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## ***Which Future For Bahrain?***

*Preliminary report of a fact-finding mission in Bahrain (23-28 October 2011)*

**Executive Summary**

**Introduction**

**Political and Legislative Developments (2001-2011)**

**Political Agenda of the Licensed Opposition Groups**

**Chronology of Protests, Demonstrations, Arrests & Condemnations in 2011**

**Polarization and Conflicting Reports**

**Bahrain's Independent Commission of Inquiry (BICI)**

**National Dialogue**

**EU & International Pressure**

**Conclusions and Recommendations**

**Annexes**

**9 NOVEMBER 2011**

## **Executive Summary**

On 14 February 2011, on the 10<sup>th</sup> anniversary of the National Action Charter, the Bahrain Youth for Freedom group called for demonstrations to demand economic reform (better job opportunities and better housing), more political freedom, institutional reforms and the introduction of a constitutional monarchy. Thousands of people took to the streets of Manama. Until mid-March, the Pearl Roundabout became the heart of Bahrain's opposition protests.

Most of the protests were initially peaceful but in the passing days, the rhetoric and actions of some opposition groups and protesters grew more radical and violent: there were calls for a regime change and the removal of the royal family from power.

Law enforcement forces tried to restore public order and clashed with the demonstrators. Between February and March, 30-40 people died under various circumstances. Some were killed by the police; others died in custody; policemen and migrant workers were killed by demonstrators; many people were arrested, including doctors, medical workers, teachers and human rights activists. On 15 March, the king declared a state of emergency. A National Safety Court presided over by one military and two civilian judges was put in place. Two people were sentenced to death for allegedly killing policemen; others received heavy prison terms from 5 to 15 years and others shorter imprisonment sentences. Between 2400 and 2800 people were dismissed from their jobs. However, the government has since applied pressures on private companies to reinstate those dismissed and as a result, the majority of them have now returned to work.

On 1 June, the king lifted the state of emergency. At the end of the same month he established an international independent commission of inquiry whose mandate was to determine whether the events of February and March 2011 involved violations of international human rights law and norms, and to make the necessary recommendations. The Commission was also asked to provide a complete narrative of the events and the context for these events; to describe any acts of violence that occurred, as well as the actors involved in such acts; to investigate instances of alleged police brutality and violence by protestors and demonstrators against others; to explore the circumstances and appropriateness of arrests and detentions; and to examine allegations of disappearances and torture.

At the end of October, Human Rights Without Frontiers spent four full days in Bahrain, interviewing representatives of civil society and political parties, meeting key ministers and neutral players. The primary purpose was not to investigate again the events that had occurred since mid-February but to collect information on the work of the Bahrain Independent Commission of Inquiry and the National Dialogue, and to assess the prospects of reforms and

democratization in the short term. A second objective was to measure the impact of the calls of various EU institutions to abide by international human rights standards and to engage in a meaningful and constructive dialogue with civil society and the opposition.

For the past decade, Bahrain has been considered the most progressive country in the Arab Peninsula, carrying out a number of democratic reforms, promoting women's rights and creating a business-friendly environment. Unfortunately, sectarian divisions have dramatically eroded the national cohesion in the last few years. A new social deal is required. A stable and long-term reconciliation is needed. It is in the interest of the Bahrainis and the stability in the region. It is also in the interest of the European Union.

## Introduction

Bahrain is a small island state on the western shores of the Persian Gulf. Since the end of the 18<sup>th</sup> century, it has been ruled by the Al Khalifa royal family. Bahrain was the seat of British power and control in the Gulf until it gained independence in 1971.

A constitution was promulgated in June 1973 and elections were held on 12 December of the same year. Thirty members were elected to the National Assembly. An additional 14 ministers of the royally-appointed government became unelected, ex-officio members of the National Assembly to make a total of 44 parliamentarians. The experiment was however short-lived. Due to social unrest, protests and strikes, the ruling family issued a wide-ranging State Security Measures Law in 1975 and then Emir, Shaikh Isa bin Salman Al Khalifa formally dissolved the assembly, thereby ending the ephemeral parliamentary system. The constitution was suspended through emergency legislation. In that same year, the Emir established the State Security, whose judgments were not subject to appeal.

It is important to note that the 1973 constitution and elections in which all political factions and social groupings participated, approved and sealed the hereditary succession of the Al Khalifa ruling family in Bahrain. The constitution provided for the independence of the legislative and judicial authorities as well as the mechanisms for its amendment in the future.

In 1999, Shaikh Hamad bin Isa Al Khalifa became the new Emir after the death of his father.

### *Some demographic statistics follow based on 2010 Bahraini census:*

*Population:* 1,234,571, comprising 568,399 Bahrainis and 666,172 non-Bahrainis. Of the latter group, 562,040 were Asians (433,756 were male)<sup>1</sup>.

*Religious breakdown*<sup>2</sup>: 866,888 Muslims (567,229 Bahrainis – 299,659 Non-Bahrainis) and 367,683 Others (1,170 Bahrainis – 366,513 Non-Bahrainis)

According to the U.S. Department of State, 2010 International Religious Freedom Report<sup>3</sup>, Christians, Jews, Hindus, and Baha'is are said to number 1% and half of the expatriates are non-Muslims, including Christians (Roman Catholic, Protestant, Syrian Orthodox, Mar Thomas from India), Hindus, Baha'is, and Sikhs.

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<sup>1</sup> [http://www.cio.gov.bh/cio\\_ara/English/Publications/Census/Population/4.pdf](http://www.cio.gov.bh/cio_ara/English/Publications/Census/Population/4.pdf)

According to the ambassador of India to Bahrain, the Indian community numbers about 400,000 people (mainly male).

<sup>2</sup> [http://www.cio.gov.bh/cio\\_ara/English/Publications/Census/Population/6.pdf](http://www.cio.gov.bh/cio_ara/English/Publications/Census/Population/6.pdf)

<sup>3</sup> These religious statistics are purely speculative as there is no official census of such categories. There are no official statistics concerning the sectarian subdivision between Sunnis and Shiites. Bahrain census only examines gender, national and religious affiliation.

## Political and Legislative Developments (2001-2011)

King Hamad Bin Isa Al-Khalifa<sup>4</sup> is the head of state and all branches of government. The king appoints a cabinet of ministers, of whom a varying number are members of the Al-Khalifa ruling family.

In 2001, he pardoned political prisoners, abolished the State Security Law and the State Security Court, apparatuses which had been much criticized by opposition groups. In response to riots in the 1990s by Shiites claiming discrimination, the Sunni Al-Khalifa royal family began a process of political reform. The king promised democratic reforms and his pledge was embodied in the Bahrain National Action Charter<sup>5</sup> (approved in a national referendum on 14-15 February 2001 by 98.4% of the voters), a program comprising amended parts of the former 1973 constitution and providing for a bicameral system with an elected lower house and an appointed upper house.

However, following their massive support of the Charter, Bahrainis expected the creation of a 'constitutional commission' which would propose amendments to the 1973 constitution rather than replacing it but on 14 February 2002, the referendum's anniversary, the king unilaterally promulgated a rewritten constitution without previous consultation. This move was perceived as a step backwards. Among the main points of contention was the power of the appointed chamber, the Shura Council, to cast the tie-breaking vote in a deadlock with the elected chamber, the Council of Deputies. In addition, the king and his advisers could not be held accountable and the king had the right to appoint all ministers.

Elections took place in 2002 with 177 candidates for 40 seats. Al-Wefaq National Islamic Society, the main Shiite-based party boycotted the elections. It is important to note that for the first time, women were allowed to stand in national elections<sup>6</sup> and eight competed but none were elected. The Shura Council, however, included six women. Women's rights were further developed in subsequent years<sup>7</sup>.

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<sup>4</sup> Formerly an Emirate, it was declared a Kingdom in 2002.

<sup>5</sup> See text of the Charter at [http://en.wikisource.org/wiki/National\\_Action\\_Charter\\_of\\_Bahrain](http://en.wikisource.org/wiki/National_Action_Charter_of_Bahrain)

<sup>6</sup> They had been allowed to vote at the municipal elections in 1920.

<sup>7</sup> In 2004, Bahrain appointed its first female minister, Dr Nada Haffadh, in the position of Health Minister, and in 2005, Dr Fatima Albalooshi, the second woman minister was appointed to the cabinet. In April 2005, Shura member Alice Seeman, became the first woman to chair a parliamentary session in the Arab world when she chaired the Shura Council. The head of the main women's organization, the Supreme Council for Women, Ms Lulwa Al-Awadhi, has been given the title of 'honorary cabinet minister'. She has been at the forefront on the Council's campaign to get parliament to introduce a Personal Status Law to protect women's rights in issues of divorce and inheritance. This has led her to clash with Islamists who have promised 'blood on the streets' if women are given such rights. She has been one of the few political leaders in Bahrain to challenge Islamists directly, saying that they are not respecting women's rights. In June 2006, Bahrain was elected head of the UN General Assembly, and appointed Hava bint Rashid Al Khalifa as the Assembly's President, making her the first Middle Eastern woman and only the third woman in history to take over the post.

