

## Prof M. Cherif Bassiouni's Speech on 23rd November

Your Majesty King Hamad bin Isa Al Khalifa,

Your Royal Highness Prince Khalifa bin Salman Al Khalifa, Prime Minister,

Your Royal Highness Prince Salman bin Hamad Al Khalifa, Crown Prince and Deputy Supreme Commander,

Your Highnesses and Excellencies,

Ladies and Gentlemen,

May peace, mercy and the blessings of Allah The Almighty be upon you and upon the gracious people of the Kingdom of Bahrain.

It is an honor to submit to Your Majesty, on behalf of the members of the Bahrain Independent Commission of Inquiry, which I had the honor of chairing, the report of the Commission. In doing so, I pray that The Almighty reward our work.

I have the pleasure of witnessing, in the presence of this distinguished gathering, an event of great legal and political importance. This occasion represents a unique precedent in the region, in light of the fact that the state took the initiative, shortly after the events, to establish an international commission of inquiry without waiting for regional or international pressures to be exercised. The members of the Commission were selected with great objectivity, not only to benefit from their knowledge, experience, and legacies, but also in light of their neutrality, objectivity, dedication to the cause of humanity, and their commitment to the protection of human rights against any infringement, which is the sole means to guaranteeing human welfare.

This is a unique historic and social event because, also for the first time, a government, that is still in power, agrees to open all its files, subject itself to criticism, and to facilitate the work of those who seek to evaluate its performance and to identify its faults. This is despite the sensitivity of the situation in the country in which an atmosphere of mutual mistrust and social unrest prevails, and despite the consequences that could arise out of this inquiry.

It is also my honor to express my sincere appreciation and gratitude to the citizens of this gracious nation who entrusted us with a great task. I also express my appreciation to the political societies, human rights and civil society organizations, religious institutions, governmental, and private entities of Bahrain, all of which trusted this Commission, and were eager to communicate with it, and played an important role in revealing the facts. Without their cooperation, this large task would not have been fulfilled in such a short period of time.

Your Majesty,

Your Highnesses and Excellencies,

Ladies and Gentlemen,

The Bahrain Independent Commission of Inquiry (BICI) was mandated to prepare a report about the events that occurred in Bahrain during the months of February and March 2011 in addition to the subsequent related events. The Commission was also charged to make whatever recommendations it deemed appropriate for holding accountable those who had violated the rights and freedoms of individuals, and for preventing the recurrence of such incidents in the future.

As a result, the BICI has compiled a report composed of twelve chapters. The report commences with an introduction to the Commission and its methods of work, followed by a background on the modern history and system of government of Bahrain. Then the report describes the

applicable legal framework during the events under investigation, and identifies the relevant law enforcement agencies in Bahrain. A detailed narrative of the events is then presented that covers the period from the beginning of February to 31 March 2011, with a special focus on the events that occurred at the Salmaniya Medical Complex. The report then examines the human rights violations alleged to have been perpetrated by governmental agencies against individuals. These include the deaths that occurred during the events under investigation, the use of force by governmental agencies, the manner in which arrest warrants were executed, the treatment of detainees, and cases of forced disappearances. The report also tackles the demolition of religious structures, dismissals of public and private sector employees, and the expulsion of students and the suspensions of scholarships. The report then examines human rights violations perpetrated by individuals, in particular attacks against expatriates, and Sunni citizens. The report also examines the allegations of foreign involvement in the events that occurred in Bahrain, and discusses the matter of harassment by the media. Subsequently, the report reviews the measures and remedies undertaken by the Government of Bahrain to address some of the human rights violations that took place, as well as to address deficiencies in some domestic legislation.

Your Majesty,

Your Highnesses and Excellencies,

Ladies and Gentlemen,

The Commission's work was not easy. We began our work in an atmosphere fraught with tension and were under immense pressure from the public, which was eager to have the testimonies of the many victims and witnesses heard. The Commission had to collect all the evidence, examine the documents and reports submitted to it, and conduct field visits, all of which were arduous tasks. The Commission also ensured the protection of witnesses that it heard and the confidentiality of information it received, which further complicated its work. In addition, the Commissioners and investigators worked to meet the expectations of Bahraini

citizens to decisively intervene to prevent human rights violations regardless of the type of that violation or the perpetrator. Overall, the Commission received nearly 9,000 complaints, statements and testimonies and conducted dozens of on-site investigations throughout the country. The Commission also sought to resolve other problems including the dismissal and suspension of university students, employees, healthcare workers, and attempted to mitigate the negative effects of criminal prosecution.

