doctors before they were released*

in the crowd became restless and verbally and physically threatened the staff. Individuals yelled insults, posted threatening messages on the office walls, sent threats via text and email, and even physically shoved and spat at a member of staff. Individuals also continued to photograph and video record people in the office, despite advice from staff that such actions undermine the confidentiality and safety of the many witnesses and victims coming forward. While the Commission's staff are committed to conducting its investigation, it will not jeopardize the security of the individuals that work at and patron the office. While the office remains closed, investigators will continue to accept



statements submitted by email.'

## Summary

The BICI works in very difficult and complicated circumstances because of political and sectarian divisions and political fluctuations. Dr. Bassiouni hopes to find solutions and help the authority and society through investigating the events of February 2011. Most likely, the mission of BICI will succeed despite all difficulties. We believe that the Government will deal with BICI's final report positively in

order to solve all human rights related problems and create stability.

The role of BICI is essential and it has proved that it is brave enough to confront the pressures of political and sectarian polarizations and able to convey its opinion regarding illegal practices. The cooperation of the Government with BICI, which Bassiouni praised in several statements, suggests that it will succeed. The authorities and BICI have achieved tangible steps to solve the problem of human right violations.

Moreover, political societies and civil society organizations are optimistic that BICI will succeed in its mission and will save Bahrain from this crisis. This is why they are cooperating with BICI and criticised the assault against it. This reveals that there is a public and official agreement, including the opposition, on the importance of cooperating with it. If this cooperation remains far from sharp polarization until the release of BICI's report next October, a new scope for solving the crisis will be created.

## The Pressure of Rumours and Accusations

BICI was subjected to many pressures including the fabrication of their statements, rumours regarding the resignation of its President and members; as well as attacks on its integrity and credibility. On 20 August 2011, BICI issued a statement in which it commented on the resignation of its President stating that it 'has been following the information being circulated about its work and the statements attributed to its Chairperson Professor M. Cherif Bassiouni in the local Bahraini and international press. Because this information is either inaccurate or baseless, the BICI is compelled to issue the following statement. The BICI denies the report being circulated on some electronic social media platforms that its Chairperson or any of its members have resigned their positions. All the members of the Commission continue to discharge their duties. The Commissioners are studying and analyzing the increasingly large amounts of evidence being

gathered by its investigators for the preparation of BICI's final report due on October 30th 2011.'

BICI added that during a short period of time its 'investigators have conducted numerous field visits and interviews to collect information from a variety of sources. These have included visits to 6 police stations and detention facilities, and visits to 6 hospitals. The BICI investigators conducted over 250 personal interviews with citizens during these field visits. In addition, staff members have met with over 670 persons at the BICI Headquarters in Manama to record their testimony about the events of February/March 2011. Moreover, the BICI has received over 2500 communications and complaints via email, regular mail, and recorded videos pertaining to the time period under investigation. Staff members have also met with families of persons who were killed during the confrontations and demonstrations that occurred in Bahrain to record their testimonies.'

Moreover, it was asserted that 'BICI has also received communications from and held meetings with representatives of workers unions, students dismissed from university, civil society organizations, and political activists, as well as with officials from the various government agencies. BICI was and remains committed to collecting evidence from the broadest possible sources. BICI, therefore, continues to welcome information from all persons in Bahrain. The Commission remains open to schedule personal meetings with individuals to record their testimony about the events of February/March 2011.'

Finally, BICI stated: 'we reaffirm to the people of Bahrain, civic organizations, political opposition, and the Government that we are committed to the completion of our mission. The BICI affirms that it is undertaking its mission with the utmost professionalism and political neutrality.'

## What Future Awaits the NHRI?

The role of the National Human Rights Institution (NHRI) has been notably absent during recent events. Many had hoped that the NHRI would play an important role, similar to other national institutions in other countries.

NHRI was established during a time of immense turbulence, by Royal Decree No. 46, on 10 November 2009, in order to promote, develop and protect human rights. However, the appointment of its members did not take place until 25 April 2010. NHRI consists of a president and twenty other members including human rights activists, academics and journalists. The President of NHRI was Salman Kamal Al Deen who was also one of the leaders of Waad Society and a founding member of the Bahrain Human Right Society (BHRS). He was appointed as president in September 2010.

Due to political pressures from his political society, Mr. Kamal Al Deen resigned after four months of his appointment. That was the first setback for the NHRI; and since then no other president has been appointed.

The crisis in Bahrain began after six months of Mr. Kamal Al Deen's resignation and during this period, four of NHRI's members resigned thus hindering the newly established institution. NHRI was unable to release its annual human rights report which was due by the end of April 2011. It should be noted that the Royal Decree No. 46 obliges NHRI to issue this report stating visions and activities carried out to realize its

objectives, which include:

Developing a comprehensive national strategy for enhancing and protecting human rights in Bahrain and proposing the mechanisms and tools necessary for achieving it.

Studying human rights-related legislations and systems in force in Bahrain and making appropriate recommendations, especially with regard to the consistency of these legislations with Bahrain's international human rights obligations, and recommending new legislations related to human rights.

Working, in cooperation with educational, upbringing, information and cultural institutions, on disseminating human rights culture, as well as explaining means available for protecting human rights.

Offering opinion, making suggestions and recommendations on subjects brought by authorities and departments concerned related to protecting and enhancing human rights.

Studying conformity of legislative and organizational texts of international treaties on human rights and submitting suggestions and recommendations to the departments concerned with strengthening and protecting human rights and supporting and developing these rights, including recommending joining regional and international conventions on human rights.

Receiving human rights complaints, studying them and referring cases, if necessary, to the departments concerned and following-up

those cases effectively. Making stakeholders aware of the procedures that should be followed and helping them in taking such procedures, or helping them to settle their complaints with the departments concerned.

Cooperating with international organizations, regional and national institutions and institutions in other countries concerned with strengthening and protecting human rights, in a way that contributes to achieving the goals of the NHRI and strengthening its relations with those institutions and organizations.

Cooperating and coordinating with the relevant departments in the Government in preparing reports which the Government has committed itself to submit periodically, implementing international human rights agreements, and explaining those reports in appropriate media outlets.

Holding conferences, organizing training programs, participating in international and national events and in the meetings of international and regional human rights organizations and making researches and studies in this regard.

Publishing bulletins and publications on the NHRI's goals and regulations.

Issuing and publishing reports on the Kingdom of Bahrain's efforts in human rights and related national issues.