In 2002, the Bahraini legislature passed a law (Decree Law No. 42 of 2002) concerning the judiciary, stipulating the conditions of appointment and the responsibilities, powers, and duties of judges. Under the Act, judicial powers are distributed as follows:

- The civil courts having competence for all civil, criminal and commercial cases and matters of personal status of non-Muslims;
- The sharia courts having competence for personal status matters of Muslims. They are divided into the Sunni courts and the Ja`fari courts<sup>8</sup>;
- The Supreme Constitutional Court verifies the constitutionality of laws and regulations. This court is an independent body.

Tensions broke out again in 2004 and demonstrations turned violent and took on a sectarian dimension. More radical Shiite opposition groups complaining about multiple forms of discrimination came to the forefront of the scene.

In 2006, all political societies participated in the parliamentary and municipal elections. Women candidates were conspicuous by their absence in the lists of Islamist parties such as Al-Wefaq, Al-Minbar and Al-Asala. The Shiite-based Islamic-leaning Al-Wefaq National Islamic Society then won 17 seats, at which point the elected members of parliament swore an oath to respect the constitution and laws of Bahrain.

None of the 23 female contestants were directly elected. Only one woman, Latifa Al-Gaoud , won by default, with no other candidate in the race. She was the first woman elected to parliament in Bahrain and in the Arabian Gulf. In response to the failure of women candidates in the elections, 10 were appointed to the Shura Council, which also includes representatives of indigenous Jewish and Christian communities. Huda Nonoo was the first Jewish woman to sit in the Shura Council.

In the cabinet reshuffle following the elections, no members of Al-Wefaq were appointed to cabinet-level positions, but for the first time a Shiite Deputy Prime Minister was appointed along with two Sunni Deputy Prime Ministers.

During the whole legislature, the sectarian divide grew wider and deeper. Shiites denounced institutional discrimination, such as the gerrymandering of parliamentary electoral constituencies putting them in the minority in the parliament despite their perceived demographic majority; the recruitment of foreigners in the security services; political naturalization, in the form of alleged ease in the granting of citizenship to non-Bahraini Sunnis from around the region to reduce

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<sup>8</sup> Personal status issues of non-Muslims are dealt with by the civil courts and are regulated by special laws.

Shiite dominance; the hiring of an Asian workforce despite the unemployment of local citizens; discriminatory access to the highest positions in the public sector; and the denial of access to the army, the police and the Defense Forces.

The last parliamentary elections took place in 2010. Al-Wefaq National Islamic Society candidates (Shiite) won 18 seats; Al-Asala (Sunni Salafi) won 3; Al-Minbar (Sunni Muslim Brotherhood) won 2 while 17 seats were won by independent candidates. One woman was elected among the 7 independent candidates.

Beginning on 14 February 2011 opposition groups launched a mass march through Manama, the capital city and financial and governmental seat of the country. Thousands of demonstrators chanted “Down with the king” and held images of the monarch with lines scored across his face. Confronted by growing internal opposition to the monarchy, al-Wefaq parliamentarians resigned from parliament and pulled back from open dialogue with the crown prince.

By-elections for the 18 seats took place in two rounds on 24 September and 1 October. 9 newly-elected lawmakers announced the formation of a new parliamentary bloc that will be the second largest in the lower chamber. The bloc is made up of Sunnis and Shiites, unlike previous formations. Two of the women who were elected in the by-elections, Somayya Al Jowder and Sawsan Al Taqawi (Shiite), have joined.

## **Political Agenda of the Licensed Opposition Groups**

After the first two weeks of protest in February 2011, the seven most important licensed opposition political societies formed a loose coalition: al-Wefaq (18 seats in the Parliament), al-Minbar al-Taqaddumi (2 seats), Waad, al-Amal (no seat), al-Tajamua al-Qawmi (no seat), al-Tajamua al-Watani (no seat) and al-Ikhaa (no seat). Al-Asala (Sunni Salafi), the last political society represented in the Parliament, which has 3 seats, did not join the platform.

This political opposition coalition adopted a common political agenda and formulated a number of demands: the cabinet's resignation, the abolition of the 2001 constitution, the creation of a constituent assembly charged with drafting a new constitution and an investigation into the February 2011 violence, redrawing electoral districts to reflect perceived demographic and sectarian realities, enhancing the elected chamber's authority and powers. These were not pre-conditions for but rather objectives of a national dialogue. Non-licensed opposition groups, on the other hand, endorsed this agenda but as a pre-condition for such a dialogue.

Below is a brief overview of the orientations of three political groups which won seats in the 2010 parliamentary elections.<sup>9</sup>

### **Al-Wefaq National Islamic Society, a pan-Shiite political society**

Al-Wefaq National Islamic Society, also known as the Islamic National Accord Association, was founded on 7 November 2001. It grouped together various political and religious movements in the Shiite community, including two major Shiite Islamist trends (al-Daawa and Khatt al-Imam) as well as followers of the Iranian supreme leaders Ayatollah Ruhollah Khomeini and Ali Khamenei. They are supported by some former supporters of the Shirazi networks.

Al-Wefaq is close to a Shiite clerical body called the Islamic Scholars Council and is led by a cleric, Sheikh Ali Salman. It is the largest party in Bahrain, both in terms of its membership and its results at the polls in which it participated.

Many Al-Wefaq leaders returned from exile to Bahrain when King Hamad inherited the throne in 2001. While the old Daawa stalwarts such as Isa Qasem and others handed over formal responsibilities to younger activists such as Ali Salman, they became its spiritual leaders.

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<sup>9</sup> 17 candidates were elected as independent MPs. Some of them told HRWF that voters trust individuals more than political groups.



In 2002, Al-Wefaq boycotted the first parliamentary elections held in the country since 1973, claiming that the constitution gave too much power to the unelected 40-member upper house whose members are directly appointed by the King.

In 2006 however, accepting the constitution, Al-Wefaq took part in municipal and parliamentary elections, which prompted defections from its own ranks (the splinter group - Haq for example), but received the backing of the Islamic Scholars Council, which helped it win 17 of the 40 available parliamentary seats in the lower house.

In the 2010 elections, they increased their parliamentary representation by one seat, winning all the constituencies they contested, to take 18 seats in all. There were no female candidates on their lists. On 27 February, 2011, the 18 Al-Wefaq members of parliament resigned from their positions as a response to the government's mismanagement of the mid-February protests.

Al-Wefaq first refrained from calling for the 14 February demonstrators but once the protest got underway, it called on its supporters to take to the streets. It tried to tell them to remain peaceful and to dissuade them from engaging in any provocations such as the march to the royal palace but was unsuccessful in its attempts.

Al-Wefaq's base includes most of Bahrain's disadvantaged Shiite class as well-off Shiites gravitate toward more secular societies or avoid politics altogether. Al-Wefaq continues to demand a constitutional monarchy in which elected officials make policy decisions, the Prime Minister is accountable to the Parliament, and the upper house loses its legislative power. Al-Wefaq works to combat discrimination by the Sunni-dominated government through legislation and disciplined street demonstrations.

Some notable actions by Al-Wefaq's leaders include pushing for more strict clothing guidelines at the University of Bahrain and other issues that it considers contrary to the teachings of Islam. Al-Wefaq officials have called for a ban on the hanging of underwear on clothes lines and the display of lingerie on mannequins. Al-Wefaq councilors in Muharraq are also backing changes to the building regulations pushed by Salafist party Asala that would see new apartments fitted with one-way windows to ensure the privacy of residents. Prominent al-Wefaq leaders include the head of Manama City Council Murtada Bader, and Muharraq Councillor Majeed Karimi, who came to prominence after leading the party's campaign against lingerie on mannequins in shop windows.

On the contentious issue of reforming Bahrain's personal status and family laws, Al-Wefaq stated in October 2005 that neither elected MPs nor the government has the authority to change the law because these institutions could 'misinterpret the word of God'. Instead, Al-Wefaq

insisted that the right to legislate on issues relating to women and families is reserved to religious leaders.

In 9 November 2005, supporters of Al Wefaq claimed to have organised Bahrain's largest ever demonstration with 120,000 protesting against the introduction of the Personal Status Law, and for the maintenance of each religious group having their own divorce and inheritance laws. On the same day an alliance of women's rights organisations held a rally calling for the unified law, but this attracted only 500 supporters. The most pressing issue for many Bahraini women is the lack of a unified family law or Personal Status Law as it is known, leaving matters of marriage, divorce, inheritance, child custody and maintenance to the discretion of Shariah judges, who have been criticised for a lack of consistency in their judgments.

The issue of the introduction of a unified Personal Status Law has divided civil society into two camps, with most women's rights and human rights groups wanting its introduction, but opposed by Shiite Islamist groups in alliance with Asalah<sup>10</sup>. It should be noted that a unified personal status and family law would protect the most vulnerable groups, namely children and women in Bahrain.

Although Al-Wefaq is considered the most moderate Shiite organization and US President Obama said in his UN address on 21 September that the government and the main opposition bloc -- the Wefaq -- should pursue a meaningful dialogue that brings peaceful change, Wefaq's political program still raises a number of questions with regard to women's rights and the separation between religion and politics.

