

POSITION PAPER

An *a la carte* implementation of the BICI's recommendations and ongoing violations of human rights standards

A. ONGOING LARGE-SCALE HUMAN RIGHTS VIOLATIONS

Excessive use of force against peaceful protesters

In response to the BICI recommendation No 1722(c)¹, on 18 January 2012, the Minister of Interior approved a new Code of Conduct for Bahraini Police. This new Code was drafted in consultation with former Miami Police Chief John Timoney². It adopts the “principles-based” approach, and sets out the broad duties of police officers in relation to various aspects of their work, including use of force, respect for human dignity, and maintaining the rule of law.

Protests, small or large, continue to be violently repressed. Security forces continue to shoot excessive amounts of tear gas on a daily basis on residential areas as collective punishment. These attacks have caused several deaths by inhalation of the tear gas and miscarriages. Injuries suffered by protesters evidence the continued use of shotguns, tear gas, sound bombs and rubber bullets. Many non-protesting children under the age of 18 have been arrested, and many families say that their detained relatives are still being subjected to torture and ill-treatment. In January 2012 alone, 9 persons were reported dead.

Since the release of the BICI report and at the time of writing this report, 18 civilians have died as a result of the excessive use of force by Bahraini security forces. Hundreds more have been reported injured.

The repression in Bahrain has taken a serious turn over the last several weeks as security forces have extended its target group beyond protesters. In addition to the ongoing repression against protesters, mourner marches and funeral processions have been attacked with tear gas, and raids against houses by both anti-riot police and plain-cloth officials have multiplied. Furthermore, cases of humiliation and the taking of money, mobile phone and other possessions by police officers at police checkpoints have been reported. Tear gas canisters are being directly shot into houses, which has already resulted in the death by inhalation of tear gas of several elderly people and a 5-day-old baby.

Security experts involved in the retraining of police claim that direct force is no longer used against those on the street and tear gas is used to disperse crowds instead.

¹ “[...] the security forces should be trained in the human rights dimensions of detention and interrogation, and in particular the obligation to refuse to participate in any actions involving torture and other prohibited ill-treatment.”

² John Timoney and John Yates, formerly commander at London’s Scotland Yard, were appointed by the Ministry of Interior to “oversee reform” and to bring Western professional policing to the Bahraini force and specifically to upgrade the human rights record of Bahrain’s ministry of interior and National Security Agency. John Timoney is notable for his violent handling of the Free Trade Agreement of the Americas (FTAA) Protests in 2003 where tens of thousands of demonstrators met with police harassment, provocation, and brutality (more than 100 protesters were treated for injuries, 12 were hospitalized and an estimated 250 were arrested). John Yates was forced to resign in ignominy over corruption involving phone tapping scams carried out by London’s Metropolitan Police in league with Murdoch’s gutter tabloid press.

Arbitrary arrests and incommunicado detentions

According to the BICI findings, over 3,000 people have been arrested since 14 February 2011. Over the past two months, more than 100 further arbitrary arrests have been reported. These arrests take place during both protests and raids against homes, and cases of incommunicado detention continue to be reported, despite the 22 December 2011 order by the Minister of Interior which instructed the Inspector General to “take all necessary steps, including any necessary training of officers and amendments to the procedures for arrest and detention, to guarantee the rights of all suspects including their right to: (i) not be held incommunicado; (ii) be shown a warrant upon arrest; (iii) be given prompt access to their lawyers; and (iv) allowed family visits in accordance with the Bahrain Code of Criminal Procedure”.

However, on 30 January 2012, a proposal drafted by the Ministry of Interior to toughen prison sentences for those who have attacked security personnel or their families up to 15 years, was sent to the Parliament for review. If approved, the government's hand against the protesters will likely become harder.

Conditions of detention and ongoing use of torture

The November 2011, BICI report brought to light the systematic use of torture and mistreatment against detainees arrested in relation to the uprisings. Since then, the conditions of detentions have not improved, and have reportedly worsened.

According to a report on “treatment of political detainees in Bahrain's prison”³, “the biggest complaint of mistreatment continues to be poor access to health care, continuing torture in local detention centres, and denial of due process by not releasing political prisoners arrested for taking part in the 2011 uprising”. The report also states that “physical abuse occurs both at the point of arrest and at local police detention centres.”