The Commission created a database containing all the information that it gathered during its investigations. This information was divided into categories reflecting the different types of human rights violations committed during the period under investigation. This database contributed greatly to the Commission's work and in the preparation of its final report.

Following the categorization of the information in the database, the Commissioners analyzed the available evidence in a manner that was objective and inclusive of all testimonies and statements. The Commission was assisted by its investigators as well as legal, medical, engineering and media experts.

The Commission worked to maintain the highest level of professionalism, transparency and independence in all aspects of its work. This included investigating all human rights violations committed, beginning with deaths and allegations of torture, and ending with labour dismissals and student suspensions. In fulfilling these tasks, the Commission maintained the confidentiality of the testimonies and evidence collected.

Your Majesty,

Your Highnesses and Excellencies,

Ladies and Gentlemen,

Allow me to summarize the general observations and recommendations of the report of the Bahrain Independent Commission of Inquiry:

1. The forceful confrontation of demonstrators involving the use of lethal force led to the death of civilians. This caused an increase in public anger, increased the number of persons participating in protests, and led to a palpable escalation in their demands. As protests continued into mid-March 2011, the general state of security in Bahrain deteriorated considerably. Sectarian clashes were reported in a number of areas, attacks on expatriates took place, violent clashes occurred between students at the University of Bahrain and other educational institutions, and major thoroughfares were blocked by protesters. This situation led the government to declare a State of National Safety on 15 March 2011.

2. HM King Hamad approved that HRH the Crown Prince engage in negotiations with various political parties with a view to reaching a peaceful resolution to the unfolding situation in Bahrain.

Notwithstanding the best efforts of HRH the Crown Prince, negotiations to reach a political solution were not successful. The Commission is of the view that if the initiative and proposals of HRH the Crown Prince had been accepted at the time it could have paved the way for significant constitutional, political and socio-economic reforms and precluded the ensuing negative consequences.

3. The Commission's investigations revealed that during a substantial number of the arrests carried out by law enforcement agencies arrest warrants were not presented to arrested individuals and arrested individuals were not informed of the reasons for their arrest. In many cases, government security forces resorted to the use of unnecessary and excessive force, and in a manner that sought to terrorise individuals, and to cause unnecessary damage to property.

4. The Commission's investigations revealed that many detainees were subjected to torture and other forms of physical and psychological abuse while in custody, which indicated patterns of behaviour by certain government agencies, especially with regard to certain categories of

detainees. The extent of this physical and psychological mistreatment is evidence of a deliberate practice, which in some cases was aimed at extracting confessions and statements under duress, while in other cases was intended for the purpose of retribution and punishment. The most common techniques for mistreatment used on detainees included the following: blindfolding; handcuffing; enforced standing for prolonged periods; beating; punching; hitting the detainee with rubber hoses (including on the soles of feet), cables, whips, metal, wooden planks or other objects; electrocution; sleep-deprivation; exposure to extreme temperatures; verbal abuse; threats of rape; and insulting the detainee's religious sect (Shia). Generally, these measures fall within the meaning of torture as defined in the Convention Against Torture (CAT), to which Bahrain is a State Party. They also constitute violations of the Bahrain Criminal Code. These forced confessions have been used in criminal proceedings, either in the special courts established pursuant to the National Safety Decree or, in some cases, in the ordinary criminal courts.

5. The Commission is of the view that the lack of accountability of officials within the security system in Bahrain has led to a culture of impunity, whereby security officials have few incentives to avoid mistreatment of prisoners or to take action to prevent mistreatment by other officials.

6. It was evident to the Commission that government security forces, especially the Public Security Forces (PSF), violated the principles of necessity and proportionality while engaging with demonstrators, which are the generally applicable legal principles.

7. A large number of individuals were prosecuted before the National Safety Courts and imprisoned for violating articles 165, 168, 169, 179 and 180 of the Bahrain Penal Code. The text and application of these provisions raises questions about their conformity with international human rights law and the Constitution of Bahrain.

7. Numerous violations of due process rights were recorded by the Commission during proceedings before the National Safety Courts, which were composed of a presiding military judge and two civilian judges.

8. The manner in which the security and judicial agencies of the government of Bahrain interpreted the National Safety Decree opened the door for the perpetration of grave violations of human rights, including the arbitrary deprivation of life, torture and arbitrary detention. Detainees were kept for questioning for periods that, in some cases, extended to over two months during which they were neither brought before a judicial body or presented with any charges. The lack of judicial supervision, oversight or inspection of detention facilities operated by these security agencies allowed for the perpetration of human rights violations.