As Al-Wefaq is composed of various political and religious movements, it has to zigzag between centrifugal forces and its political decisions sometimes seem hectic to outsiders: the boycott of

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<sup>10</sup> A new family law for Sunnis, which protects the rights of women in Shariah (Islamic) law courts, was approved by Bahrain's King Hamad bin Isa Al Khalifa, on 27 May 2009. The law-making lower and upper houses had approved the personal status (family) draft law for Sunnis on May 18. Bahrain's Shiites were excluded from the legislation after hardline Shiite scholars and lawmakers threatened action, including nationwide protests and rallies.

In 2004, street protests led by followers of conservative Shiite scholar Isa Qassim had forced the government to call off a campaign in support of the new family law. According to Khalil Marzooq, spokesperson of the largest Shi'ite bloc Al Wefaq, that was behind the shelving of the Shi'ite chapter, the draft law clashed with Islamic Shariah principles.

Sunnis and Shiites have their own Shariah courts that deal with marital conflicts and other personal law issues. Women's activists have been demanding one family law with separate chapters for Shiites and Sunnis but Shiite Islamic hardliners say they fear it may be the first step to Bahraini Muslims being judged by the country's secular, civil law.

the 2002 elections because of its opposition to the constitution but the participation in the 2006 and 2010 elections under the same constitution; the participation in the National Dialogue despite its opposition to its format and then its withdrawal from it; the resignation from the Parliament in 2011 and hence, the self-exclusion from any formal possibility to support reforms through the legislative process.

Resigned MP Jawaz Fairooz told HRWF:

“Every time we wanted to propose a law related to our political agenda, we were always in the minority with our 18 seats out of 40. It did not make any sense for us to stay in the parliament. We would have lost our credibility among our supporters because we could not achieve any point of our political program although we were the biggest party. We will continue our fight with civil society in Bahrain, with the international community and the media.”

It must also be noted that Al-Wefaq risked alienating its popular base by engaging in discreet, informal talks with the reformist Crown Prince when he reached out to a pragmatic segment of the Shiite opposition. MP Fairooz confirmed this to HRWF saying, “We were seeking to keep our reform hopes alive despite our uncomfortable situation. Opposition leaders were still in prison and repression was continuing unabated at that time.”

On 12 October 2011, Al-Wefaq released the “Manama Document,” reasserting its commitment to maintain the monarchy and referring to the 7 Principles spelled out by the Crown Prince. Created on 13 March 2011, the 7 Principles formulate the demands of the people: a unicameral t, elected parliament with comprehensive powers, fair electoral districts, one person one vote, an independent judicial system, and a new constitution to be approved by the people via an elected constituent assembly or a popular referendum.

### **Al-Asala**

Al-Asala is exclusively Sunni and is closely associated with Salafist ideology. Al Tarbiya Al Islamiya (Islamic Education Charity Society) funds the party. Asala participated in the 2006 elections and won 5 seats in parliament but only 3 in 2010. Asala's supporters are mostly from Sunni enclaves Asala says its goals are to increase the standard of living for Bahrainis: strengthen political, social and economic stability; and enhance financial and administrative oversight of the government and industry. Asala does not support women's empowerment. Asala usually backs the government in parliament.

### **Al Minbar al-Taqaddumi (Al-Minbar Progressive Democratic Society, APDS)**

Established in 2001, APDS represents Bahrain's former communists. Most of its active members were exiled during the late Emir, Sheikh Isa's reign. Many used their time in exile to gain experience through work with other Arab political parties. When they returned to Bahrain and founded APDS, the society benefited from their strong organizational skills. Dr. Hasan Madau, a Shiite columnist for the Arabic language daily Al-Ayam, chairs the society. Its membership includes Sunni and Shiite men and women. APDS had 3 seats in the 2002 parliament, lost them to al-Wefaq in 2006 and gained back 2 in 2010.

## **Chronology of Protests, Demonstrations, Arrests & Condemnations in 2011**

On 14 February 2011, on the 10<sup>th</sup> anniversary of the National Action Charter, the Bahrain Youth for Freedom group called for demonstrations under the slogan “Day of Rage.” Thousands of people took to the streets of Manama to protest alleged discrimination against the country’s Shiite population and to demand economic reform (better jobs and better housing), political liberties, reforms and the introduction of a constitutional monarchy. Most protests were peaceful at that time.

On 15 February protesters occupied the Pearl Roundabout and put up tents. In the passing days, the speeches and public rhetoric became more radical: there were calls for regime change and the removal of the royal family from power.

On 17 February, the security forces launched an attack in the middle of the night with teargas and rubber bullets to clear the roundabout.

Between 14 February and 19 March a dozen civilians died as a result of gunshot wounds at the Pearl Roundabout, four policemen were killed by protesters and three expatriates were beaten to death in mob attacks.

On 18 February, the crown prince made a televised appearance to calm down the demonstrators and to propose a dialogue. The demonstrators presented several pre-conditions that were met such as the withdrawal of security forces and their return to the roundabout.

On 19 February, the security forces withdrew from the Pearl Roundabout and surrounding areas where there had been large demonstrations.

From 19 February until 16 March, the Pearl Roundabout remained the heart of Bahrain’s opposition protests. Tens of thousands of people participated in weekly rallies there and elsewhere. Protesters included medical staff and teachers. A representative of the Bahrain Teachers’ Society declared the following day a “Day of National Protest”, demanding that teachers boycott work<sup>11</sup> and parents keep their children at home. At Salmaniya Medical Complex, a number of doctors and medical staff sided with the demonstrators who had blocked access to the hospital. They were arrested for alleged ethical violations, incitement and causing chaos, which prevented patients from being properly treated and barred access to the hospital. Afterwards, the security forces were accused of denying access to the hospital to injured protesters and other patients.

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<sup>11</sup> Striking is forbidden by law in public services in Bahrain.

On 20 February, the General Federation of Trade Unions (GFBTU) joined the call for a strike to last for an indefinite period of time.

On 21 February, another initiative for reform was organized and attracted a huge crowd. Later referred to as the “Gathering of National Unity” (TGONU), it was held at the Al-Fateh Mosque and had a greater attendance than at the Pearl Roundabout. The demonstrators asked for inclusion in any dialogue between the government and the people and voiced their willingness to work together with opposition groups to promote reforms in a peaceful way in the framework of the monarchy.

On 23 February, the king ordered the release of approximately 250 protesters and human rights defenders. He also carried out a cabinet re-shuffle and continued his talks with the main opposition political society, Al-Wefaq.

On 27 February, anti-government crowds launched a mass march through Manama. Thousands of demonstrators chanted “Down with the king” and held images of the monarch with lines scored across his face. Al-Wefaq parliamentarians resigned from the parliament.

On 1 March, a second rally following up the TGONU was held with an even higher attendance.

On 8 March, three radical groups formed a “Coalition for a Bahraini Republic” calling for the abolition of the monarchy but they were not supported by the majority of the demonstrators.

On 11 March, hard-line opposition activists organized a march to the Royal Court.

On 13 March, protestors stormed the campus of the University of Bahrain which was shut down for more than a month. The crown prince appeared again on television in order to try to bring the opposition and the government together.

On 14 March, Peninsula Shield Forces<sup>12</sup> entered Bahrain at the request of the government and secured key strategic installations: financial district, harbour, refinery, and so on.

On 15 March, the king declared a state of emergency, officially referred to as a “State of National Safety.” A National Safety Court presided over by one military and two civilian judges was created, wherein civilian law was applied to cases which came before it. Bahraini military and security forces launched a number of operations against Shiite villages, including Sitra and Ma’ameer.

On 16 March, military police and riot police dispersed hundreds of protesters camping at the Pearl Roundabout. Security forces used teargas, sound bombs, rubber bullets and birdshot

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<sup>12</sup> Gulf Cooperation Council troops with a large contingent from Saudi Arabia and the United Arab Emirates.

pellets. Afterwards, they entered Shiite districts near the roundabout, including Sanabis, Jidhafs and Daih, apparently to chase down protesters. Hundreds of them were arrested.

On 29-30 March, five board members of the Bahrain Teachers' Society were arrested at their homes by members of the security forces for having called for an indefinite strike.

By the end of March, the death toll had reached 31 people (18 protesters, 4 policemen and 9 bystanders, including 5 Asian expatriates and 4 Bahrainis).

In April, the General Federation of Bahrain Trade Unions (GFBTU), which represents 60 trade unions, noted 1300 cases of workers' dismissal in the private sector. During this month, three arrested protesters died in the Ministry of Interior's detention centers.

On 28 April, the National Safety Court sentenced four demonstrators to death and three others to life imprisonment for the deaths of two policemen who were crushed by a vehicle during a demonstration on 16 March. During their trial, the demonstrators denied the accusations made against them.

On 3 May, 47 Bahraini doctors and nurses of Salmaniya Medical Complex were accused of 'incitement to overthrow the regime by force'.

On 22 May, the death sentences imposed on Ali Abdullah Hassan al-Sankis and Abdulaziz Abdulridha Ibrahim Hussain for killing two policemen during anti-government protests were upheld by the National Safety Court of Appeal but the final decision was postponed.

On 1 June, the king lifted the state of emergency.

On 22 June, the National Safety Court announced its verdict against 21 opposition activists, including 7 of whom had been tried in absentia: 8 were sentenced to life imprisonment and 13 to prison terms of up to 15 years for 'plotting to topple the government'.

