

# Bahrain Monitor

A Monthly Newsletter on the Human Rights Situation in Bahrain



**Bahrain Human Rights Monitor**

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## Confirmation and Application of the National Pillars

This year around, Bahrain celebrated the anniversary of the adoption of the National Action Charter amidst an atmosphere of expectation and anticipation of a positive turn in the Bahraini dilemma in the light of the new impetus on the national dialogue spearheaded by the Crown Prince.

In his address to the nation on the occasion, The King of Bahrain confirmed his adherence to the national basics enshrined in the Charter. That means the national dialogue will remain within the frame of the basic charter. For example, the option of an elected House of Representatives and an appointed Consultative Council will remain unchanged. The opposition had a problem with the size of mandate given to each of them – The King is against the abolition of the consultative Council as demanded by some – whereas some circles demand more weight to be given to the House of Representative. The King stressed the following national basics:

- Independence of the Judiciary
- Rule of Law
- Equality and Justice
- Respect for public freedom
- Equal opportunities

The King also re-affirmed his commitment to comprehensive reforms that are compatible with Bahrain's circumstances and national interest and that fall in line with its values, identity, rights and the respect for the rights of all its citizens.

This reaffirmation comes with a different flavour this time around. The pace of reform might soon witness a considerable acceleration in the areas of amending the constituencies, widening the margin of participation in the decision making process and the sharing of the executive power, and increasing parliamentary jurisdiction in legislation, accountability and supervision. If the national dialogue is successful, the human rights front might witness positive development in confronting abuses and violations or adjusting local legislations to comply with International Standards. Same positive developments could include more freedom of expression and an improvement in the official media coverage to cater for all political and social spectrums.

## Towards Closer Relation with the Office of the High Commissioner for Human Rights

The relation between Bahrain and the High Commission for Human Rights is currently going through a rough patch, which is a far cry from the substantial improvement it had witnessed courtesy of the personal efforts exerted by the Foreign Minister during the 21st session of the Human Rights Council in September 2012.

The following elements were largely credited for the improvement in relations at that time:-

- Bahrain's affirmation of its seriousness in honouring both Bassiouni's and the Universal Periodic Review mechanism's recommendations.
- The renewal of the invitation to the International Rapporteur on torture to visit Bahrain.
- Bahrain's declaration that it would seriously consider the possibility of joining the Optional Protocol to the convention against torture.
- A technical delegation from the Office of the High Commission paid a successful visit to Bahrain with the objective of establishing a programme for cooperation between the two sides.
- The extension of an invitation to the High Commissioner to visit Bahrain, which she had tentatively welcomed.

But not long after that initial improvement, the year 2013 witnessed some degree of coldness in the relations between the two sides that included open criticism of Bahrain Human Rights record within the Human Rights Council.

The Factors that contributed to that setback were:

- Bahrain had put on hold the scheduled visit to the country by The UN international rapporteur on torture.
- No progress had been made by Bahrain towards joining the optional protocol to the convention against torture.
- There were stumbling blocks that appeared in the path of the cooperation between Bahrain and the Office of the High Commission due to delays in finalising the reviewing and the subsequent approval of the proposals regarding the terms of reference for that cooperation.

■ The conception by the Human Rights Commission and several international human rights entities that a significant deterioration is taking place in some aspects of Bahrain's human rights situation, particularly in the fields of freedom of opinion and expression, the increasing rate of detention, and the targeting of those considered by the commission as peaceful political or human rights activists. Moreover there was an overwhelming international belief, if not conviction that the culture of impunity was still rampant in Bahrain, because the issue of accountability had not been properly addressed as recommended by Bassiouni's report.

Therefore the relation between Bahrain and the High Commission is at present going through a critical stage that could lead to grave consequences, especially in the presence of a powerful way of thinking within the commission and influential international circles pushing for the exertion of more pressure on the Bahraini government.