Contributing to building human rights capacities, including technical preparations, and training the employees of the institutions dealing

with public freedoms, political, cultural, social and economic rights and law enforcement in the Kingdom, to raise their efficiency.

NHRI has failed to achieve any of the above objectives, except the issuing of a few statements in different occasions; such as a statement supporting national dialogue and another regarding the International

events nor the parliamentary elections in October 2010. Farhan also added that a report which includes all NHRI's activities will be released shortly after the completion of the investigations. Farhan admitted also that NHRI is not appropriately qualified due to lack of staff. He continued saying that NHRI gave attention to the dismissed workers and that it discussed this

issue with the Minister of Labour and also requested information. There is an overall agreement that the performance of NHRI was less than expected for several reasons including the following:

Some of NHRI's members lack the suitable cultural and human rights background needed to deal professionally with the situation. It would have been possible to make up

for this shortcoming through training programs, however such programs were not available nor was there enough time for them. The NHRI is still in need for trained and well qualified staff in order to fulfil its duties.

The NHRI included a mixture of members with various political and ideological backgrounds which interfered with their work. The unrest also helped in deepening social divisions and increased disagreements between the members. The fact that NHRI failed

to use human rights laws as a reference point was the reason for the resignations; in addition to personal problems between members.

The leadership and administration of NHRI was inefficient, for till this very day, no member has received their entitlements except for the Secretary-General and a few staff. According to Dr. Farhan NHRI 'still needs a new plan, recruitment procedures, personnel, financial regulations and an organisational structure.'

The leadership of NHRI failed to promote harmony between members, bring out their best abilities, coordinate efforts, direct their capabilities towards achieving NHRI's goals and put forward a comprehensive national plan to promote human rights in Bahrain.

A central problem is the fact that the members are in reality volunteers and have other jobs in public or private sectors. The institution needs full time specialists working in human rights.

Consecutive resignations constitute another reason for NHRI's weakness as it reduced official and public trust which decreased motivation among its members. It is for this reason that NHRI was absent from the scene to the extent that the Independent Commission of Inquiry did not mention NHRI in its report. Therefore, NHRI and its members should be reassessed by the Government. Moreover, a capable and qualified president should be appointed as soon as possible. It is time for NHRI to perform its duties and regain the trust of the public and human rights activists inside and outside the country.



Day for Democracy. NHRI has also participated in regional conferences in Qatar and Egypt and also visited some of the detainees during the recent unrest.

The Secretary-General of NHRI, Dr. Ahmad Farhan, who was appointed in January 2011, discussed in an interview with Al Wasat on 21 August 2011, some of the NHRI activities during the unrest such as monitoring of violations. He also stated that the Monitoring Committee of NHRI did not issue a report regarding recent

## Respect for Human Rights would Lead to the Political Settlement

**Hasan Moosa Shafaei**

In most political crisis, two interconnected areas can be identified, where remedial measures can be undertaken, namely; human rights and politics. Human rights measures include releasing detainees, lifting travel bans, reinstating dismissed workers and perhaps even compensating the victims of human rights violations.

Such steps are an integral part of human rights work, but at the same time they represent a preliminary political step towards solving the root of the problem in Bahrain. They also represent a test of the good will and seriousness of the Government in finding solutions, and are important for restoring trust in the system and dispelling any doubts surrounding it.

Almost a decade ago, Bahrain experienced a similar scenario with the start of reforms in the country. During that period, detainees were released, exiles were allowed to return, the State Security Law and courts established under it were abolished, and workers were reinstated and compensated. All those measures signaled the beginning of a political breakthrough, especially with the adoption of the National Action Charter (NAC), which received a comprehensive national consensus (98%) in a public referendum. This was followed by the development of civil society institutions and the establishment of political societies, council and parliamentary elections, and freedom of assembly and expression in the press and media,

among other achievements.

There are those who believe that the setbacks that have occurred since February 2011 were inevitable, at least theoretically. This is because the country was at a transitional stage where setbacks are commonplace, as in other countries with similar experiences. There will always be political groups who do not want political reforms, either because reforms affect their status and interests or because they are not convinced by them, among other reasons. According to some analysts what happened during the last few months represents a victory for anti-reformists over reformists - be they part of the Government or the opposition. This is precisely what has led to human rights and public freedoms violations.

However, we believe that the current setback is temporary; at least this is what we hope for. It is necessary to abide by the principles of the NAC adopted ten years ago, as it is now difficult for citizens who have enjoyed various freedoms to go back to the pre-reform period. It is also difficult to see all the reform efforts destroyed by human rights violations, or by political parties who will only be satisfied with overthrowing the entire political system.

There are attempts to overcome the crisis and return to the principles which were emphasized by the NAC and the Constitution. The Crown Prince recently described previous reforms as slow and insufficient, and



*Hasan Moosa Shafaei*

said that they did not benefit all parts of Bahraini society. Therefore, political tools are required to solve the problem in the form of constitutional and legal amendments, as suggested recently by the Justice Minister. In an interview on 7 September 2011 with Al Sharq Al Awsat newspaper, the Minister said there will be fundamental democratic developments in the country soon.

However it is not possible to go ahead with political solutions without solving the human rights problem first. At the moment there is a lack of trust between all political players and the presence of extremists who feed this mistrust, and those who incite arguments and confrontations. There are also deep social divisions on sectarian and political basis, and the adoption of devastating procedures and policies during the crisis, which stand in the way of progress.

The Government has taken the initiative by establishing the Independent Commission of Inquiry

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(BICI), releasing hundreds of detainees, reinstating many dismissed workers, activating the scholarship program, legalizing and funding the rebuilding places of worship, as well as taking political steps by holding meetings for national dialogue despite criticisms. The dialogue itself presented suggestions which fulfill at least some of the basic demands of the opposition.

All hopes rest on the ability of the BICI to deal with the human rights file and its report is expected to be released in October 2011. It is therefore hoped that the human rights file will be properly dealt with by the end of the year.

These important steps represent a political message to the opposition, despite the fact that they did not come about through mutual understanding and agreement, as was hoped. The steps also reveal a strong political will on the part of the Government, which has had the courage to reconsider its decisions, correct its mistakes and bear legal responsibility for its actions. This was apparent in the King's speech on 28 August 2011, where he stated: 'it is unacceptable that any Bahraini citizen feels violated in terms of his safety, freedom, livelihood and pursuit of knowledge, which could translate into bitterness and affect his contribution to the country. We strive to create an atmosphere of forgiveness, where violence and harsh punishments are rejected in favour of a better national unity and coexistence. This requires building bridges of brotherhood and friendship for the greater good. When we see that some Bahrainis have not joined the ranks of their fellow workers, colleagues and students,

we feel compelled to help them better themselves and their country. We have made our orders clear to the relevant authorities, which they should follow with more efficient and speedy steps'.