On 29 June, the king announced the establishment of the Bahrain Independent Commission of Inquiry (BICI), a fact-finding mission headed by Prof. M. Cherif Bassiouni and including four other internationally-recognized human rights and international law experts, including the former UN Special Rapporteur on Torture, Nigel Rodley.

On 24 September, following the resignation of Al-Wefaq parliamentarians on 27 February, by-elections were held in which 75 candidates (almost all independent), including 8 women, competed for the 18 vacant seats.

On 25 September, the Bahrain National Safety Court sentenced two heads of the Teachers' Union of Bahrain - Mr Mahdi Abu Deeb, President, and Ms Jalila Salman, Vice-President - to 10 and 3 years in prison on charges of "disrupting schooling", "broadcasting false information" and

“threatening national security” respectively. Mahdi Abu Deeb was detained in Gurain military prison.

On 28 September, 14 opposition leaders and human rights activists were also sentenced on appeal to heavy prison terms, including life imprisonment for Abdulhadi Al-Khawaja, former President of the Bahrain Center for Human Rights (BCHR) and former Middle East Region Coordinator for Front Line Defenders, and Abduljalil al-Sengais, in charge of the Human Rights Unit of Haq Movement for Civil Liberties and Democracy. Both were detained in Gurain military prison and had 30 days to appeal the verdicts before the Court of Cassation.

On 29 September, the Bahrain National Safety Court sentenced 20 doctors and medical workers to heavy sentences ranging from 5 to 15 years on charges of “possession of unlicensed weapons”, “occupation of Salmaniya Medical Complex”, “call for the overthrow of the regime”, “seizing medical equipment” and “spreading false information”<sup>13</sup>.

On 9 October, Bahrain’s attorney general, Ali Bouainain, announced that the 20 medics sentenced under martial law would be re-tried. "The trial will resume before the highest civil court in Bahrain," he said. "The Department of Public Prosecution seeks to establish the truth and to enforce the law, while protecting the rights of the accused. By virtue of the new trials, the accused will have the benefit of full re-evaluation of evidence and full opportunity to present their defences." Bouainain said the doctors would remain free on bail pending the outcome of the new trials: "No doctors or other medical personnel may be punished by reason of the fulfilment of their humanitarian duties or their political views."

During its stay in Manama, the HRWF mission heard that the Special Security Forces still confront low-level disturbances almost every night in Shiite majority villages like Abu Saiba and Bani Jamra. Masked youngsters regularly block streets using trash bins and concrete blocks or pour oil on the roads. These events are regularly reported in the Bahraini media. The Iranian TV

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<sup>13</sup> The doctors Messrs. **Ali Al-Ekri, Ali Alsadady, Nader Al-Diwani, Ahmed Omran, Mahmood Asghar, Ebrahim Al-Demestany, Abdulkhaleq Al-Oraiby, Ghassan Dhaif, Basem Daif, Sayed Marhoon Al-Weda’y, Qasem Omran, Ms. Rula Al-Saffar**, President of the Bahrain Nursing Society (BNS), and Ms. **Nada Dhaif** were sentenced to 15 years in prison; Messrs. **Hassan Al-Tublani** and **Saeed Al-Samaheejy** to ten years; Ms. **Fatima Hajji**, Ms. **Dia Ebrahim Abuldris**, Ms. **Najah Khalil Al-Haddad**, Ms. **Zahra Al-Sammak** and Mr. **Mohamed Al-Shehab** to five years. The convicts, who were all in provisional release at the time of the verdict, had the right to appeal within 15 days the sentences before the Criminal Supreme Appeal Court (ordinary court) according to Decree by Law (28), 2011 and will have to report to prison within that time to be allowed to lodge their appeal. The 20 were originally part of a group of 48 medical workers charged on May 3, 2011, which was split into two groups, one of 20 accused of “felonies” and the other 28 accused of “misdemeanours”, or less serious offences. All those accused of misdemeanours were released on bail by the end of June. The group of 20 was released on bail between June and September 7. Source: FIDH <http://www.fidh.org/Series-of-harsh-disproportionate>



channels broadcasting into Bahrain do not play an insignificant role in exacerbating the feelings of the Shiite community and in contributing to the sectarian divisions.

HRWF has met a wide range of Christian ministers (Catholic, Protestant and Orthodox) who are neutral observers of the deterioration of the situation in Bahrain. They have expressed varied opinions and have hailed the freedom of religion they have always enjoyed but they have also voiced their concern about the future of religious liberty.

## **Polarization and Conflicting Narratives**

During its mission, HRWF heard many conflicting reports and testimonies about a wide range of issues. Different and conflicting narratives were presented by competing sources. Hereafter are a few concrete examples<sup>14</sup> of the effect of politicization on information:

*Sentences of 20 Bahraini doctors and paramedical staff by the National Safety Court of First Instance:* At some time, Bahrain's medical sector has become directly involved in the protests. It has been claimed that a small number of Bahrain's doctors and other medical workers had compromised their medical neutrality on the ground of their political sympathies, in particular at its largest public hospital and training facility, the Salmaniya Medical Complex (SMC).

While those medical staff involved claimed they were simply doing their duty, treating protesters, the Bahraini government saw it differently and said that these medics had not been able to separate themselves from politics and religion and had carried out their duties in line with the political ambitions of their religious leadership. This included supporting and assisting the protestors when they took control of the access to the SMC, blocking entrances, deterring ordinary patients from going to the hospital and refusing entry to many outsiders<sup>15</sup>. Military and security personnel were refused treatment as were many Sunni Bahrainis in addition to expatriate workers who were abused by politicized doctors and healthcare workers. This resulted in the arrest and imprisonment of 20 doctors and medics involved<sup>16</sup>. They were originally sentenced to prison terms ranging from 5 to 15 years on the alleged grounds of "possession of unlicensed weapons", "occupation of Salmaniya Medical Complex", "call for the overthrow of the regime",

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<sup>14</sup> HRWF has chosen not identify by name the NGOs, political activists and official players who provided testimonies, data and reports.

<sup>15</sup> Several medical doctors (neutral in the conflict) told HRWF there had been a decrease of 50 to 80% in the activity of the hospital and regular patients said they did not dare go to hospital because there was a conflicting situation all around and there were afraid.

<sup>16</sup> In percentages, there are over 2,000 doctors and surgeons (and over 300 dentists) registered in Bahrain, and the legally prosecuted number of doctors and nurses makes up less than 1.5 percent of Bahraini healthcare providers.

“seizing medical equipment” and “spreading false information”. Finally, they were all released and are now being re-tried by a civil court.

The accused allege they have been persecuted for treating victims and for advocating some political views in front of the world’s media which descended on the SMC as hundreds of protesters wounded in clashes with security forces were treated during late February. By that time, the hospital had become a protest hub for the almost exclusively Shiite rights activists who had been ousted from the central Manama roundabout they had been using as a forum to champion their demands for equal rights.

A neutral foreign source told HRWF the situation was totally chaotic around SMC; there was a high level of emotion and a lack of communication; people were rushing with anxiety to ambulances to identify the victims; foreign media, including Iranian TV, were looking for activists and doctors to be interviewed...

*Shopping mall demonstration:* Opposition groups claim that on 23 September, 45 women and girls were arrested for protesting in a mall against the by-elections which were boycotted by two opposition groups – Al Wefaq and Waad. The arrested females were allegedly tortured during their detention.

Government officials, on the other hand, recount a different tale: that women accompanied by children staged a demonstration in a mall without prior authorization or notice, blocking the gates, shouting and chanting slogans against the government and the royal family. They say they were arrested for causing commotion at the mall and scaring families. Twenty five women were released on 28 September. They denied any form of torture or degrading treatment.

*Massive dismissals:* Opposition groups stated that massive dismissals of staff in the private and the public sectors took place in retaliation for their participation in demonstrations. According to an NGO, approximately 2800 people were dismissed in the private sector<sup>17</sup>.

The Minister of Labor said that it is impossible for employers to identify their employees who participated in demonstrations. The dismissal decisions were taken against employees who were absent for a long period without submitting any legal justification. The official number of dismissals is 2462. According to the Minister of Labor, there were many unfair dismissals, which took place outside legal procedures and the employers were summoned to solve the problem within two weeks: by 17 October, 820 were reinstated, 176 found other positions, 88 received compensation, 224 dismissed employees had been dismissed due to downsizing of their

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<sup>17</sup> Several hundreds were dismissed in the public sector.

companies, 290 did not lodge a complaint or respond to the Ministry's follow up; and 778 cases were still pending, at the time of writing.

*Destruction of 40 places of worship:* Some media outlets announced that the authorities had destroyed 40 Shiite mosques during the unrest as a retaliation against the Shiite protesters; while others mentioned 40 mosques and 'religious structures'. Bahrain's Justice and Islamic Affairs minister rejected the claims. However, no list of the alleged destroyed places of worship could be provided to HRWF during its mission. One neutral expert in the field explained that not all claimed areas could be described as places of worship as some of the unlicensed structures had been shacks of a few square meters area, used for prayers while other structures had been meeting places for opponents in remote farmland areas and had been destroyed as such. The general allegation remains unsubstantiated at this stage.

*Hiring mercenaries:* The opposition accuses the government of hiring foreign Sunni mercenaries in the law enforcement forces to such an extent that they represent more than 50% of their membership.