This trend feeds on the belief that Bahrain is not serious with regard to meeting its commitments and obligations. There is some inclination towards convening a special session to deal exclusively with the Bahraini issue during the upcoming 25th session of the Human Rights Council scheduled to take place next March. The main purpose of this special session would be to consider taking specific measures against Bahrain, one of which could be the appointment of a special international rapporteur on human rights. Such a measure will have serious negative implications on Bahrain, as it would entail direct international supervision that includes regular visits and reporting by the international rapporteur, leading to

the widening of the sphere and intensity of the international pressure to include the majority of the countries in addition to the UN Organization, Agencies and institutions.

To avoid reaching such a situation, Bahrain has to take urgent and serious steps towards addressing all aspects of its human rights file that constitute sources of concern to the High Commission and the rest of the international human rights community, in such a way that could allay the fears and restore the confidence of the international community in its serious adherence to its commitments and obligations.



**Bahrain's Foreign Minister meets the High Commissioner, Navi Pillay**

### A positive Development

A positive shift has taken place in January 2014 in two interlinked tracks:

The first track is political, and it concerns the issuance of a royal decree assigning the Crown Prince to invigorate the political dialogue with the opposition to reach the desired conclusions.

The second, relates to the human rights file, and has been taken by the Foreign Minister Sheikh Khalid bin Ahmed Al Khalifa who pledged to inject it with new impetus.

The political and human right files are so intertwined and inextricably linked that it is important to address them simultaneously,

as the world views an advancement in any of them as if it is a catalyst to solving the other, without necessarily replacing it.

Within this context Bahrain's Foreign Minister met with the High Commissioner, Navi Pillay, in a bid to clear the air and sort out the outstanding issues relating to Bahrain's human rights file. The issue of the technical cooperation was soon ironed out, paving the way for an OHCHR team to visit Bahrain on 19th February 2014.

On the other hand, the Foreign Minister renewed his invitation to the High Commissioner to visit Bahrain. On her part, the latter praised the national dialogue initiated by the Crown Prince. The foreign minister pledged to adopt a new approach in addressing the human rights issues in Bahrain, and to improve relations and cooperation with the International Human Rights Organisations on the solid basis of transparency and credibility. True to his word, the Minister met at later dates with some of these organisations and invited them to visit Bahrain with a view to benefit from their expertise.

## The main sources of international concern

Following is a summary of these issues of concern as presented in reports published by the international human rights organisations:

1. The arrest and harassment of those defined by the international community as prisoners of conscience or human rights activist and the continuous flow of allegations pertaining the subjection of detainees to torture.
2. The lack of cooperation with the UN human rights mechanisms, as illustrated by the cancellation of the scheduled visit to Bahrain by the UN special rapporteur on torture, as well as the poor interaction with the International Human Rights Organisations to the extent of placing obstacles and restrictions to curtail their access to Bahrain.
3. The continuous restrictions imposed on the freedom of peaceful gathering and the right to free expression of opinion.
4. The banning of political societies from contacting foreign diplomats.
5. Not putting an end to the culture of impunity that, according to the International human rights organisations,

allows the perpetrators of human rights violation to evade facing justice, and not bear the responsibility for their actions.

6. The absence of the principles of equal opportunities and equality, and the lack of social and economic justice among the different segments of the Bahraini community.
7. The slow pace of the process of implementing the recommendations of both Basiouni's report and the Universal Periodic Review.

## Cooperation with the High Commission is the key to the solution

Bahrain's way out of its human rights crisis should not be by locking horns with the international human rights community or by taking its criticism lightly, but rather by seriously working to regain the confidence of this community by cooperating with it and seeking to benefit from its capabilities and available resources. Cooperating with the office of the High Commissioner for Human Rights represents the gateway to resolving Bahrain's unsettled relations with the outside world.

A closer cooperation would benefit Bahrain in the area of capacity building. This could be achieved by reaching an agreement on specific terms of reference under which a comprehensive programme could be drawn in coordination with all the relevant human rights entities in Bahrain, which are undoubtedly in a dire need to such an exercise, bearing in mind that the majority of the human rights violations that are committed are due to the low standard of training available to individuals and establishments entrusted with upholding the law and protecting human rights.