He added that 'there are citizens who have been injured or have been subjected to mistreatment or have died whilst in custody. There are also policemen who have died whilst doing their duty for their country, and we are responsible for them and the families they have left behind. Some individuals were detained, and after investigations it became clear that they had been mistreated on an individual basis whilst in custody. This is something which God deplors and which we condemn as well, as it is the State's duty to protect its citizens and the Law is being administered fairly. It is important to stress that Bahraini law allows those who have been mistreated to seek compensations. Perhaps there are those who do not understand how this law works or do not trust that it would deal with their cases in a fair manner, which is why we will ask the Supreme Judicial Council to seriously look into these cases, and reports back with its results. Finally, the Independent Commission of Inquiry is perhaps the ultimate example of our dedication to the pursuit of truth and justice in this country.'

These excerpts make it unquestionably clear that the Government is willing to bear responsibility for its actions in a brave transparent manner. What now remains is that the opposition understands and accepts this message, and considers a political assessment of its own mistakes,

whilst cooperating with the Executive Authority through dialogue to achieve a balanced and long term political solution.

The most popular opposition party Al Wefaq has been criticized for missing a genuine opportunity for dialogue with the Crown Prince just before the crisis, which weakened the reformist camp. It also pulled out of the Parliament which weakened the constitutional institution and deepened social divisions, whilst moving towards escalation in its recent discourse, which makes it virtually impossible to reach a consensus solution at present. Al Wefaq accuses the Government of attempting to marginalize it politically and bypass it in upcoming constitutional amendments, as it has done in the previous national dialogue. It also claims that the Government does not recognize the extent of its public support and has consequently raised the ceiling of its expectations, and that of its followers, thus causing a political stalemate due to its inability to convince other parties of its demands. No one party can cancel out another in Bahrain and Al Wefaq must realize the difference between a legitimate demand and a realistic one, which can only be achieved through national dialogue.

In sum, reviews and assessments of the crisis have begun, as have steps to address the human rights situation in Bahrain, which in turn should facilitate reaching a political solution. This requires an appropriate and flexible response from the opposition and a better awareness of the challenges of the current crisis, in order to overcome it.

## When will Bahraini Exiles Return?

The recent unfortunate events in Bahrain have resulted in many Bahrainis leaving the country and seeking asylum in some European countries, particularly Britain. According to the Home Office about 30 individuals have applied for asylum in the UK in August 2011. This includes a number of journalists who say they feel threatened in their home country, as a result of being attacked and criticised by well known journalists on Bahrain TV. They also claimed that they were harassed in Bahrain due to their political views, involvement in certain political events, and for statements they had given to foreign television channels, which have been described as provocative.

Due to the quick succession of events and the uncertainty surrounding the situation in Bahrain, it has become difficult to determine in an official, legal and detailed manner which of those seeking asylum are wanted for questioning and investigation. What complicates matters further is that there is no official list of wanted names, which would have clarified the situation and allowed some individuals to return home and continue normally with their lives. Among those seeking asylum, there are those who have been dismissed from their jobs, including some journalists who say that this worsened their fears for their own safety, and discouraged them from returning home while

the political and security situation remains uncertain.

The BHRM contacted the President of the Bahrain Journalists' Association, Isa Al-Shaiji, in order to ascertain the situation of the Bahraini journalists who have left the country. Al-Shaiji affirmed that the Association has contacted the Interior Ministry in this regard, and has received an official reply in writing confirming that none of the journalists in question are wanted for questioning or investigation and can return home whenever they like.

In addition to this, Moanis Al-Mardi, the Vice-President of the Association, stated in August that 'the Association has discovered that there are journalists living abroad for unknown reasons. After contacting the specialised bodies in the Kingdom, it has become clear that none of them are wanted for any journalism-related or criminal case. Hence, they are able to enter Bahrain whenever they want, which is guaranteed by the Association'.

On 6 September 2011, the Independent Commission of Inquiry (BICI) urged the dismissed journalists to communicate with it, and present their testimonies in order to reinstate them if their dismissals are proven to be arbitrary. The BICI stated that it would also 'like to remind all journalists, editors, producers, bloggers and photographers

to file complaints if they were subjected to any human rights violations and present them before Friday 9th September. It is necessary to contact the BICI as soon as possible and examples of complaint applications are available on the internet. It is also possible to phone five hotlines to organise appointments, remembering to introduce yourself as a journalist before booking an appointment.'

Currently, there are attempts to solve all human rights cases through the BICI and this includes asylum seekers living abroad. The aim is to address the issue of their dismissal and to determine whether there are any criminal charges levelled against them. Assurances by the Journalists Association, an NGO, to the asylum seeking journalists may not be sufficient. Therefore, the Government should also make its position clear with regards to the journalists or those who believed that they have criminal charges against them, which may not be the case.

The fact that there are Bahraini asylum seekers abroad gives a negative impression regarding the government's attitude towards fundamental freedoms and human rights in the country. If a solution to the internal problem is to be found, whether through the BICI, national dialogue or any other official initiative, those citizens living abroad must not be forgotten.

## Sectarianism Poses Serious Threat to Human Rights

Sectarianism Poses Serious Threat to Human Rights. Religious sectarianism (or any other extremist tribal or regional ideologies) represents a serious and dangerous challenge to citizens' interests and coexistence. It also undermines the state-building process itself. Sectarianism is also an enemy to human rights and stands against all public freedoms and the principles of equality, justice and truth.

The virulent sectarianism manifested on the political scene in Bahrain destroys the very bases of coexistence, harms all parties, destroys Bahrain's recent accomplishments and lays the foundations for a behaviour which is unacceptable religiously, legally and rationally.

Sectarianism goes against equality, as it promotes individualism and self-justification, and spreads among groups feelings of constant victimization by individuals who monopolize the State's wealth and power. Furthermore, sectarianism promotes stereotyping and clouds judgement, thereby preventing individuals from viewing matters rationally. It also encourages favouritism and all forms of discrimination.

Moreover, sectarianism permits its followers to insult the beliefs and rights of others and to justify this by using the sanctity of religion. It blames the 'Other' for every possible wrong in society, fosters a spirit of retribution and a thirst for revenge, and promotes the use of violence,

including attacking public and private properties.