The authorities reject the qualification of "mercenaries" but do not deny that they recruit foreigners and grant them Bahraini citizenship. The government narrative describes them as part of the regular forces and not a parallel unofficial force.

*A teenager killed in August:* On 31 August, a 14-year-old boy died after being hit by a tear gas canister. Bahraini human rights activists blamed police for the death of Ali Jawad Ahmad, who was in the crowd of protesters in the oil hub of Sitra when security forces clashed with anti-government protesters after morning prayers.

Bahraini officials confirmed a 14-year-old was killed but gave no other details. A statement by the Interior Ministry said there was no reported police action in Sitra at the time that the boy's death was reported. The statement added that an investigation was ordered and posted a US \$26,600 reward for information leading to a definitive finding. The Minister of Interior told HRWF that no witnesses had come forward and the origin of the shot had not yet been identified.

*A teenager killed in October:* On the night of 6 October, a number of protesters took part in a demonstration in Abu Saiba, west of Manama. The government's Information Affairs Authority said youths blocked roads in that area and set fire to rubbish bins. Police fired tear gas and sound grenades when they were attacked with rocks and Molotov cocktails. Ahmad Jaber Al Qattan (16-17 years old) was killed during the clashes.

An anonymous witness who was protesting with Ahmed said in an interview with Bahrain Mirror (opposition online blog): "We were 70 protesters and Ahmed was in the front; we were ambushed by security forces. They were standing only 10 meters away from us, they didn't use

tear gas or rubber bullets, they used bird pellet gunshots directly. Ahmed was injured in the chest and another protester who was behind him injured in the abdomen.”

The Ministry of Interior opened an investigation into his death. The Minister told HRWF that there had been an expert assessment of the caliber of the bullet and that it did not correspond with the ammunition used by the police under his authority. However, an NGO told HRWF that there were eye-witnesses who did not dare speak out and that the bullet might come from another law enforcement force, which is not under the authority of the Ministry of Interior.

*Behavior of the law enforcement forces as described by Frank Gardner, BBC security correspondent in Bahrain.*

On 18 October, BBC security correspondent in Bahrain Frank Gardner published an article<sup>18</sup> in which he describes the behavior of the police while accompanying them during an evening patrol in their Nissan Pathfinder, its windows and lights protected by steel mesh against the protesters' rocks:

“Clearly briefed for my visit, the police captain at the wheel told me they had regular training in respect for human rights and were responding to roadblocks and disturbances with a system of escalating response.

"We give them warning, 1 and 2 and 3, to move" said Captain Ahmed Mehri, "and if they do not move we are going to push them".

Level 1, he said, was loudspeakers, level 2 involved tear gas and sound bombs and only at the highest level did they use grapeshot, a tactic human rights activists say has resulted in dozens of blindings.”

When disturbance of public order was signaled in a village called Abu Saiba, the police vehicle and the journalist raced to that place.

“On went the sirens and we raced through the darkened streets, arriving to see a backstreet littered with rocks and the road up ahead blocked by upturned dumpsters and metal containers.

A gaggle of youths waved a Bahraini flag and shouted slogans.

The riot police seemed in no hurry to advance, even when the protesters sent a homemade teargas canister streaking through the air to land at their feet with a hiss.”

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<sup>18</sup> See his article “Bahrain poised for human rights report” (18 October 2011) on the BBC Website <http://www.bbc.co.uk/news/world-middle-east-15358707>

In his article, Gardner also wrote

“If you go to any low-rise Shiite village west of the capital, Manama, people will say the regime brutally suppressed a people’s protest. If you talk to the Sunnis and expatriate workers, you will hear a very different story. Bahrain’s uprising, they say, was a failed coup encouraged by Iran, a bid to end two centuries of Sunni monarchy and replace it with a theocratic Shiite Islamic Republic leaning towards Tehran.”

This observation confirms HRWF’s experience of conflicting narratives about the police’s management of disturbance of public order as well as the polarization between pro-government and opposition forces.

The report of the Bahrain Independent Inquiry Commission is expected to bring some clarification to a number of controversial issues such as the excessive use of force in the police management of demonstrations and disturbance of public order, the resort to violence against persons and properties by a number of protesters, the killing of policemen and demonstrators, cases of degrading treatment and torture in custody, illegal and abusive dismissals, and so on.

## **Bahrain's Independent Commission of Inquiry**

The Bahrain Independent Commission of Inquiry (BICI)<sup>19</sup> was established on 29 June 2011 pursuant to Royal Order No. 28 by the King. The Commission has been tasked with investigating and reporting on the events that took place in Bahrain in February-March 2011, and the consequences of those events.

The Commission has been asked to determine whether the events of February and March 2011 (and thereafter) involved violations of international human rights law and norms, and to make the recommendations. The Commission has been asked to provide a complete narrative of the events and the context for these events; to describe any acts of violence that occurred, as well as the actors involved in such acts; and to investigate instances of alleged police brutality and violence by protestors and demonstrators against others. The Commission has been asked to explore the circumstances and appropriateness of arrests and detentions; to examine allegations of disappearances and torture; to probe allegations of media harassment and other pressure tactics used against participants in demonstrations and public protests; to discuss the alleged unlawful demolition of religious structures; and to describe the alleged involvement of foreign forces and actors.

Although Commissions of Inquiry are often created by external mandate, the Bahraini Commission of Inquiry is the product of internal decision-making and has benefited from a consultation process with various bodies, including the United Nations High Commissioner for Human Rights. The terms of reference set out in the Royal Order (please see "[Royal Order No. 28 of 2011](#)" on the BICI website) contain a number of features that will contribute to the Commission's integrity and independence, including the following:

- the Commission is wholly independent from the Bahraini government and will be responsible for hiring its own staff and administering its own budget;
- the Commission has been afforded full access to government agencies, officials and files;
- the Commission has been granted the government's cooperation in giving the Commission access to all places and people that the Commission deems appropriate;
- the Commission has the ability to meet with witnesses in secret and to adopt protective measures for witnesses;
- the Commission has the authority to decide on all matters concerning the scope of its work and its methods of operation;

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<sup>19</sup> The information of this section mainly comes from the website of the BICI: <http://www.bici.org.bh>

- the Government has undertaken to ensure that no person will be punished, penalized, harassed or embarrassed in any way;
- the Commission has been granted the ability to make any recommendations that it sees fit; and
- the Commission's final report will be made public in its entirety.

The five commissioners are: Professor M. Cherif Bassiouni, Professor Sir Nigel Simon Rodley KBE, Dr Badria A. Al-Awadhi, Dr Mahnhoush H. Arsanjani, and Judge Philippe Kirsch Q.C. (See Annex).

The commission is modeled on the UN example. The investigators have worked in the Balkans, Iraq and Rwanda and have been both thorough and independent of any government interference. The commission has had access to all government entities and has been able to investigate all sides.

The BICI has received about 9,000 complaints and conducted more than 5,700 personal interviews. Composed of investigative, legal and human rights experts from outside Bahrain, it will be announcing its findings on 23 November and the government has promised a swift response.

All physical documents – statements and complaints submitted by Bahraini citizens and foreign residents – will be destroyed at the time of the submission of the final report to protect the confidentiality, security, and privacy of all complainants and their testimonies. An electronic copy of all these documents shall be preserved at the Permanent Court of Arbitration (PCA) in The Hague for a period of ten years, after which these records will be destroyed by the PCA. No copies or physical evidence of the record of the BICI files will be maintained thereafter.

All the human rights NGOs that HRWF met<sup>20</sup> had been interviewed by BICI investigators or had spontaneously submitted cases to the Commission. Although the political opposition and a number of human rights NGOs trust the neutrality of the Commissioners, they fear the commission will be soft on government, excusing it of any systematic abuse or equating any abuses committed by the security forces with actions committed by protesters. They told HRWF that they will each publish a shadow report.

HRWF met with Professor Cherif Bassiouni, Chair of the BICI. During his career, he held a number of United Nations positions. Notably, this included the position of Chair for the Drafting

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<sup>20</sup> Bahrain Centre for Human Rights, Bahrain Society for Human Rights, Bahrain Transparency Society, Bahrain Women's Union, General Federation of Bahrain Trade Unions, Migrant Workers' Protection Society, Bahrain Bar Society.

Committee at the Diplomatic Conference on the Establishment of an International Criminal Court. He also served as the Chair for the Drafting Committee on the 1985 United Nations Basic Principles of Justice for Victims of Crime and Abuse of Powers. Bassiouni has previous experience working on Commissions of Inquiry. Most recently, he chaired the UN Independent International Commission of Inquiry for Libya (2011). He was also involved in commissions investigating the human rights situation in Afghanistan between 2004 and 2006, and violations of international humanitarian law in the Former Yugoslavia in 1993. He is also on the board of Human Rights Watch.

The BICI has utilized a combination of junior and senior investigators – a team of 41 collaborators including employees on short-term assignments and administrative staff<sup>21</sup>.

Many foreign journalists who have gone to Bahrain to cover the events have usually just stayed for a few days and published superficial or distorted reports according to their sources of information. Each incident has to be analyzed carefully and checked through cross-interviews of a wide range of people. It takes time and distance to establish the truth. This is why the BICI was put in place.