Bahrain could, for example, make good use of the UN programme designed to provide consultative services in the field of human rights. This programme was basically established to meet the needs of those states aiming at building and consolidating their institutions or infra structures in the field of human rights, in order to elevate them to the internationally recognised standards. The assistance offered by the programme includes training and capacity building within all the ministries and institutions involved in

the field of human rights.

Needless to say that Bahrain will, by soliciting the necessary international support needed to bolster human rights reforms in the country, and by involving the relevant international parties in such an endeavour, send a reassuring message to the international community indicative of its seriousness towards addressing its human rights crisis.

## The High Commissioner welcomes the National Dialogue and Technical Co-operation

During his meeting with the UN High Commissioner for Human Rights, Navi Pillay, in mid January 2014, the Foreign Minister, Sheikh Khalid bin Ahmed Al Khalifa, expressed the Kingdom of Bahrain's genuine desire to consolidate cooperation with the U.N. and its human rights institutions, particularly the High Commission for Human Rights.

He welcomed the agreement reached between the two sides on the terms of reference for the technical cooperation and capacity building. On her part, Pillay affirmed the commission's commitment regarding the extension of constructive technical assistance and the consolidation of the channels of communication to explore the means to further developing the cooperation between the two sides in the field of human rights.

On the other hand, the Foreign Minister updated Mrs Pillay on the latest political and human rights developments in Bahrain, including those relating to the process of national dialogue, which he described as serious, responsible and credible, adding that the process is determined to remove any obstacle that could block the dialogue, and to narrow the gap between opposing points of views, and to meet the aspirations of all Bahraini people.

The High Commissioner praised the national dialogue, and expressed her support to the positive steps that would contribute towards reaching national consensus conducive to fulfilling the ambitions of the Bahraini people.

## Conspiracy or Not, our Response should be to Reform the Internal Human Rights Situation

There are some politicians along with some sectors within the community who still share the belief that what is happening in Bahrain is nothing more than an international conspiracy involving other countries and some international human rights organizations. They view these organizations as mere pawns in the hands of international security agencies that use them to interfere in the State's internal affairs, tarnish its image, tear apart its social fabric and even to topple the regime.

Part of the reason why such a conviction is so deeply entrenched is the double standard policy practiced by some western states. Alongside Bahrain, many countries exist with backward political systems, where the public don't enjoy even a fraction of the freedom that is practiced in Bahrain, and where the people suffer from all sorts of abuses; nevertheless these states have not been subjected to the same level of scrutiny as Bahrain.

Hurling accusations in all directions and generalizing them is a grave mistake that would lead to misconception and subsequently the adoption of wrong moves and stances that do not serve Bahrain's interests. To explain where the errors lie, we would like to highlight the following points:

1. Some people are not aware of a certain fact relating to the concept of state's sovereignty and to the principle in international relations regarding the non-interference in the internal affairs of other nations. On both the legal and practical levels, the concept of state's sovereignty has witnessed some drastic changes, to the extent that the interference in the affairs of others has become the norm and a legalised course of action under other binding international agreements and conventions that reflect the ever growing importance the International Community attaches to the protection and the promotion of Human Rights. It is no longer acceptable in international relations that a state can do what it pleases with its people, believing that it is exercising its own private

affairs and, therefore, expecting the international community to turn a deaf ear. And when even the more powerful countries like China and Russia could not ignore this reality, what chances do other countries have. The human rights issue is now an international issue not a merely domestic one, and it has, furthermore, become an integral and influential element in international relations.

International intervention, nowadays, is a familiar course of action that, as we have observed, could easily happen in Arab or non-Arab states alike. All it takes is to obtain a resolution from the Security Council authorising the use of force against regimes that abuse the human rights of their citizens, as had been the case with Libya, and could possibly happen with Syria as demanded by some nations. This important issue should always be present in the minds of the influential political circles and the decision makers in any country.