Among the reported violations of the Standard Minimum Rules for the Treatment of Prisoners, were: fewer hours outside the cell for prisoners; restrictions of religious rituals; showers not equipped with hot water; families not allowed to bring winter clothes; health problems; refusal to give vaccinations; poor hygienic conditions; overcrowded cells; and the excessive use of solitary confinement as punishment.

On 29 January 2012, approximately 250 political prisoners began a widespread national hunger strike, after 14 prominent political and human rights activists, who were arbitrarily detained since March 2011⁴, announced they would begin a hunger strike. In response, the section of the Jaw prison where the above-mentioned detainees are kept was reportedly tear gassed. A number of the detainees were severely beaten, and others were put in solitary confinement.

Prison guards routinely refer to political detainees as traitors for trying to overthrow the monarchy, to which the prison administration vows entire loyalty.

Protesters and activists have also reported having been tortured outside police detention centres. This is an attempt by authorities to avoid being directly implicated in such incidents and

³ This report was released on January 2012 by the Bahrain Rehabilitation & Anti-Violence Organisation (BRAVO) and the Bahrain Centre for Human Rights (BCHR) for the International Committee of the Red Cross. Sixty-six percent of the report was prepared by prisoners inside the prison who documented the human rights violations. Further information was collected between November 2011 and January 2012 through families of prisoners.

⁴ See FIDH et and OMCT joint press release “*FIDH and OMCT call for the immediate end of repression*”, 11 May 11, 2011.

to therefore avoid being held accountable for same. This comes after a stated decision to introduce video recording during interrogations in police stations, resulting to the BICI recommendation No1722(g).

In most cases, when arrestees are not transferred to a proper detention centre, they are held for a day, tortured and beaten, and then released without being formally charged with an offence or registering their detention case.

In January 2012, three people were reported dead after having been arbitrarily arrested and submitted to acts of torture. On 13 January 2012, the death of **Yousif Ahmed Muwali** was announced by the Ministry of Interior. The cause of his death was not given. According to official declarations, Muwali was detained at the Criminal Investigation Directorate. On 21 January 2012, his family who had reported him missing on 10 January, finally received his body, which had marks proving he was tortured to death. On 25 January 2012, **Muntadher Saeed Fakhar** died under torture in Hooraa police station within 24 hours after being arrested. A witness said the police hit Muntadher's car, then beat him in the street near Jidhafs graveyard before arresting him. On the same day, **Mohamed Ebrahim Yaqoob** was victim of run over attempt by the police before being arrested. A few hours later, the Ministry of Interior announced that he had died as a result of sickle cell complications. However, many witnesses saw him being tortured in front of the police station, and his body showed bruises and cuts.

On the eve of a visit by the International Committee of the Red Cross (ICRC) at the Jaw prison at the beginning of February, some detainees reported they were told by prison guards that ICRC members are spies belonging to Bahrain security, in an attempt to discourage them from talking about their detention conditions.

Violation of the right to defence through acts of harassment against lawyers

The work conditions imposed on lawyers undermine the legitimate exercise of their profession. They are assigned several dozen cases, and lack the time and resources to duly examine the files. This has created a *de facto* failure to provide to the right to defence. In addition, it has been reported that some lawyers fear reprisal if they effectively defend political prisoners.

Lawyers also continue to face judicial harassment. **Mohamed Issa Al Tajer**, a prominent human rights lawyer, arrested on 15 April 2011, has been pursued for 10 months on charges of "spreading rumors and malicious news", "incitement of hatred towards the regime", and "taking part in a demonstration". His trial, which originally began in June 2011, was due to resume on 7 February 2012, but was again postponed to 20 March 2012. He has allegedly been subjected to acts of torture and ill-treatment during his 114 days of detention.