Due to the financial and human resources put at its disposal, the BICI is indeed in the best position to settle the many differences between the various and conflicting narratives circulated by numerous participants in and observers of the Pearl Roundabout demonstrations and the politicization of the Salmaniya Medical Complex; the cases of arbitrary arrests and torture by law enforcement forces; the acts of violence against persons and properties committed by a number of demonstrators; the responsibilities in the killings; the arbitrary dismissals; the trials and the sentences, and so on.

It will then be up to the government and the king to follow the recommendations of the BICI and to take the necessary corrective and punitive measures put forward without delay.

Human Rights Without Frontiers hails the creation of the BICI. Human Rights Without Frontiers calls upon the Bahraini authorities to carry out all its recommendations and the opposition groups to contribute to their implementation.

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<sup>21</sup> See details of BICI's Personnel Organization Chart at <http://www.bici.org.bh/wp-content/uploads/2011/07/BICIOrganisationChart.092011.pdf>

Some of the BICI staff are on leave from judicial posts and other positions that has limited the amount of time they spent in Bahrain. The number of staff and consultants has inevitably varied between the beginning and the end of the mission, but a consistent presence has been maintained throughout the investigation with a large number of bilingual investigators of Arab origin employed as well as expert consultants brought in to examine particular areas of need.



## National Dialogue

On 1 July, Bahrain's King called for a dialogue "to boost a national consensus on the ideal development for the Kingdom". This was welcomed by the EU<sup>22</sup>.

The aim of the National Dialogue was to build a consensus among the various representatives of society about the country's direction and the reforms needed. The list of participants on 18 July<sup>23</sup> included:

- 12 Women's Societies, 25 Civil Societies, 8 Youth Societies, 31 Professional Societies, each with 1 representative<sup>24</sup> present (in all 80);
- 18 Political Societies<sup>25</sup> with 5 representatives each (in all 90);
- 5 Newspapers<sup>26</sup> with 2 or 3 representatives each (in all 14);
- 8 Trade Unions<sup>27</sup> with 1 representative for each;
- 70 Public Personalities were also invited;
- 11 Companies<sup>28</sup> had 1 representative each;
- 40 Shura Council Members;
- 21 Representative Council Members;
- 5 Heads of Municipal Councils.

The number of participants indicates the interest of civil society in the King's initiative. However, al-Wefaq told HRWF they would have preferred to see the establishment of a national

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<sup>22</sup> Moderates within the largest Shiite party Al Wefaq are calling for constitutional reforms. The coalition of much smaller Shiite parties behind the march on the Royal Court, however, are calling for the overthrow of the monarchy and the establishment of a republic, which has frightened the Sunnis. Almost everyone welcomes reforms but a very sizeable proportion of Bahrain's population do not want to get rid of the Royal Family and replace Al Khalifa rule.

<sup>23</sup> Some registered participants apologized.

<sup>24</sup> An exception was Bahrain Chamber of Commerce and Industry which had 5 representatives.

<sup>25</sup> Al Ekhaa Society, Al Asalah Islamic Society, National Democratic Assembly, National Democratic Assembly Society, National Democratic Assemblage Society, Al Hewar National Society, Muslim League Society, Al Shura Islamic Society, Islamic Row Society, National Democratic Action Society, Free Thought Society, Democratic Progressive Tribune, Al Menbar National Islamic Society, Al Wasat Arab Islamic Democratic Society, Al Wefaq National Islamic Society, National Justice Movement Society, National Action Charter Society, The Gathering of National Unity Society. Although the Islamic Action Society was listed among the participants, they did not send any representatives to the National Dialogue.

<sup>26</sup> Al Ayam (3), Al Bilad (3), Al Wasat (3), Al Watan (3) and Akhbar Al Khaleej (2).

<sup>27</sup> GCBW, GPIC, ALBA, BANAGAS, GIIC (Iron and Steel), Gulf Air Union, Insurance Union, Sea Ports Union.

<sup>28</sup> Bahrain Real Estate Investment Company; Mumtalakat; Gulf Air, GPIC; Bahrain National Gas Company (BANAGAS); Bahrain Airport Services (BAS), ALBA, Bahrain Airport Company (SPC), Bahrain Telecommunication Company (Batelco), Bahrain Petroleum (BAPCO), GARMCO.

dialogue limited to the political societies and after some time they withdrew from the National Dialogue.

The outcome of the National Dialogue is a long list of 291 recommendations established by consensus by the participants and touching on dozens of areas. The planned reforms will cover four major policy areas: political, economic, societal, and human rights (See ANNEX II).

According to the procedure guiding the reform process, the Cabinet will approve the final report and then the Prime Minister will submit it to the King.

*Human Rights Without Frontiers* understands that civil society and most political parties have placed much hope in the process initiated by the king and considers that the legislative and executive powers should fully implement the proposed recommendations if they do not want to miss this opportunity to make society more inclusive and to restore confidence and social peace. A number of recommendations of the National Dialogue are already being implemented.

## EU and International Pressure

Since the events of February and March, the European Union has expressed its concerns about the situation in Bahrain through various channels and in various ways.

The European Parliament has taken several initiatives in 2011:

- a resolution on 7 July “on the situation in Syria, Yemen and Bahrain in the context of the situation in the Arab World and North Africa”;
- a statement of its President on 12 April about “the death of two Bahraini civic activists”;
- a statement of its President on 28 April about “the death sentences handed down to four Bahrainis for participating in peaceful protests”;
- a hearing on Bahrain in the EP Sub-Committee on Human Rights on 3 October;
- a resolution on Bahrain on 27 October.

In addition, the Vice-President of the European Commission/ EU High Representative for Foreign Affairs and Security Policy made statements

- on Bahrain on 10, 12 and 18 March, on 3 May, on 1 July; on 31 August, on 8 and 30 September;
- on the situation in Egypt, Syria, Yemen *and* Bahrain at the European Parliament on 12 October.

The Council of the EU also adopted several conclusions on Bahrain on 21 March, 12 April and 23 May.

On 21 September, in his address to the 66<sup>th</sup> session of the U.N. General Assembly, President Obama called on Bahrain to lead reform:

“In Bahrain, steps have been taken toward reform and accountability, but more are required. America is a close friend of Bahrain, and we will continue to call on the government and the main opposition bloc -- the Wefaq -- to pursue a meaningful dialogue that brings peaceful change that is responsive to the people. And we believe the patriotism that binds Bahrainis together must be more powerful than the sectarian forces that would tear them apart.”

These and other pressures have not remained unnoticed in Bahrain and have led to a number of recent corrections in the authorities’ policies:

- The visit of the ILO Deputy Director General in Bahrain has led to a process of reintegration of a high number of unfairly dismissed workers;
- On 12 October, the Minister of Labor announced amendments to the trade unions law which aim to enable workers to set up more than one union;
- 20 doctors and medical workers sentenced to heavy prison terms by the National Safety Court have been released; three charges have been dropped (incitement of hatred for the regime, disturbing public security by spreading rumors, inciting others to commit criminal acts) and their trial has resumed before a civil court.
- Many other prisoners have also been released.

More needs to be done but these moves should encourage the EU to monitor the situation in Bahrain very closely, to collect reliable data and to continue expressing its concerns. The authorities in Bahrain are sensitive to them.

The EU should also scrutinize the follow up of the 291 recommendations for reforms issued by the National Dialogue. By the time of writing this report, the parliament was discussing Freedom of Expression Amendments (See Annex III). This would benefit all those whose cases are pending.

On 2 November, Minister of Justice, Islamic Affairs and Endowments, Shaikh Khalid bin Ali Al Khalifa, said that constitutional amendments drafted within the National Dialogue would be submitted to the Cabinet following the Islamic Eid Al Adha holiday in preparation for the adoption of the necessary constitutional procedures.

## Conclusions and Recommendations to the EU

For the past decade, Bahrain has been considered the most progressive country in the Arab Peninsula, carrying out a number of democratic reforms, promoting women's rights and creating a business-friendly environment. Unfortunately, sectarian divisions have dramatically eroded the national cohesion in the last few years. A new social deal is required. A stable and long-term reconciliation is needed. It is in the interest of the Bahrainis and the stability in the region. It is also in the interest of the European Union.

The government, civil society and political parties should work in this direction. The regime should take a series of confidence-building measures to restore a social dialogue and rebuild an inclusive society. Bahraini civil society is certainly not devoid of peacemakers. In the Sunni and Shiite communities, some prominent religious figures are in a position to build bridges over the religious divide and to mediate between the conflicting parties. Leaders of Christian Churches and the small local Jewish community have also declared their availability to contribute to restore societal peace<sup>29</sup>. The business community can also play a constructive role. Civil society and political parties have the right to demonstrate

### HRWF recommends to the EU

*To call upon the Government of Bahrain*

- To implement the recommendations of the National Dialogue;
- To accommodate the Bahrain Independent Commission of Inquiry's findings;
- To accelerate the democratization reforms;
- To urge civil society and political societies to protest peacefully, without any violence against persons and property;
- To abide by international human rights standards concerning the protection of public order, arrests, detention, trials and dismissals;
- To fully reinstall those who were unfairly dismissed;
- To release prisoners who did not use or advocate violence while they are waiting for a new trial before civil jurisdictions and to give access to international observers;
- To ensure the independence of the judiciary;
- To maintain an open dialogue with civil society and political societies, and encourage them to actively participate in a meaningful and constructive political dialogue in order to address Bahrain's political, economic and social needs;

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<sup>29</sup> During its mission, HRWF organized a roundtable with various Christian leaders, met representatives of the small Jewish community and the leader of the religiously mixed National Unity Assembly (a licensed political society since July) which organized two huge peaceful gatherings in February and March.

