NO PEACE WITHOUT JUSTICE

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Bahrain: Accountability for past and present human rights violations must take centre stage

During the months of February and March 2011, on the wave of similar demonstrations in Tunisia and Egypt, the people of Bahrain took to the streets and squares of the Kingdom. Their reason? To develop a democratic movement demanding more openness in the political process and sustained reform to enlarge the space for freedoms and rights enjoyed by Bahraini citizens. Protesters in Manama camped for days at the Pearl Roundabout, which became the centre of the protests, asking for greater political freedom and equality for the majority Shia population.

Those streets demonstrations were met with violent repression by the police and armed forces. Peaceful protesters, human rights activists and democracy advocates faced extra-judicial detentions, imprisonment, ill treatment and torture in detention centres. The government requested military assistance from the Gulf Cooperation Council (GCC) and, on 14 March, Saudi Arabia responded by sending troops and police. A day later, the King of Bahrain declared martial law and a three-month state of emergency. During those three months, more than 80 died, hundreds were detained and entire villages and cities were cordoned off by GCC and Bahraini armed forces, who harassed people and indiscriminately blanketed entire neighbours with CS gases, also shooting them directly inside schools and private houses.

In June 2011, the King of Bahrain announced the establishment of the Bahrain Independent Commission of Inquiry (BICI), headed by renowned international law professor Mr Cherif Bassiouni, to investigate those events and their consequences. This could have been the first of the Arab Spring’s transitional justice efforts and a tool to address some of Bahrain’s problems, particularly to acknowledge victims and to erode the culture of impunity by creating a sense that people violating human rights will be held accountable for their actions. Many people held very high hopes for what would become known as the “Bassiouni Commission”. Instead, it was the start of a chequered history of operations that were widely criticised, as the Commission did not reach out to the public to explain who they were and what they were doing and failed to engage non-governmental organisations fully in its work, casting doubts on its genuineness and independence.

Five months later, on 23 November 2011, the BICI released its report. The report confirmed that security personnel had used “excessive and unnecessary lethal force” and “terror-inspiring behaviour” against peaceful protesters during demonstrations and had arbitrarily arrested, detained, tortured, ill-treated and denied them fair trials. The BICI also noted that Bahrain’s security forces operated within a “culture of
impunity” and concluded that the abuses “could not have happened without the knowledge of higher echelons of the command structure” of the security forces. The report included 26 recommendations to address past human rights violations and prevent future human rights violations by undertaking extensive judicial, legislative and institutional reform.

The report was officially welcomed, without reservation, by the King, who pledged to implement its recommendations fully. Bahraini civil society and several international human rights organisations also accepted the report, nurturing the hope that its implementation could be a springboard for deeper reforms and could open the way for accountability, reconciliation and respect for international human rights law in the country. However, despite being determined to make the best of the situation, those same groups considered the BICI report partial and its recommendations falling short of what was required by the facts exposed in the report itself.

To date, the promising stance of the government has not turned into concrete action. While the Bahrain Government did address some of the issues raised by the BICI report, its key and most sensitive recommendations have not been implemented and only partial and sluggish reforms have been carried out. Not even the continuous call of the international community in various human rights monitoring mechanisms, including through the Universal Periodic Review (UPR) conducted by the United Nations Human Rights Council in September 2012 managed to speed the reform process or stop the harassments, the illegal detentions and the political use of the judiciary. Instead, this situation has continued to fuel sectarian hatred and a culture of impunity and cover-up, which has only reinforced reactionary forces on all sides.

To be fair, the authorities did investigate and prosecute some low-ranking security officials in connection with cases of alleged torture and unlawful killings. However, no high-ranking official at the Ministry of Interior or at the National Security Agency have so far been held responsible for alleged unlawful or negligent acts resulting in the mistreatments, torture and deaths of civilians. No official from the Bahrain Defence Forces is known to have been investigated, although the military played a leading role in the 2011 campaign of repression. As such, nobody with the legal authority to make the decision for these things to happen, or to punish their having happened, has ever been charged, let alone prosecuted or convicted. Moreover, the government has failed to commute the sentences and release all persons charged with offences involving political expression, as the BICI report recommended.