Sectarianism encourages a state of lawlessness, as it does not seek justice through the State's legal system and courts, but rather defend members of one's own sect regardless of whether they are innocent or guilty. In short, sectarianism is inherently against the rule of law and justice, as it flourishes best in a state of chaos and lawlessness, where all kinds of criminal acts can be committed and justified.

Sectarianism is also the enemy of public freedoms, as it denies the 'Other' his rights whilst promoting one's own. Some sectarian conflicts even deny others the right to life, as is the unfortunate case in many countries, including Iraq. Sectarianism not only limits others' freedom of expression and freedom of press, but also limits the sectarian individual's margin of freedom as well, as he is unable to extend this freedom beyond his own narrow interests and that of his group.

Sectarianism dangerously disconnects people from each other, and breaks the bonds of citizenship and mutual national interests. It could thus completely destroy coexistence, paving the way for violent confrontation based on sectarian identity, as is the stark and unfortunate example of Iraq. Furthermore, sectarianism polarizes the State by forcing it to side with one sect at the expense of the other. This could lead to the collapse of the entire structure of the State, as it becomes incapable of solving the

problems of its citizens in the absence of equality and justice. In this case the State would also lose its paternal position, which should be exercised in a comprehensive manner towards all its citizens, and means that such a country could slide into a full blown civil war like Lebanon.

In conclusion, one could say that sectarianism is a cancerous state and a raging fire which burns State and society, and does harm to both the victim and the perpetrator. For this reason, adopting an official sectarian strategy will never protect a regime or the law or any Government institution, as it in fact aims to replace all these, and attempts to use the State as a tool in its unholy battle. Sectarianism threatens the very existence and legitimacy of the State, which was established as a superior mode of social organisation, designed to broaden the horizons of citizens beyond other narrow affiliations.

The time has come for every Bahraini to consider the lows that sectarianism has brought us to, for it can never restore our rights or become a mode of self-defence or safeguard truth, justice or equality. It is also time for our politicians to broaden their horizons in order to safeguard the wellbeing of the State and the social harmony, and to defend the higher universal principles guaranteed by both heavenly and earthly laws; for if we do not act fast, there may come a day- God forbid- where we will weep with regret at our sinful actions, as by then everyone will be a victim and a loser.

### International Crisis Group:

## Bahrain's Rocky Road to Reform

**The International Crises Group ICG has released a report entitled 'Popular Protests in North Africa and the Middle East (VIII): Bahrain's Rocky Road to Reform. The thirty page political and academic study report included interviews with prominent Bahraini figures such as the Crown Prince and many figures from the opposition and civil society institutions. The long report contains local and international media coverage of the recent events and monitors international human rights publications and positions. The report was detailed, extensive and its recommendations were very precise.**

The report presents detailed information regarding the developments in Bahrain in order to diagnose and solve the problem or at least avoid its reoccurrence. It discussed the development of the protests in Pearl Square and the violations that took place, the military interference of the Peninsula Shields, the media war between the various political parties, the events after the military intervention and the circumstances of the establishment of the National Unity Assembly. The ICG report allocated one whole chapter on the dialogue between the Crown Prince and the opposition; as well as the reasons for its failure. It also discussed the possibility of recommencing dialogue, the option of continuing the crisis and its consequences on the State and society. It also discussed the use of violence as an option for the opposition as well as the option to return to dialogue. The report concluded by allocating a long section to the position of the USA in particular, a summary and conclusion.

The report presented details of the protests which took place during February and March 2011, the victims, social divisions, detention of a number of individuals and their trials before the Court of National Safety, the legal procedures and a description of many violations. The report also presented both the points of views of the Government and the opposition in a balanced manner. It also gave an analysis of the developments in the region and the anti-reform positions of the Gulf States regarding what took place in Bahrain. Moreover, it discussed the claims made by the opposition and the Government and their exaggerated accusations; as well

as the concerns of both Sunnis and Shias and their fear of being excluded- which was evident in their political positions.

During the unrest, the media was divided into two sides. One supported the opposition and was watched by its followers/ Shia, and the other supported the Government's point of view and was watched by the Sunnis. According to the ICG report, this polarisation has affected the credibility of Bahraini public and official media which used to have a very good reputation. The report also presented an evaluation of journalists and local newspapers and highlighted the role of the youth in modern media. The report also presented a reading of the positions of Sunni, Shia and liberal political societies; as well as the establishment of the National Unity Assembly and anticipated that it will control the political scene for a while.

With regards to dialogue and its first phase between the Crown Prince and opposition, the report stated that both Al Wefaq Society and the Government were surprised that the protests escalated so quickly and unexpectedly. These two factors worked against the success of dialogue despite the fact that the two sides were close to a solution. The report also highlighted other factors which lead to its failure, including the radical nature of the demands of some Shia to the extent of wanting to overthrow the regime. Also, the emergence of some Sunni protestors to support the regime aggravated the situation. The report contained many details with regard to the dialogue that took place, highlighted the concerns of Al Wefaq about losing its popularity and discussed its options. In addition to this, the report discussed the nature of the demand

of Al Wefaq for a constitutional monarchy. It also highlighted the approach of the Crown Prince in solving the problem and the positions of the Gulf States towards the crisis. The report concluded with a list of the mistakes made by Al Wefaq such as their prolonging of negotiations.

With regards to sectarianism, the report stated that 'sectarian division has spread across the island of Bahrain' and also mentioned its dangerous outcomes; adding that continued political and security tension will be politically, socially and economically costly.

As for the future, the report discussed the possibility of further escalations and resorting to violence. It stated that there are concerns among the two groups and feeling of insecurity. The report believes that the possibility for armed violence is very small. However, according to the extreme wing of the opposition, the situation could lead to kidnapping and assassinations if peaceful protests are prevented. According to the report, it is likely that peaceful protests will return, especially since the Government has allowed them. It also said that successful national dialogue and political solutions will erase the possibility of violence in the future.

According to the report, returning to dialogue is the correct option and that previous dialogue doesn't compensate for a direct dialogue between the two sides including the extreme wing. This is necessary in order to achieve 'convincing gradual reforms'.

Lastly, the report discussed the role of the US with regards to the situation in Bahrain and its attempts to help the political system





assimilate the aspirations of the Bahraini people. At the same time, the US is putting pressure on the opposition to decrease their demands. The report also discussed the US's policies in the region which differ from those of its ally Saudi Arabia. As a result of this, the report described the US's stance as unstable, as it wants to satisfy all parties including the opposition, Sunnis, Shias, neighbouring countries, and the Bahraini Royal Family. However, according to the report this stance will not please anyone despite the special role played by the Crown Prince and his interest in having serious dialogue to ensure that the opposition does not completely withdraw from the political process.