- To take confidence-building measures;
- To encourage national reconciliation, restore social consensus and make society more inclusive;
- To reinforce citizenship, to promote respect for individual rights and for the state institutions;
- To introduce anti-racism laws to protect migrant workers, expatriates and naturalized citizens of Bahrain;
- To ban and prosecute discrimination against foreigners, naturalized persons and women;
- To promote separation between state and religion;
- To train the law enforcement forces about international human rights norms with the assistance of the EU and the International Criminal Court;
- To organize international seminars about democracy, the rule of law, conflict resolution, human rights (racism, women's rights, judiciary, and so on);
- To declare a moratorium on the death penalty.

## **ANNEX I: BICI Commissioners**

### **Professor M. Cherif Bassiouni**

Professor M. Cherif Bassiouni is one of the foremost authorities on international criminal, human rights and humanitarian law. He obtained an LLB from the University of Cairo, a JD from Indiana University, an LLM from John Marshall Law School and an SJD from George Washington University. Until 2009, Professor Bassiouni was a Distinguished Research Professor at DePaul University College of Law, an institution in which he has spent thirty-five years. Professor Bassiouni published a number of textbooks in international criminal law. During his career, Professor Bassiouni has also held a number of United Nations positions. Notably, this included the position of Chair for the Drafting Committee at the Diplomatic Conference on the Establishment of an International Criminal Court. He also served as the Chair for the Drafting Committee on the 1985 United Nations Basic Principles of Justice for Victims of Crime and Abuse of Powers. Bassiouni has previous experience working on Commissions of Inquiry. Most recently, he chaired the United Nations Independent International Commission of Inquiry for Libya (2011). He was also involved in commissions investigating the human rights situation in Afghanistan between 2004 and 2006, and violations of international humanitarian law in the Former Yugoslavia in 1993.

### **Judge Philippe Kirsch Q.C.**

Judge Philippe Kirsch is one of the foremost authorities on international criminal law and public international law. Judge Kirsch has a BCL and LLM from the Université de Montréal. Judge Kirsch served as a judge at International Criminal Court in The Hague between 2003 and 2009, acting as the Court's first President. Prior to serving as a Judge at the Court, Judge Kirsch served as Chairman of the Committee of the Whole of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (the Rome Conference). He was also Chairman of the Preparatory Commission for the International Criminal Court (1999 – 2002). Similarly, he has also chaired the Canadian National Committee on Humanitarian Law (1998 – 1999) and served as a member of the Group of International Advisers to the International Committee of the Red Cross (2000 – 2003). Judge Kirsch has written extensively on international law, and, specifically, on the International Criminal Court. Additionally, Judge Kirsch served as Chairman of the United Nations Ad Hoc Committee for the Suppression of Acts of Terrorism (1997-1999) and as Chairman of the United Nations Ad Hoc Committee that elaborated the International Convention on the Safety of United Nations and Associated Personnel (1993-1994).

### **Professor Sir Nigel Simon Rodley KBE**

Professor Sir Nigel Simon Rodley KBE is a leading expert in the field of international human rights law. Professor Rodley obtained an LLB (1963) from University of Leeds (1965), an LLM from Columbia University (1970), an LLM from New York University and a PhD from the University of Essex (1993). Professor Rodley has been a member of the United Nations Human Rights Committee since 2001 and a Professor of Human Rights Law and International Law at the

University of Essex since 1990, during which time he held the title of Dean of the School of Law for three years. He also serves as a Commissioner on the International Commission of Jurists. Previously, Professor Rodley held the position of UN Commission on Human Rights Special Rapporteur on Torture for eight years. He is well-published in the field of human rights, having written or edited a number of works, including two editions of the book *Treatment of Prisoners*. Professor Rodley has experience with Commissions of Inquiry having previously served as a member of the International Independent Group of Eminent Persons observing the Sri Lankan Presidential Commission of Inquiry between 2007 and 2008.

**Dr. Mahnoush H. Arsanjani**

Mahnoush H. Arsanjani is a leading international lawyer. She obtained an LLB from the National University of Iran (1971), an LLM from Yale Law School (1974) and a Doctorate of Law from Yale Law School (1977). Dr. Mahnoush has served in the legal office of the United Nations for thirty-two years. During that time, she held a number of positions including that of Director of Codification, Secretary of the International Law Commission, and Secretary of the Committee of the Whole, Rome Conference on the Establishment of the International Criminal Court. She also currently serves as a Vice-President of the American Society of International Law. She is well-published having written a number of books and articles, including the book *International Law in Contemporary Perspectives*.

**Dr. Badria A. Al-Awadhi**

Dr. Badria A. Al-Awadhi is a renowned international and Shari'a law expert. She holds a Master's degree in public and private international law from Cairo University, Law Faculty (1968), and a PhD in public international law from London University, University College of Law (1975). Dr. Al-Awadhi currently serves as the Director of the Arab Regional Center for Environmental Law. She is also the Regional Legal Consultant at the Freedom House Foundation and is a Professor of international law at Kuwait University, Faculty of Law. She is a founding member of the Kuwait Environment Protection Society and served as Secretary General for over 10 years. She is well-published, having authored several books and articles on, amongst other subjects, international humanitarian law. At the international level, Dr. Al-Awadhi is a member of a number of international organizations including the International Federation of Women Lawyers, International Law Association, World Jurist Association and the International Council of Environmental Law.



## **ANNEX II: National Dialogue Recommendations**

### **1. Political:**

- Powers of Parliament should be increased, in particular by granting it enhanced scrutiny over the government
- The Prime Minister should select the members of his government, with the King appointing the head of government.
- The government should be approved by the elected parliament. MPs, will have the right to reject the entire government, as well as the government's four-year work plan.
- The elected parliament should have greater legislative and monitoring powers
- Ministers will have to be present to answer questions in parliament sessions when issues debated relate to their individual ministries
- Parliament will have the right to initiate discussions on any theme in addition to the agenda
- While there was a consensus on the need to review the electoral constituencies to ensure fair voting, there was no agreement on how this should be done
- Non-sectarianism in all civil and political organizations would be pursued through a comprehensive legislation plan and measures would be implemented to ensure that no religious or sectarian group would be undermined.
- Rules need to be established related to the funding of political societies with full financial disclosure.
- The age limit for participation in political societies should be aligned with the legal voting age

### **2. Economic:**

- The implementation of the Bahrain Economic Vision 2030 should be accelerated and a further diversification of the country's sources of income introduced, reducing dependence on oil and boosting sectors such as tourism, industry and real estate.
- Commercial arbitration should be handled through specialized courts and judges involved in the resolution of commercial, banking and financial disputes
- Existing legislation governing privatization to support Bahrain's economic interests should be upgraded.

- An independent authority should assess the quality of government services in health, education, housing and protection of the environment.
- National health standards should be improved through a comprehensive strategy in coordination with the private sector, as well as ensuring equal access to quality services in all segments of society.
- Compulsory health insurance for foreign residents should be implemented.
- A national company to provide suitable housing for those with limited income should be supported.
- A committee to develop measures to protect the environment should be instituted and the number of 'Green zones' increased.
- Stronger action needs to be taken to fight corruption and increase transparency in public life, with the National Audit Court taking legal action against those who misuse public funds.
- An independent authority should be created to oversee and implement comprehensive management policies and financial transparency in the governance of ministries and institutions, in line with international standards.
- Companies with a government share of 30% or more should be committed to the same management policy and transparency procedures as the government itself.
- Rules should be introduced governing Board membership of government-related companies and organizations such that Board members can serve a maximum of two terms only and on one Board at any one time.
- All recommendations published by the parliament's investigation committee relating to state property and reclaimed land should be fully implemented.
- A revision of taxes, subsidies and welfare benefits aimed at a more efficient redistribution of wealth should be implemented.
- A comprehensive study on ways of increasing indirect taxes and introducing corporate income taxes in line with GCC rules should be initiated (but there was no consensus reached as some saw these taxes as a necessary beneficial step to improve the national economy; while others feared they would deter investors).
- An in-depth study to identify low-income target groups and improve the redistribution of government support should be launched that would allow the government to target those

in greatest need with more support but decrease overall dependence on government subsidies.

### **3. Societal:**

- Funding for youth projects should be increased
- More youth centers across the country should be established
- More training and development programs should be set up.
- Greater efforts should be made to increase the participation of young people in the decision-making process.
- A national strategy for NGOs under which they could establish their headquarters with assistance from the Ministry for Human Rights and Social Development and be entitled to greater regulated financial support should be adopted.
- Mechanisms aimed at developing greater corporate responsibility should be developed to improve coordination and cooperation between the private sector and civil societies.
- Civil society organizations should not combine political and human rights activities.
- A national program to promote a culture of “citizenship and civility” within the country’s media and education strategies should be developed.
- The role of governorates (administrative districts) in promoting social cohesion should be supported, along with increasing the role of security forces in humanitarian efforts.
- Dismissals and terminations during the recent unrest should be investigated to find a solution to the issues that resulted.