Administrative harassment against lawyers has also been reported. On 30 November 2011, the Ministry of Human Rights dissolved the then Board of Directors of the Bahraini Bar Association by annulling the election held on 26 November 2011. The Ministry stated "the immediate past Board of Directors is appointed once again, while the current elected board is void". The reason for this annulment is presumably due to the pledge of the new lawyers for the defence of human rights, and their criticism of recent human rights violations. The Ministry of Human Rights applied the "Law of Societies", which has been repeatedly criticised by human rights organisations for its purpose to control the activities of civil society institutions and to restrict their freedoms. The same law was used in 2004 to dissolve the Bahrain Centre for Human Rights (BCHR).

B. ONGOING JUDICIAL AND ADMINISTRATIVE HARASSMENT AGAINST PRO-DEMOCRACY PROTESTERS

“There is no political prisoner in Bahrain today. Not a single person is awaiting trial for political protest or activity, or for exercising her or his right to free speech and assembly.” Declaration of the Minister of Foreign Affairs in an open letter sent to the British Foreign Secretary on 6 January 2012.

Judicial harassment before civil court / Violation of the guarantees to a fair trial

In response to the BICI recommendation No 1720⁵ and 1722(h)⁶, the GoB stated that “all live cases are being reviewed in the ordinary courts to ensure fair trial rights have been complied with in cases before the National Safety Courts (NSC). Where final convictions were rendered in the National Safety Courts, and cannot be opened up on appeal, on 2 January 2012, the Supreme Judicial Council announced that it had formed a committee to review all such final convictions to ensure that the accused was provided with his or her fair trial rights.” “On 24 December 2011, the Attorney General confirmed that all charges relating to free speech will be dropped, with cases only being pursued against those persons accused of violent crimes. This decision benefits 343 people. On 2 January 2012, the Supreme Judicial Council announced that a committee of civilian judges will review all convictions with a view to commute sentences of all persons charged with offences involving political expression, not consisting of advocacy of violence.”

Despite these statements, scores of health workers, teachers, opposition activists, human rights defenders and others are still facing trials or serving prison sentences for charges such as illegal public gathering. The civil court often tends to uphold any sentences rendered by military courts, and detentions “pending investigation” are abusively extended.

Medical staff:

The criminal courts in Bahrain are still considering the cases of about 20 medics because of their involvement in the treatment of wounded demonstrators. On 29 September 2011, the group of medics was sentenced by the National Safety Lower Court to prison sentences ranging from 5 to 15 years. They were found guilty of acts that included forcibly taking over the Salmaniya Medical Complex, and refusing treatment to patients based on sectarian affiliation. A re-trial in civil court was initiated on 23 October 2011 after prosecutors dropped confessions from the defendants, who claimed that the statements were extracted under torture. The charges against them are still pending.

Over the last week, new cases of reprisal against medical staff have been reported. On 26 January 2012 two medical staff, **Halima Abdulaziz Al-Sabag** and **Aqeela Radhi Hammad**, were arrested without a warrant at their workplace, Salmaniya Hospital. They have been charged with using their positions to seize money of the State. At the time of the writing of this report, both are still in custody and an investigation is pending.

⁵ 1720 “To make subject to review in ordinary courts all convictions and sentences rendered by the National Security Courts where fundamental principles of a fair trial, including prompt and full access to legal counsel and inadmissibility of coerced testimony, were not respected be subject to full review in the ordinary courts.”

⁶ 1722(h) “To review convictions and commute sentences of all persons charged with offences involving political expression, not consisting of advocacy of violence, or, as the case may be, to drop outstanding charges against them.”

On 31 January 2012, the Health Ministry issued a memorandum to private hospitals requiring them to inform security authorities of the injured and wounded, and advising them that legal action against the hospital will be taken if they do not cooperate.

Athletes:

Meanwhile, the GoB announced the drop of the charges against 100 athletes for participating in the mass protest, many of them are still in prison. Others were victims of libel campaigns and were arbitrary arrested. They received heavy prison terms by the National Safety Court on charges of “illegal gathering” and “inciting hatred against the regime”. Several referees who have been banned for exercising their legitimate rights of expression and peaceful assembly are still without work. Moreover, arrests continue, as was the case for **Yousif Abdullah**, a race driver, who was arrested on 7 January 2012 and is currently detained at the Dry Dock prison pending investigation.

Education professionals:

Teachers are also targeted and attacked for practicing their basic rights, such as striking in solidarity with the pro-democracy movement. Since March 2011, hundreds of teachers have been detained, tortured, dismissed and subjected to unfair transfers from their schools.