9. Thirty-five deaths occurred between 14 February and 15 April 2011, which are linked to the events of February/March 2011. Thirty of the thirty-five deaths were civilians, while five were security personnel. Investigations were opened by the different security and military agencies concerned, but the Commission has reservations with regard to the effectiveness of some investigations which only included statements by security personnel.

10. Between 21 March and 15 April 2011, security forces systematically raided homes in order to arrest individuals, and in so doing, terrorized the occupants of these homes. These arrests were carried out by masked individuals during night and pre-dawn raids. These individuals intentionally broke down doors and forcibly entered homes. These practices were often accompanied by sectarian insults and verbal abuse, and in some cases, women were also exposed to such insults by security personnel.

Overall, the total number of persons arrested pursuant to Royal Decree No.18 of 2011 following the declaration of the State of National Safety was 2,929. Of those, 2,178 were released without any charges brought against them. The most prevalent charges made against persons brought before the National Safety Courts included: incitement of hate against the regime, illegal assembly, rioting, possession of anti-government leaflets, possession of material calling for the overthrow of the regime, inciting others to violence, threatening a civil servant, use of violence against a government official, premeditated murder, kidnapping, attempted murder, aggravated assault, membership in an illegally established society, and spreading rumors that undermine public interest. The majority of these charges involved the

exercise of freedoms of opinion and expression that are guaranteed by the Bahrain Constitution and the International Covenant on Civil and Political Rights (ICCPR).

11. Many places of worship were demolished in the aftermath of the events of February/March 2011. Out of 30 places of worship inspected by the Commission, only five had complied with the requisite legal and administrative conditions. Nevertheless, the Commission notes with some concern the timing and method of these demolitions. The government should have realised that under the circumstances, and particularly the timing and manner of the demolitions, that these would be perceived as collective punishment and would therefore inflame existing tensions between the government and the Shiite population.

12. In the aftermath of the February/March 2011 events, over two thousand public sector employees and over 2400 private sector employees were dismissed for their participation in, or support of, the protest movement, and on the grounds that these protests were unrelated to labour issues. The Commission, however, sees that the workers' protests that occurred were within the permissible bounds of the law.

13. A large number of university students were expelled or suspended in connection with their role in the events of February and March. The Commission finds that the universities applied arbitrary and unclear standards for issuing determinations and taking disciplinary action. The Commission welcomes, however, the move by the Ministry of Education, in conjunction with the University of Bahrain and Bahrain Polytechnic, to reverse the vast majority of disciplinary action taken against students.

14. The Commission received sufficient evidence to support the finding that Sunnis were targeted by some demonstrators, either because they professed loyalty to the regime or on the basis of their sectarian identity. Sunnis were subjected to verbal abuse, physical attacks and attacks on their private property as well as harassment.

15. The Commission finds sufficient evidence to establish that some expatriates, particularly South Asian workers, were exposed to attacks during the February/March events. Pakistanis, in

particular, were targeted. Because of the atmosphere of fear which prevailed, some foreign nationals were afraid to return to their work and commercial activities. The Commission found that four expatriates were killed and many were injured by mobs as a result of these attacks.

16. The evidence presented to the Commission in relation to the involvement of the Islamic Republic of Iran in the internal affairs of Bahrain did not reveal a discernible link between specific incidents that occurred in Bahrain during February/March 2011 and Iran. In addition, the Commission has not found any evidence of human rights violations committed by the GCC-JSF units deployed in Bahrain, from 14 March 2011.

17. The Commission concluded that much of the material shown on national television contained derogatory language and inflammatory coverage of events, and some may have been defamatory. However, the Commission did not find evidence of media coverage that constituted hate speech. The Commission also identified numerous examples of defamation, harassment and, in some cases, incitement through social media websites. Both pro- and anti-government journalists were targeted through social media channels.

Your Majesty,

Your Highnesses and Excellencies,

Ladies and Gentlemen,

The Commission's report is not limited to outlining, compiling, and analysing the human rights violations that occurred in Bahrain during the period under investigation. Rather, the Commission also submitted the following recommendations to the Government of Bahrain:

1. To establish an independent and impartial national committee that consists of personalities of high standing representing the government, opposition political societies, and civil society to

follow up monitor and implement the recommendations of the Commission. This committee should re-examine the laws and procedures that were applied in the aftermath of the events of February and March 2011 in order to make recommendations to the legislature for the appropriate amendments to existing laws and to develop new legislation, in line with the recommendations of this Commission.