### **4. Human Rights:**

- The Supreme Judiciary Council should be formed by appointment (rather than election) to avoid politicizing the system.
- Judges should be suitably trained on human rights issues, as well as on international treaties and conventions to which Bahrain is a signatory.
- The number of specialized judges should be increased.

- A national body for reconciliation should be created and a national program to promote human rights awareness among official and civil society organizations, with a particular focus on law enforcement personnel, should be instituted.
- Bahrain should sign and ratify international human rights treaties and protocols (in the cases of those to which they are not currently a signatory), while respecting its religious and cultural traditions.
- International human rights commitments should be fully transposed into national legislation.
- Oversight for human rights organizations should be transferred from the Ministry of Human Rights and Social Development to the parliament.
- Women's rights should be strengthened to ensure more protection against violence, equal rights in the workplace and greater political and economic empowerment (including reviewing women's salary levels in the private sector).
- The UN Convention on the elimination of all forms of discrimination against women (CEDAW) while respecting the country's religious tradition should be comprehensively implemented.
- All relevant legislation on children's rights should be fully implemented and the participation of children in rallies and demonstrations should be restricted.
- Coordination between the government and civil society organizations protecting the rights of people with special needs should be improved, granting better access to education and specialized bodies through the adoption of a national strategy on the rights of people with special needs.
- A more liberal legal environment for journalists should be fostered, a code of ethics for journalists developed and access to information from official authorities should be improved.
- The dismissal of journalists due to differences in views or opinions should be made illegal, as should shutting down media outlets without a court order.
- Parliament should fast track the ratification of legislation governing print media and new laws covering broadcast and online media identified.
- A Supreme Council for Journalism bringing together journalists, media professionals and civil society organizations should be considered.

- Religious gatherings and processions should be regulated, specifically by identifying locations and timings.
- The law on assembly should be reviewed and revised in line with international standards.
- Children of Bahraini women married to foreign nationals should be granted Bahraini citizenship following a clear set of rules.
- Further rules to prohibit discrimination against naturalized citizens should be instituted and enforced.
- Naturalized citizens should be entitled to stand for elections 5 years after having obtained their Bahraini passport on the condition that they are not dual nationals.

## **ANNEX III: Freedom of Expression Amendments**

Press release of the Information Affairs Authority (24.10.2011) - Parliament to vote on amendments in coming weeks:

1. The government of Bahrain yesterday introduced a proposal for legal reform to the Bahraini Parliament that it terms the Freedom of Expression Amendments. These proposed amendments include (i) changing the language of Article 168 of the Penal Code; (ii) deleting Article 134A of the Penal Code; (iii) deleting Article 174 of the Penal Code; and (iv) adding a new provision to the Code, Article 69 bis.

2. The proposed Freedom of Expression Amendments are an initiative by the government to provide stronger guarantees for freedom of expression in Bahrain by narrowing the circumstances under which individuals can be charged with speech-related activity under the country's criminal laws. This initiative follows other cutting-edge action by the government in the human rights arena, including the establishment by the King of an independent expert commission to investigate alleged human rights abuses; the creation of a Fund for Victims that grants various types of remedies to those who have been the subject of human rights abuses or are subject to such abuses in the future; and the issuance of royal pardons for persons accused of speech-related offences under Bahraini law.

3. It is proposed that the amendments would apply retroactively where this would be beneficial to the accused in a pending case.

4. The government's proposed Freedom of Expression Amendments represent an important step in the process of modernizing its laws. The government will continue to review its laws and practices to ensure continued compliance with its commitment to human rights and obligations under international instruments. This will include reviewing other provisions of the Penal Code, as well as the Press Law, with a view to proposing additional amendments that further promote and safeguard the rights of individuals in Bahrain.

5. The Freedom of Expression amendments (discussed below) will now be put before parliament and will be voted upon in the coming weeks. The proposal is one of the outcomes of the National Dialogue and is a priority for the government. It is therefore hoped that Parliament will deal with it in an expedited manner.

### ***Article 168***

6. The current text of Article 168 is provided in the annex. Under the proposed new law, Article 168 is amended to read as follows:

(a) Imprisonment for a period of no more than two years and a fine not exceeding BD 200, or either penalty, may be imposed on any person who deliberately disseminates a false statement knowing that it may be damaging to national security, public order or public health, and consequently such damage occurs.(b) A statement can only be subject to criminal penalties for damaging national security under subparagraph (a) if it (i) deliberately incites imminent violence; (ii) it is likely to incite such violence and (iii) there is a direct and immediate connection between the statement and the likelihood or occurrence of such violence.

7. The government of Bahrain takes very seriously its commitments under international law, including its obligations under the International Covenant on Civil and Political Rights (ICCPR), which guarantees freedom of expression within certain limits under Article 19.

8. The language of the proposed amendment takes into account the most recent pronouncements by the UN on the evolving norms relating to freedom of expression under the ICCPR. The text of the new article is drawn from the language of Article 19 itself, as well as best practices under international law set out in the UN Human Rights Committee's General Comment No. 34 issued in July 2011 and recent pronouncements of the UN Special Rapporteur on Freedom of Opinion and Expression on this issue.

#### ***Articles 134A and 174***

9. The text of Articles 134A and 174, currently part of the Penal Code, is provided in an Annex to this press release.

10. The government proposes to delete these two speech-related crimes from the Penal Code in their entirety. There will be no new crime that replaces these provisions.

#### ***Article 69 bis***

11. The government proposes to add a new provision, Article 69 bis. This provision would be of general application to the Penal Code and is intended to be an interpretative aid to other laws regulating freedom of expression in the Kingdom of Bahrain as well. The provision would read as follows:

Restrictions defined in this or any other law on the freedom of expression shall be construed as limited to those which are compatible with the values of a democratic society. The exercise of the freedom of expression can only be punished through restrictions that are so limited.

12. This general clause is intended to ensure that, in interpreting and applying the law, lawyers and judges pay due regard to Bahrain's commitment to restricting freedom of expression only where such restriction is compatible with the values of a democratic society.

### ***Article 168***

#### ***Annex - New Proposed Provisions***

(a) Imprisonment for a period of no more than two years and a fine not exceeding BD 200, or either penalty, may be imposed on any person who deliberately disseminates a false statement knowing that it may be damaging to national security, public order or public health, and consequently such damage occurs.

(b) A statement can only be subject to criminal penalties for damaging national security under subparagraph (a) if it (i) deliberately incites imminent violence; (ii) it is likely to incite such violence and (iii) there is a direct and immediate connection between the statement and the likelihood or occurrence of such violence.

### ***Article 69 bis***

Restrictions defined in this or any other law on the freedom of expression shall be construed as limited to those which are compatible with the values of a democratic society. The exercise of the freedom of expression cannot be punished in the absence of restrictions so limited.

#### **Annex - Current Penal Code Provisions to be Amended or Deleted**

### ***Article 134A (to be deleted)***

A punishment of imprisonment for a period of no less than 3 months and a fine of no less than BD 100, or either penalty, shall be imposed upon any citizen who has attended abroad in whatever capacity and without authorization from the Government, any conference, public meeting or seminar or has participated in any manner whatsoever in the deliberations thereof with the intent of discussing political, social or economic conditions in the State of Bahrain or in any other state so as to weaken financial confidence the State of Bahrain or undermine its prestige or standing or to worsen political relations between Bahrain and these countries.

The same punishment shall be inflicted upon any person who liaises abroad without any authorization from the Government with representatives or delegates of any foreign country, association, organization, society, federation, union or institution with the intent of discussing any of the matters contained in the preceding paragraph.



***Article 168 (to be amended)***

A punishment of imprisonment for a period of no more than 2 years and a fine not exceeding BD200, or either penalty, shall be inflicted upon any person who willfully broadcasts any false or malicious news reports, statements or rumours or spreads adverse publicity, if such conduct results in disturbing public security, terrorizing people or causing damage to public interest.

The same penalty shall be inflicted upon any person who possesses, either personally or through others, any documents or publications containing anything provided for in the preceding paragraph, if they are intended for distribution or reading by others, and upon any person who possesses any publishing, recording or promotion device intended, even on a temporary basis, for the printing, recording or broadcast of any of the above.

***Article 174 (to be deleted)***

A punishment of imprisonment for a period of no more than 2 years and a fine not exceeding BD200, or either penalty, shall be inflicted upon any person who produces or possess, with the intent of trading, distribution, posting or display, any pictures designed to cause offence to the country's reputation whether by a presentation that is contrary to the truth, by giving an improper description, presenting unbecoming aspects or by any other method.

The same penalty shall be inflicted upon any person who imports, exports, copies deliberately either personally or through others any of the above for the aforesaid purpose, or any person who advertises such materials, displays them for sale, trading therein even in a secretive manner, and any person who provides such items directly or indirectly even free of charge and in any way whatsoever. The same penalty shall be inflicted upon whoever distributes or delivers such materials for distribution by any means.

In case of recurrence of the offence, the punishment shall be both imprisonment and payment of fine without prejudice to the provisions of Article 76.