Several members of the Bahrain Teachers Association (BTA) arrested in spring 2011 were released on bail. **Mahdi Abu Dheeb**, BTA President, and **Jalila al-Salman**, BTA Vice-President, have been brought several times before the National Safety Court of First Instance, and have faced a range of charges, including using their positions at the BTA to call for a strike by teachers, halting the educational process, “inciting hatred of the regime”, and “attempting to overthrow the ruling system by force”. Jalila al-Salman was released on bail on 21 August 2011, while Mahdi Abu Dheeb remains in prison. On 25 September 2011, the court sentenced Jalila al-Salman to three years in prison, and Mahdi Abu Dheeb to 10 years. Their next appeal hearing is scheduled for 19 February 2012. Despite Mahdi Abu Dheeb’s poor health, the court refuses to release him, as his lawyers have requested.

Members of the Board of Directors of the Bahrain Teachers Society (BTS), **Anwar Abdul Aziz Akbar**, **Salah AlBari**, **Afrah AlAsfour**, **Sana Abdul Razak**, **Ali AlBanaa**, **Fakharia Milad** and **Gasoon Sayad Hamza**, are still awaiting trial. They have been charged with the following: “participating in illegal gatherings”, “inciting others to commit crimes”, “leaving work on purpose and encouraging others to do so”, and “disrupting the implementation of laws”. Their trial was postponed on 9 January 2012. No information has been provided regarding this hearing. The BTS previously called for improvement in teachers’ working conditions and has contributed to the protests since 14 February 2011.

Harassment against dismissed employees

The Government of Bahrain’s response to recommendation No1723(a)(b) regarding the dismissal and/or the suspension of employees⁷: “In the public sector, all employees dismissed for free speech activity have been reinstated or will be reinstated by 1 January 2012”. “Private sector companies will be making announcements regarding reinstatement over the course of January 2012. [...] GoB has been in negotiations with the private sector, with high level

⁷ 1723(a) “To ensure that the remaining dismissed employees have not been dismissed because of the exercise of their right to freedom of expression, opinion, association or assembly. (b) To use all its powers to ensure that public corporations and other employers who dismissed employees for failure to appear for work at the time of the demonstrations treat them in a way that is at least equal to that provided by the GoB to civil servants.

discussions with public corporations, and there will shortly be an announcement about reinstatements.”

According to the BICI report, 2,075 employees from the public sector and 2,464 from the private sector were dismissed for supporting, or participating in the strikes during the Spring 2011 protests on the grounds that the strikes were unlawful. According to the Bahrain Civil Service Bureau information provided to the Commission, out of the 2,075 public sector employees who were dismissed, 1,682 had been reinstated. The Commission was also informed that, following the King's speech on 28 August 2011, the Ministry of Labour was working to have the dismissed private sector employees reinstated. The report also stated that, out of the 2,464 private sector employees who were dismissed, only 179 remained out of work at that time.

However, the General Federation of Bahrain Trade Unions report that 1,674 employees from the private sector and 854 from the public sector are still out of work, which means there are at least 2,528 people who are still dismissed or suspended.

Not only is it alarming that there is such a wide gap between these two figures, but also the conditions of reinstatement imposed on employees are questionable.

Very few of the 55 dismissed trade union leaders were reinstated, although other workers in the same firm were reinstated. However, the few who were reinstated had to accept specific conditions, and had to sign a document stating that they will not engage in any trade-union or political activities. Others were reinstated to inferior posts and/or reinstated without back-pay and retroactive benefits.

Senior staff of the Bahrain Training Institute (BTI) who were dismissed in June 2011 without any investigation, still remain out of work. The GoB claims that this is due to purely administrative reasons. On 25 January 2012, the dismissed staff received notice to appear before a criminal court. The majority of the senior teachers who were then reinstated were given inferior posts at a lower rate of pay, and/or have been marginalized within their schools: they frequently do not have desks, resources or simply are not given work to do.