Almost three years after its violent response to citizens’ rallies demanding political reform, the regime in Bahrain has failed to deliver any meaningful reform program. Worse, it continues to suppress peaceful dissent and denies to a majority of Bahrainis their fundamental rights on a daily basis. It does so by using State institutions to attack and control the population, creating an atmosphere of mistrust and fear. Severe restrictions on the right to freedom of expression and association persist unabated, including through repressive laws recently passed. Prominent civil society activists and human rights defenders, including minors, are still being exposed routinely to harassment, arbitrary detention and imprisonment, ill-treatment and unfair and politically motivated trials leading to harsh sentences for having participated in peaceful demonstrations or criticised officials. This campaign of repressive and retaliatory practices has recently expanded further to encompass leading opposition figures engaged in the ongoing National Consensus Dialogue process that the Bahraini authorities have been touting as part of the reform process. These latest actions blatantly demonstrate the authorities’ lack of commitment and further hamper the possibility of any meaningful change for the country’s political future, in the short and long-term.
Despite this continued repression, Bahraini civil society is persevering in its critical role as a watchdog of the country’s alarming human rights records and in its fight for the establishment of open and more democratic institutions. These advocacy and monitoring efforts must be supported. The commitment of the majority of Bahrainis to reform geared towards a political system based on respect for human rights, application of the principle of non-discrimination and accountability for violations still gives hope for a better future.

If the Government is sincere about reform aimed at anchoring the country’s future to democratic values, it needs to respect the Rule of Law, stop fuelling sectarian division and ensure equality before the law for all its citizens, irrespective of religion, family ties or official status.

First and foremost, this means protecting human rights, in particular the rights of citizens to be free from fear of harassment, imprisonment and torture. It is imperative that all remaining prisoners of conscience and human rights defenders in detention for exercising their right to free expression and peaceful assembly be released without further delay. If trials are required by judicial procedures, they must respect international standards and be monitored by third parties. A peaceful solution to the current human rights’ crisis in Bahrain will be achieved only if all those who are committed to peaceful and nonviolent dialogue are free to contribute fully to the process.

The Government of Bahrain must establish credible and impartial accountability mechanisms to address past violations and to prevent continuing abuses, as recommended by the BICI report and the UPR mechanism. It must also effectively investigate all allegations of torture, ill-treatment, enforced disappearances and other human rights violations and bring those responsible before a court of law. These would be important steps to break the prevailing culture of impunity and, crucially, for ensuring acknowledgement and justice for the victims. To succeed, these processes cannot be based on granting impunity for human rights violations, nor can measures designed to end impunity be carried out by those who have used the judicial system to inflict terror and persecution. All those who ordered or committed torture must be removed from positions of authority, investigated and prosecuted.

Bahraini authorities should also cooperate fully with the human rights monitoring mechanisms of the United Nations and its Special Rapporteurs, in order to allow for an independent assessment of human rights conditions, particularly on freedom of association and assembly, on the situation of human rights defenders, torture and free trial.

These are the minimum conditions to demonstrate real commitment towards implementing the recommendations from both the BICI report and the UPR process. Unfortunately, at the time of this writing, the Bahraini authorities have not yet engaged in a serious political dialogue on the implementation of these measures nor do they seem ready to do so.

Finally, the international community has a responsibility to ensure that the Bahraini authorities do not persist in this “smoke screen” strategy rather than complying with their obligations. This means supporting those political forces inside Bahrain that are tirelessly working to develop a peaceful and nonviolent process to establish Transitional Justice mechanisms. It also means establishing mechanisms of early warning within the diplomatic community in Manama, ensuring that trials are monitored and facilitating regular and frequent meetings with civil society organisations and individuals at risk of harassment and prosecution. The international community should use international fora and international mechanisms, such as the UN
Human Rights Council in Geneva and the relevant UN Special Rapporteurs, to pressure the Bahraini authorities to respect international conventions and uphold universal human rights. If necessary, this also means that Bahrain candidacies to international positions within international organisations be denied, until human rights and the Rule of Law are respected in Bahrain.

Ultimately, the international community should foster the establishment of an international monitoring mechanism with the mandate of monitoring the implementation of the BICI recommendations and the overall situation of human rights in Bahrain, according to a specific and precise timetable. This could be done by scheduling a special session on Bahrain at the UN Human Rights Council and adopting a Resolution that calls upon the Bahraini authorities to end the crackdown, ensure accountability and cooperate with UN human rights mechanisms.

Justice and peace are integral elements of a democratic system and the international community has a duty to stand by the people of Bahrain in their nonviolent quest for democracy, rule of law and respect of fundamental human rights. The main lesson learnt two years after the release of the BICI report is that there is still a long way to go and a lot more to be done to make this a reality.

* No Peace Without Justice (NPWJ) supports Bahraini human rights organisations and activists in their efforts to promote a democratic and nonviolent political reform in Bahrain. It focuses on assisting human rights defenders and human rights advocates to secure effective and genuine accountability for past and ongoing violations of human rights, including through outreach, monitoring and documentation.

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