The report concluded by stating that there are 'no winners in the confrontation between the regime and the protestors' and that the moderates of both sides have had many losses. The report anticipates that if the security situation does not improve, the public support for Al Wefaq will decrease. The report also affirmed that the confrontation between the opposition and Government has harmed the economy, political stability and reputation of Bahrain. However, there remains a serious need to continue the dialogue in order to find a solution to the current crisis. According to the report, 'after the recent wave of violence, Bahrain faces a critical choice

between endemic instability and slow but steady progress toward political reform. The latter logical choice involves commencing a real dialogue which fairly represents the opposition and moves towards making changes which will transform the country into a constitutional monarchy. In order to create an environment where it is possible for such dialogue to succeed, the regime must take immediate steps to solve the human rights crisis. This includes releasing political leaders who were imprisoned for expressing their opinions peacefully in order to contain the recent sectarian polarisation'.

**Recommendations**

The report put forward various recommendations to the Government, the opposition and Iran in order to facilitate finding solutions. With regards to the Government, the report suggested that it should commence a direct dialogue which works towards political reforms. The Government has already begun to follow in part some of the points suggested such as:

- 1- Freeing all those jailed for the peaceful expression of their views, including those already sentenced and especially including opposition leaders.
- 2- Ending all trials by special security courts and retrying those convicted by such courts in regular criminal courts.
- 3- Ceasing destruction of Shiite mosques,

on any ground, and providing licenses regulating their construction.

4- Reinstating those dismissed for participation in peaceful protests, absence from work during the height of the crisis or other reasons linked with the February and March events.

5- Distance itself publicly from sectarian rhetoric, prohibit Government officials and State-owned news channels from using such rhetoric and actively discourage all citizens from employing it.

6- End sectarian discrimination in Government recruitment, including in the security services, army and National Guard, as well as the diplomatic service and senior government positions.

7- Provide full access to the Bassiouni Commission of investigation, make public its findings once it completes its work and implement its recommendations.

8- Hold accountable members of the security forces found to have broken the law or otherwise to have committed abuses of human rights in dealing with popular protests.

**To Bahraini Opposition Groups:**

- 1- Keep protests peaceful and refrain from inflammatory rhetoric.
- 2- Participate in dialogue with the regime, assuming it is genuine, as well as with non-Shiite political societies such as the National Unity Assembly, with a view to reaching agreement on meaningful political reform.
- 3- Make clear that they seek an expansion of political rights not the monarchy's overthrow and accept the concessions offered by the Crown Prince in mid-March as the starting point for negotiations. It is worth mentioning that the Secretary-General of Al Wefaq Society Sheikh Ali Salman and a prominent Shia leader Sheikh Esa Qassim have both repeatedly stressed that they do not support the overthrow of the regime or the use of insulting slogans against the Head of State.

Finally, the report also recommended the Iranian Government to distance itself publicly from sectarian rhetoric and prohibit Government officials and State-owned news channels from resorting to such rhetoric.

### Bahrain: Moving Forward in Combating Human Trafficking

## Background to the U.S. State Department Trafficking in Persons Report

In 2000, the US Congress passed a law designed to protect the victims of human trafficking. This law was ratified as the first comprehensive American law of its kind which punishes perpetrators of human trafficking and provides protection and rehabilitation programs for victims. The law was amended in 2003 and 2008 with the aim to mobilise Government agencies towards a worldwide campaign against human trafficking. According to the law and its amendments, the U.S. Department of State is legally required to submit an annual report to the Congress on foreign governments' efforts to combat all forms of human trafficking. The report is a diplomatic tool used by the U.S. Government to encourage continuous dialogue and help concentrate resources on programs and policies to prosecute those responsible for this crime. In addition to providing means of support for victims, including rehabilitation and re-integration in society, the report also provides recommendations for each country to help them progress in combating human trafficking.

The U.S. State Department report ranks countries into the following categories:

#### Tier 1

Countries whose governments fully comply with the Trafficking Victims Protection Act's (TVPA) minimum standards for the elimination of trafficking.

#### Tier 2

Countries whose governments do not fully comply with the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

#### Tier 2 Watch List

Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:

a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;

b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecution, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence

of complicity in severe forms of trafficking by government officials; or

c) The determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional steps over the next year.

#### Tier 3

Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

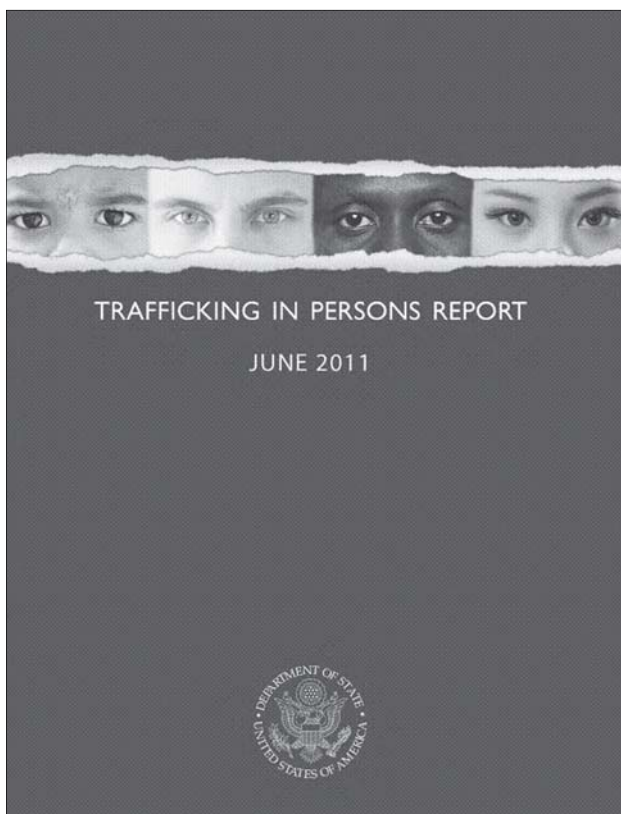
Pursuant to the TVPA, governments of countries on Tier 3 may be subject to certain sanctions, whereby the U.S. government may withhold or withdraw nonhumanitarian, non-trade-related foreign assistance. In addition, countries on Tier 3 may not receive funding for government employees' participation in educational and cultural exchange programs. Consistent with the TVPA, governments subject to sanctions would also face U.S. opposition to assistance (except for humanitarian, trade-related, and certain development-related assistance) from international financial institutions such as the International Monetary Fund (IMF) and the World Bank.