It has been reported that in the private sector, in order to be reinstated, some dismissed workers will have to agree to accept a final warning being placed in their personnel file, to drop all claims against the company for back pay and benefits, and to not engage in any further political activity, or they risk immediate dismissal. Other companies agree to reinstate the dismissed staff only under new contracts, as if they were new employees, whereby they lose all accrued seniority and benefits.

In addition, several amendments were made to the trade union law, unilaterally and without notice⁸, which particularly result in the prohibition of including the prohibition against establishing the establishment of a general labour federation, and which gives permit only the Minister of Labour the power to decide who will represents Bahraini workers at international and national level bargaining tables. The amendments also prohibit for those union leaders who participated in the unrest protests to hold any office in any other unions for five years.

C. ONGOING IMPUNITY

⁸ Articles 8-1; 8-3; 10; 17.

In his speech at the occasion of the release of the BICI Report, the King declared “there will be no impunity.”

In May 2011, 5 five police officers of Pakistani origin, were referred to criminal court for alleged cases of torture and mistreatment on detainees during the repression of the protest movement in Bahrain. This led to the death in custody of **Zakariya Al-Asheri** and **Ali Saqer** while in custody on 9 April, 2011. The military prosecution accused two of the police officers of “beating two detainees to death”, and the three others were accused of “failing to report the incident”. Thus, the prosecution denied the intention of both torture and killing. The penalty for “beating that leads to death” ranges from three to seven years imprisonment, compared to a life sentence in a case of for torture.

The trial began on 11 January 2012, before a civil court. The low-ranking accused policemen, who have not been detained, attended court in their uniforms, indicating that they are still on duty. The outcome of the trial is currently unknown.

It has been reported that the Ministry of Interior accused some 20 policemen of using torture against detainees. However, no information has been provided regarding investigations into the role of the security bodies for which those policemen worked. This lack of information with regard to identity of those responsible for such violations suggests that the GoB is not honoring its pledge to implement recommendations No1716⁹ and No1722(a)(b) dealing with the conduct of effective investigations into complaints of torture, ill-treatment, excessive use of force, and other abuses at the hands of the authorities.

In fact, the GoB promoted several officials responsible for acts of torture in the detention centres. Bahrain's head of public security was dismissed from his position, then appointed as an Ambassador to the Cabinet of the Ministry of Foreign Affairs. The previous head of the national security apparatus was promoted to General Secretary of the Supreme Council of Defense and King's advisor, and given the the rank of Minister. These promotions appear to be an attempt to prevent the prosecution of upper echelon authorities.

D. INDEPENDENT MONITORING BLACKED OUT

In the weeks running up to the 14 February anniversary of protests, measures, strategies and acts of harassment to undermine independent monitoring on the situation in Bahrain and to muzzle the media, intensified. This escalation has occurred in an alarming way, despite the King's 23 November declaration: “any Government which has a sincere desire for reform and progress understands the benefit of objective and constructive criticism”.

Obstacles to freedom of press

According to the 2011-2012 press freedom index of Reporters Without Borders, Bahrain is ranked 173rd out of 179 countries. Over the last weeks, obstacles to freedom of press continued to be imposed at both international and national level in the following manners:

⁹ 1716 “To establish a national independent and impartial mechanism to determine the accountability of those in government who have committed unlawful or negligent acts resulting in the deaths, torture and mistreatment of civilians with a view to bringing legal and disciplinary action against such individuals, including those in the chain of command, military and civilian, who are found to be responsible under international standards of superior responsibility.”

By denying access to Bahrain :

Access to Bahraini territory has been denied to any foreign journalist who requested an accreditation in the run-up to the one-year anniversary of the protests in Bahrain. All visa applications were denied¹⁰ purportedly "due to the high volume of applications" and that it "would like [journalists] to come [...] at the end of February when we'll be celebrating the implementation of the Bahrain Independent Commission of Inquiry report".

As a response to the denunciation of the violation to freedom of press by human rights organisations, the Information Affairs Authority declared in a statement on 9 February 2012, that "the Kingdom of Bahrain welcomes international media and hopes to provide an enjoyable and reliable service for all journalists traveling to Bahrain for work purposes."