2. To establish a national independent and impartial mechanism to hold accountable 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 positions of command, whether civilian or military, in accordance with the principle of superior responsibility.

3. To consider the Office of the Inspector General in the Ministry of Interior as a separate entity, independent of the Ministry's hierarchical control. The tasks of this office should include receiving complaints, and should protect the safety and privacy of complainants.

4. To amend the decree establishing the National Security Agency (NSA) in order to keep the organization as an intelligence gathering agency without law enforcement or arrest authorities. Legislation should also be adopted to provide that the detention of individuals shall be governed by the Code of Criminal Procedure even during the application of a State of National Safety.

5. To adopt legislative measures requiring the Attorney General to investigate claims of torture and other forms of cruel, inhuman, or degrading treatment or punishment.

6. To allow for the review of all convictions rendered by the National Security Courts where fundamental principles of a fair trial were not respected.

7. To conduct effective investigations in all cases of deaths attributed to security forces and identify those responsible for these deaths. Likewise, all allegations of torture and similar treatment should be investigated by an independent and impartial body. In addition, a standing

independent body to investigate all complaints of torturer ill-treatment, excessive use of force or other abuses at the hands of the authorities should be established. The burden of proof to demonstrate that treatment complies with the prohibition of torture and other ill-treatment should be on the state.

8. To implement an extensive program of public order training for the public security forces, the National Security Agency and the Bahrain Defence Force, including their private security companies, in accordance with UN best practices in order to ensure future compliance with the Code of Conduct for Law Enforcement Officials.

9. To avoid detention without prompt access to lawyers and without access to the outside world, and, all cases of detention should be subject to effective monitoring by an independent body.

10. The Commission recommends that the government urgently establish, and implement vigorously, a programme for the integration into the security forces of personnel from all the communities in Bahrain.

11. To train the judiciary and prosecutorial personnel on the need to ensure that their activities contribute to the prevention and eradication of torture and ill-treatment.

12. To annul or mitigate convictions of persons charged with offences involving political expression that does not involve the incitement to violence, and to commute the death sentence for cases of murder arising out of the events of February/March 2011.

13. To compensate the families of the deceased victims in a manner that is commensurate with the gravity of their loss, and to compensate all victims of torture, ill-treatment, or prolonged incommunicado detention. In this respect, the Commission welcomes Royal Decree no. 30 of 2011 on the establishment of a compensation fund for victims, which was issued on 22 September 2011.

14. To ensure that the remaining dismissed employees have not been dismissed on the basis of their right to exercise freedom of expression, opinion, association or assembly.

15. To consider relaxing censorship on mass media and to allow the opposition greater access to television broadcasts, radio broadcasts and print media.

16. To undertake appropriate measures including legislative measures to prevent incitement to violence, hatred, sectarianism and other forms of incitement, which lead to the violation of internationally protected human rights.

17. To develop educational programmes at the primary, secondary, and high school levels and at the university level to promote religious, political and other forms of tolerance, as well as the promotion of human rights and the rule of law. In general, the Commission also recommends that the Government of Bahrain develop a national reconciliation program that addresses the grievances of groups which are, or perceive themselves, to be deprived of equal political, social and economic rights and benefits across all segments of Bahrain's population.

Your Majesty King Hamad bin Isa Al Khalifa,

Your Highnesses and Excellencies,

Ladies and Gentlemen,

In conclusion, I must express my gratitude to all those who have worked at the Commission, including experts, investigators, assistants and administrators, who have left their homes and labored for long hours for a full five months under the supervision of the Commissioners in order to prepare this report, which I consider to be a truly unprecedented accomplishment. This report was not limited to describing the events or their context and identifying those accountable for

them, but also, in fulfilment of its mandate, analyzed the constitutional, legal and administrative structures of the Kingdom of Bahrain.

I hope, Your Majesty, that the government will begin to place, without delay, a timetable for the implementation and follow up of the recommendations of this report.

Finally, Allah the Almighty says in the Holy Quran:

“And say, Work, and Allah will surely see your work and also His Messenger and the believers”.  
(Surat Al-Thawba, 9:105)

May Allah the Almighty protect the Kingdom of Bahrain and its people, and honor the dignity and prosperity of its people.