## Bahrain in the 2011 Report

On 27 June 2011, the U.S. Department of State released its annual 'Trafficking in Persons Report', in which Bahrain was ranked a tier-2 country. This means that Bahrain is not fully compliant with the Department of State standards, but is making significant efforts to do so, and has maintained the same position of 2010. It is worth mentioning that Bahrain was in 'Tier 2 Watch List' in 2008 and 2009, respectively, and was in Tier 3 in 2007, which includes countries that do not fully comply with the minimum standards and are not making significant efforts to combat trafficking in persons. (See Issue 18 of the Monitor, July 2010, p. 4).

According to the Bahrain News Agency (BANA) on 28 August 2011, the Bahraini Government has accepted this ranking. Ambassador Abdulla Abdulatif Abdulla, Undersecretary of the Ministry of Foreign Affairs and the President of the National Committee to Combat Human

Trafficking stressed that the outcome of the report came as a result of Bahrain's extensive efforts to achieve a high rank regionally and internationally. Bahrain's efforts to combat this crime centre on adhering to the UN Convention against Transnational Crimes and the Protocols Thereto as well as implementing national legislations in this regard. In a press conference held at the Foreign Ministry, Abdulatif also stressed that this achievement highlights that Bahrain is in the process of complying with its national and international obligations regarding human trafficking.



The State Department Report included a list of more than ten countries which failed to take sufficient procedures to combat human trafficking and risked being sanctioned. The report also listed another 13 countries in Tier 3 who are failing to comply with the minimum standards to combat trafficking, which has resulted in high incidences of forced labour, prostitution and the exploitation of children.

The importance of this report, which covers all the countries of the world, is due to the fact that it is released by the U.S. State Department, meaning that its recommendations will be on the agenda of the U.S. foreign policy.

The report pointed to the fact that men and women from India, Pakistan, Nepal, Sri Lanka, Bangladesh, Indonesia, Thailand, the Philippines, Ethiopia, and Eritrea migrate voluntarily to Bahrain to work as domestic workers or as unskilled labourers in the construction and service industries. Some, however, face conditions of forced labour after arriving in Bahrain, through use of such practices as unlawful withholding of passports, restrictions on movement, contract substitution, non-payment of wages, threats, and physical or sexual abuse. According to the report, a study by the Bahraini Government's Labour Market Regulatory Authority (LMRA) found that 65 percent of migrant workers have not seen their employment contract, and that 89 percent were unaware of their terms of employment upon arrival in Bahrain. Many labour recruitment agencies in Bahrain and source countries require workers to pay high recruitment fees – a practice that makes workers highly vulnerable to forced labour once in Bahrain. The LMRA study found that 70 percent of foreign workers borrowed money or sold property in their home countries in order to secure a job in Bahrain. Some Bahraini employers illegally charge workers exorbitant fees to remain in Bahrain working for third-party employers (under the "free visa" arrangement). The LMRA estimates that approximately 10 percent of migrant workers were in Bahrain under illegal "free visa" arrangements – a practice that can contribute to debt bondage – while the Bahrain Chamber of Commerce and Industry puts the figure at 25 percent. Women from Thailand, the Philippines, Morocco, Jordan, Syria, Lebanon, Russia, China, Vietnam, and Eastern European states have been subjected to forced prostitution in Bahrain.

### **Bahrain's Efforts to Combat Human Trafficking**

The Bahraini Government continued to investigate and prosecute forced prostitution cases and convicted nine trafficking offenders during the reporting period. In addition, the government assisted 17 victims of forced prostitution. Nonetheless, there were no reports of Government efforts to punish forced labour crimes, nor any indication that the Government of Bahrain took steps to institute a formal victim identification procedure or otherwise improve victim protection efforts during the reporting period. The Government's lack of efforts to acknowledge and address

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forced labour remains a key gap in its anti-trafficking response.

The report added that the 2008 Law to Combat Trafficking in Persons prohibits all forms of trafficking in persons and prescribes penalties ranging from three to 15 years' imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The Government of Bahrain investigated 12 cases of forced prostitution, five of which were prosecuted during the reporting period, resulting in the conviction of nine trafficking offenders; this is generally on par with law enforcement efforts against trafficking in the previous reporting period. In one case, two convicted traffickers received five years' imprisonment and fines for forcing women into prostitution; while in the other case seven convicted traffickers received three years' imprisonment and fines for running a prostitution ring.

The report criticised the lack of adequate Government investigation or punishment of trafficking cases involving forced labour, despite common reports of domestic workers facing serious conditions indicative of forced labour. The Government also did not report efforts to investigate Government complicity in trafficking offenses. The report also added that the Government of Bahrain encouraged victims to participate in the investigation and prosecution of traffickers; however, workers typically did not file court cases against employers due to fear or ignorance of the law, distrust of the legal system, inability to afford legal representation, lack of interpretation and translation provided by courts, fear of losing residency permits during legal proceedings, and to avoid additional maltreatment at the hands of the employer.

With regards to Government efforts to prevent human trafficking, the report pointed to Bahrain's clear efforts such as abolishing sponsor system, and its continual funding of a 120-bed NGO-run shelter called Dar al Aman, which is described as serving victims of domestic violence. This shelter reported assisting 17 victims of forced prostitution during the reporting period.

## Weak Protection Procedures

According to the report, the Government of Bahrain made no reported progress in improving protection for victims of trafficking over the last year. The Government continued to lack a formal procedure to identify victims among vulnerable

groups, such as migrant domestic workers who have left their employers or women arrested for prostitution. As a result, potential trafficking victims may have been charged with employment or immigration violations, detained, and deported without adequate protection. Most migrant workers who were able to flee their abusive employers were frequently charged as "runaways," sentenced to two weeks' detention, and deported. Despite Government funding of al Aman, the Government did not, however, report assisting any victims of forced labour during the reporting period. The majority of victims continued to seek shelter at their embassies or at the shelter of the Migrant Workers Protection Society, an NGO. Many police officers remained unfamiliar with procedures for referring victims of labour abuse and human trafficking to these shelters. In previous years, an international NGO reported that the shelter restricted residents' freedom of movement, was not staffed with qualified personnel, and did not provide long-term shelter or housing benefits to victims; it was not known whether this was the case during 2010. There remained no shelters or other protection services for male trafficking victims provided by the Government.