Through acts of intimidation and attacks against journalists:

Meanwhile, journalists posted in Bahrain continue to face acts of intimidation and physical attacks while legitimately exercising their profession. While covering the protest events on 3 January 2012, photographer **Mazen Mahdi** was beaten by police in front of the police station in Samaheej, despite wearing a vest bearing the word "Press". Previously, during a protest on 15 December 2011, tear gas was aimed at him and *Reuters* photographer **Hamad Mohamed**. They were wearing their press vests at the time. On 7 December 2011, Mazen Mahdi and a colleague from the *RTR* agency were detained by riot police for 30 minutes after covering a demonstration. Tear gas was fired at *New York Times* correspondent **Nick Kristof** and his cameraman on 9 December 2011, and their equipment was damaged.

Through ongoing judicial harassment:

In addition, journalists continue to face judicial harassment on baseless charges. **Reem Khalifa**, a journalist at "AlWasat" newspaper, was attacked, beaten and insulted by a group of pro-government supporters. She later filed a lawsuit, charging them with "assault and insult", however her assailants - instead of being brought in for questioning - charged her with libel, slander and physical assault. The Lower Criminal Court heard her case on 2 February 2012. No further information has been provided.

On 28 November, 2011, the Court of Cassation upheld a three-year jail sentence imposed by the National Safety Court in May 2011 against **Hassan Matooq**, a nurse and photographer. He had been charged by the National Safety Court in May with illegal assembly and dissemination of fabricated photos of wounded people. He has been held since 24 March 2011.

Waheed Balloushy, a media professional and Internet activist, was questioned by the public prosecutor on 2 January 2012, regarding a complaint submitted by Al-asala Al-islamiya Association (a Salafist organisation). The complaint accuses Mr. Balloushy of insulting an Islamic symbol in his writings critical of the association. Mr. Balloushy was on trial before the Lower Criminal Court on 1 February 2012. No further information has been provided.

Threats and harassment against human rights defenders:

Independent local monitors and in particular, members of Bahraini human rights organisations, continue to be threatened for their human rights activities through defamation campaigns on social networks, death threats, arbitrary arrests, incommunicado detentions, judicial harassment and ill-treatment.

¹⁰ Among the media which were denied visa, were: *New York Times*, *Al Jazeera*, *BBC*, *Christian Science Monitor*, *The Wall Street Journal*, *AFP*.

Notably, threats and defamation campaigns have been directed at **Mohammed Al-Maskati**, BYSHR President, **Nabeel Rajab**, BCHR President and Deputy Secretary General of FIDH, and **Yousef Al-Mahafdha**, a BCHR member.

On 2 December, 2011, **Yousef Abdul Rasool**, a member of the BYSHR Board of Directors, was subjected to harassment and interrogation by security forces at Bahrain International Airport after his return from participating in a training session with the Office of the High Commissioner for Human Rights. On 1 January 2012, **Ahmed Abbas**, a BYSHR member, was arrested and allegedly subjected to ill-treatment. At the time of this writing, Mr. Abbas is still detained. On 6 January 2012, **Nabeel Rajab** was beaten during a pacific protest with fists and batons by security forces. In the same protest, **Sayed Yousif Al-Mahafdha**, a BCHR member, was also injured in his leg and arm by a stun grenade. On 7 January 2012, the Ministry of Interior issued a report that stated that all allegations made by Nabeel Rajab regarding the 6 January event were false.

Access denied to international human rights organisations:

Access to the Bahraini territory was denied to several delegations from international human rights organisations. On 30 November 2011, Bahraini authorities prevented representative of Human Rights Watch from attending the trials of journalist **Reem Khalifa** and members of the Board of Directors of the Bahrain Teachers Society (see above). On 8 January 2012, **Richard Sollom**, Deputy Director of Physicians for Human Rights, was denied entry by the Ministry of Human Rights and Social Development upon his arrival at Manama airport, despite his five-year-multiple-entry visa. He was traveling to Bahrain to monitor the appeal court trial of the 20 Bahraini medical staff mentioned above. On 11 January 2012, a Human Rights First representative was denied a visa and on 19 January 2012, an international media expert and two other staff members from Freedom House were also denied visas.

GoB has justified these visa denials by declaring the delegation's visits would be more "beneficial" in March, after the issuance of the conclusions of the National Commission's Works, which is scheduled for the end of February 2012.