The report also said that while Bahrain's Ministry of Labour has pledged for several years to end the sponsorship (kafala) system – which creates vulnerabilities to trafficking – it has not completely abolished this structure to meaningfully prevent trafficking in persons. Earlier reforms of the sponsorship system to regulate labour recruitment and expand worker mobility continue to exclude Bahrain's approximately 70,000 domestic workers – the group that is most vulnerable to trafficking. In addition, the 2010 Labour Law also does not afford basic protections to domestic workers. Moreover, the law against withholding workers' passports – a common practice that restricts the mobility of migrant workers and contributes to forced labour – was not enforced effectively, and the practice remained widespread.

## Recommendations

The recommendations of the State Department Report on Bahrain were comprehensive and practical, and included calling upon the Bahraini Government to enforce the 2008 anti-trafficking law; significantly increase the investigation and prosecution of trafficking offenses – particularly those involving forced labour – and convictions and punishment

of trafficking offenders. It also recommended reform of the sponsorship system to eliminate obstacles to migrant workers' access to legal recourse for complaints of forced labour; vigorously investigate all credible trafficking tips secured through the anti-trafficking hotline; institute and apply formal procedures to identify victims of trafficking among vulnerable groups, such as domestic workers who have fled from abusive employers and women in prostitution; refer identified victims to protection services; expand the Government-run shelter to protect all victims

of trafficking, including victims of forced labour and male victims of trafficking; ensure that the shelter does not inappropriately restrict victims' movement and that shelter staff are qualified and speak the languages of expatriate workers; ensure that identified victims of trafficking are not punished for unlawful acts committed as a direct result of being trafficked, such as illegal migration or prostitution; and extend labour law protections to domestic workers to ensure that they have the same protections under the law as other expatriate workers.

## The crime of human trafficking and international efforts to combat it

Trafficking in Persons can be defined as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Based on this definition, all the above activities must be committed intentionally and hence a country cannot be accused of human trafficking if it combats or rejects any of these forms of human trafficking. Only those countries which agree with and organise human trafficking, or are aware of it and fail to take measures to stop it, can be accused of trafficking in persons.

Trafficking in persons differs from human smuggling, as the former takes place inside or outside the borders of the country without the consent of the victims, whilst the latter takes place through countries and with the consent of the participants. Human smuggling becomes trafficking in persons when an agreement is initially made with the victims who are then deprived of their freedom of choice as a result of using force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim.

The fifties of the last century witnessed the beginning of international efforts to combat this problem, especially after its increase. State parties united in including anti human trafficking measures in the Universal Declaration of Human Rights. By the end of the twentieth century and due to an increase in the problem, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children was issued. The United Nations

Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 2000, is the main international instrument in the fight against transnational organized crime. For more information about the Convention visit this link: <http://www1.umn.edu/humanrts/Arab/CorgCRIME.html>

The Convention represents a major step forward in the fight against transnational organized crime and signifies the recognition by Member States of the seriousness of the problems. This protocol also complements the 1951 UN Convention against Transnational Organised Crimes. In the context of international efforts, the OHCHR principles on human trafficking were adopted; article 11 stresses the cooperation and coordination of the countries based on the fact that trafficking in persons is a regional and international phenomenon and cannot be effectively tackled on a national level alone. Cooperation becomes essential when each country confronts a different phase of human trafficking.

For information regarding these recommended principles please visit: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/401/68/PDF/N0240168.pdf?OpenElement>

## Ministry of Human Rights Responds to Criticisms of OHCHR

On 30 August 2011, Rupert Colville of the Office of the High Commissioner for Human Rights (OHCHR), said that OHCHR continues to receive reports of the repression of relatively small protests in Bahrain, and that at least 264 cases involving protestors are still pending before the courts. Many of these protestors may also be tried in the Court of National Safety which was, effectively, a military court. He added that civilians must be tried in civilian courts and that every detainee must be charged with a recognizable criminal offence, have adequate access to a lawyer and enough time to prepare a defence. The Office was concerned that 'most of the defendants in these cases may be prisoners of conscience, detained only for exercising their rights of freedom of expression and association. These detainees must all be released. OHCHR also called on the Government to release the names of all those arrested since 15 March, including their places of detention, details of their charges and statuses of their trials'. He also added that 'thousands of employees in Bahrain have allegedly lost their jobs because of their participation in anti-Government protests. OHCHR calls on the national authorities to order the immediate reintegration of such individuals and to ensure that they are compensated for their lost income'. He also added that 'according to OHCHR's sources, defendants had had limited access to lawyers, and in most cases, lawyers did not have enough time to prepare their respective client's defence properly. OHCHR had even received reports of detainees calling their families a



**Saeed Faihani Undersecretary of Human Rights**

**Rupert Colville of OHCHR**

day before the hearing asking them to appoint a lawyer'. Finally, he described the sentences issued by the Court of National Safety against protestors as 'harsh'.

### The Ministry's Response

In a detailed statement on 3 September 2011, the Ministry of Human Rights responded to Colville's statements saying that:

- Bahrain is committed to support and promote human rights in line with its Constitution and its international obligations. The Kingdom recently took important steps in this regard which include establishing an independent commission fully mandated to investigate the allegations regarding the human rights violations.
- Bahrain continues to investigate the reasons and the consequences of the unrest. The Government has also released some detainees, reinstated employees and allowed students to resume their education.
- Colville stated that there are numerous cases put forward to the Court of National Safety, when in fact, the number of these cases does not exceed 32.
- The above cases involve crimes

considered extremely dangerous according to the Bahraini Penal Code such as murder, terrorism, kidnapping innocent people, robbery, possession of fire arms and vandalism. Therefore, describing the detainees as prisoners of conscience arrested for practicing their rights, expressing their opinions and establishing societies is untrue and misleading.

- The OHCHR's statement totally ignored the steps taken by Bahraini authorities since the Government decided to end the State of National Safety including its referral of all cases to civil courts. It is expected that this referral will be completed in October and all cases belonging to the Court of National Safety will be closed.
- All those accused of insulting the King or committing minor offences have been given amnesty.
- With regards to those who were made redundant in both private and public sectors, their cases are still being reviewed. It has been confirmed now that 707 individuals have already been reinstated. It is also untrue that these individuals were all made redundant as a result of their participation in the protests.

**BHRM:**

## The Success of the Commission of Inquiry will Pave the Way for a New Phase



The President of the Bahrain Human Rights Monitor (BHRM), Hasan Shafaei, stated that the establishment of the Independent Commission of Inquiry (ICI) was a brave and important decision for the stability of Bahrain. He praised the work of the ICI's investigation team despite the difficulties it faces. Shafaei also condemned the attacks against the offices of the ICI stating that this act demeans those involved and will harm human rights work. He called for cooperation with the ICI and its team until it completes its final report; as this is in the interest of the victims of violations.

Hasan Shafaei previously stated that: 'his Majesty the King has surprised Bahrain and the region with his wise and brave decision to establish the ICI. The ICI is an independent authority consisting of international experts known for their competency and integrity and will look into sensitive issues based on international humanitarian law. This has attracted eyes towards Bahrain; which was expressed by the President of the ICI himself. For the first time in the history of the Arab and Islamic World, a country has established a commission which will independently investigate events that could lead to criminal charges. I hope that this experience will serve as an example for many Arab and Islamic countries'.

Shafaei also added that 'the King took the initiative when he saw the lack of trust among various political

parties; and during a time full of accusations and rumours, presented a solution that will satisfy all relevant parties including international human rights organizations and even Western countries who have always asked for much less than the establishment of a commission'.

Hasan Shafaei also praised the Executive Authorities for cooperating with the ICI, providing it with everything that it needs and responding positively to its recommendations. He also stated that 'this is a correct and satisfying way out of the security crisis and its consequences. It is an ideal solution as it takes violations seriously and incorporates ways for revision and reforms.'

Shafaei also stated that this is an advanced step which will have three direct implications:

It will contribute greatly in building trust between all local political parties and reducing the security tension by

emphasizing that committing human rights violations is unacceptable and should not be ignored regardless of the party involved.

This step is timely and will help address the political side of the crisis and will hopefully succeed in reuniting the society and laying the foundation for a new phase of political reforms.

The establishment of the ICI will also help Bahrain regain its old reputation as a country that respects human rights and adheres to international conventions. Although the reputation of Bahrain has been badly affected due to the recent unrest, its leader has enough wisdom, courage and ability to deal positively with the situation.

Finally, Shafaei concluded that the BHRM is optimistic that the ICI will be successful in its work and that this will lead Bahrain back to safety. Hopefully, it will also pave the way for a new phase of social unity, political reforms, stability and prosperity.

### The Ministry of Human Rights:

#### Filing Complaints on Violations is a National Duty

According to Akhbar Al Khaleeg newspaper (9 September 2011), the Ministry of Human Rights urged every citizen whose rights were violated during the recent unrest to present his/her testimony to the Independent Commission of Inquiry; and to testify before the concerned judicial authorities. The Ministry also stressed that this is the national duty of every Bahraini citizen who was harmed

during the recent unrest and that by testifying this will help promote human rights in the country, rebuild the society and strengthen the foundation of the nation. The Ministry also reassured citizens that their fundamental human rights will be protected, regardless of political, ethnic and racial affiliations. The law in the kingdom of Bahrain treats all citizens equally and will be implemented without exceptions.

# The BHRM Welcomes the Reinstatement of Dismissed Workers

The Bahrain Human Rights Monitor (BHRM) has welcomed the steps recently undertaken by the Ministry of Labour to reinstate suspended employees. BHRM has also praised the Ministry's adoption of clear, unified and practical standards obliging private companies to adhere to them in order to prevent any future arbitrary redundancies, and to guarantee workers' rights (including their right to return to their jobs).

The BHRM has also praised the efforts made by the Minister of Labour and Mr. Jameel Humaidan, the Head of the Special Committee Responsible for Consideration of Issues Pertaining to the Demobilization of Workers. Efforts undertaken to review all the cases of dismissed workers represent a step in the right direction to address the labour situation, and comply with the regulations of the Bahraini Labour Law, as well as the country's international obligations, especially with regards to ILO.

On 8 September 2011, the Minister chaired a meeting held by the Committee, to discuss mechanisms and procedures to ensure speedy implementation of the royal directives for reinstatement of suspended workers, and to exert all possible efforts to overcome difficulties, impediments and avoid any delay in reinstating those whose dismissal is not legally justifiable. The Committee agreed to adopt standards that would put an end to arbitrary expulsion in the context of a spirit of tolerance, forgiveness and fraternity including:

In the case of any alleged administrative breaches, these should be dealt with in accordance with the country's Labour Law and regulations, bearing in mind the exceptional circumstances which Bahrain has

been through recently. Any dismissals should comply with the standards of the Ministry of Labour.

In the case of any criminal breaches inside the work place, the employer is permitted to suspend the worker from the date he reports the incident to the relevant authority or the Public Prosecutor, until the decision is made either to take the worker to court or drop charges due to lack of evidence. As for the kind of criminal breaches that merit such investigation, these are limited to the following: proof of posing a security threat or rioting, damaging the interests of the company or its properties, such as preventing others from going to work or inciting them to do so, or deliberately breaching work regulations.

The BHRM also applauded Humaidan's recent statement, which stressed that 'the worker who has been unfairly suspended, investigated and perhaps even expelled has the full right to resort to court'. He also resented the fact that 'some private companies have acted without the appropriate legal evidence or proof, and have justified their decisions by referring to absenteeism in order to strike or participate in illegal protests. The Committee's response is that these cases be included in the public pardon, issued by Royal Decree. In any case, no employer has the right to suspend or expel workers without following the appropriate legal procedures for doing so, or referring back to the relevant official body with the necessary proofs in hand for each individual case.'

The BHRM also welcomed the Minister's call for all companies and relevant authorities to respond quickly to the royal imperative by reinstating those workers who have been suspended or expelled illegally and unjustly. He also



*Minister of Labour*

encouraged them to provide the Labour Minister with a list of names for those workers who have been reinstated, and those with criminal charges, supported by the appropriate evidence. Humaidan also said that all pending cases should be looked into as soon as possible in order to guarantee worker's rights and their humanitarian situation.

## Meetings in Geneva

The President of the BHRM Hasan Moosa Shafaei visited Geneva in July 2011, and met with representatives from various international human rights organizations and OHCHR. The objective of the visit was to discuss the human rights situation in Bahrain with relevant actors in Geneva. Shafaei met with Dhafer Al Hussini, human rights officer in the OHCHR, Rachid Mesli from Al Karama Organization, Mark Thomson, Secretary-General of APT and Esther Schaufelberger, MENA Program Officer in APT. He also met with Mohamed Abuharthieh, human rights officer in the OHCHR, Hania Mufti, international expert in human rights, and Vijay Nagaraj, the Executive Director of the International Council on Human Rights Policy.