Protesting against foreign interference in a human rights issue is widely ignored in today's world. This issue needs to be addressed with a different approach. Sticking to "This is none of your business" or "we know what we are doing" is a worthless exercise.

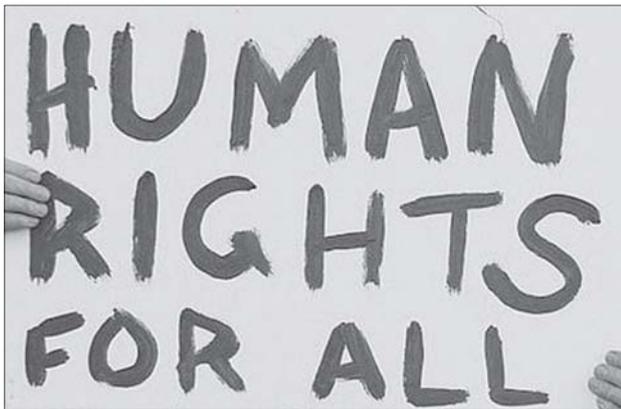
2. Taking Bahrain's and other countries' experience into account, we realize that the human rights issue is a central one in relations between countries whether they are friends or foes. The phrase "human rights" could be used by any country against another. Even the USA is not immune from criticism. Its human rights records and the abuses it perpetrates in different parts of the world are frequently exposed (e.g. Guantanamo and Abu Ghraib prison in Iraq). Lengthy annual international reports continue to be published about the US human rights record. Using the phrase "human rights" by great powers, including those we classify as friends, to criticize Bahrain is nothing new. There are many countries that do not want to be added to the list of human rights abusers. Such an accusation damages any State's reputation and

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affects its interests and standing in the international arena.

Because the human rights issue has become a significant element in International relations as well as a weapon that could be used to interfere in the internal affairs of other nations, states should immune themselves by adhering and committing to the International charters and agreements they've signed to, or brace themselves for harsh criticism and tense international relations if they choose to continue violating.

3. There is no doubt that it is near impossible to strip the human rights issue of its political dimension. Also, it is an issue that has its own independent entity. Human rights could either be used by some in a proper



manner and for good causes, or it could be exploited for political blackmail. Our rejection of the latter does not mean that we condone abuse. Human rights respect is the target. Exploiting the issue by others is a result of some problem or mistakes that need to be rectified. To prevent exploitation and limit the chances of foreign interferences in our internal affairs, we need to reform our human rights record. We should not give any justification to those who want to exploit the issue for aims that have nothing to do with it.

4. It is important to understand the age we live in today. A new Middle East with its distinct local characteristics is taking shape. It is not a copy of the West and it is being propelled forward by a youthful popular power with a different outlook and aspirations compared to the previous generation. This new generation aspires for democracy, human rights,

and a share in the political power, and have taken on board the modern technology of communication.

Therefore it would look ridiculous to close down these options or to close our minds and be oblivious to the world that is reshaping in front of our eyes. We are part of this evolving world, and we have a duty towards maintaining stability and security as well as fulfilling the legitimate aspirations of our people. We need to respect the choices of the people, not to circumvent them or concentrate only on satisfying their material needs. Such partial satisfaction does not cancel the political aspirations harboured by the new generation.

We need a mentality that understands this generation, that is aware of the changes and of the development in conceptions in our countries and the world around us. We need to deal with these changes with a rational mentality and a clear vision, in order to build a country that is free, proud, independent, stable and respectable.

Our choice should be to focus on reforming our political, social, and economic and human rights situation. We need to exert more efforts in this direction, and to address the reports and statements issued by states or human rights organizations, with a sense of responsibility if they lay bare our mistakes and expose where we went wrong. These reports would never stop altogether unless our home is in order with no human rights abuses.

This is the challenge that is facing us. The controversy we have in Bahrain today regarding foreign interference and conspiracy is nothing but a reflection of a clouded thinking. We have reached a stalemate in addressing the current development.

When decrying the criticism that we face regarding our human rights record, we have one of two options: Either to mend and reform our human rights situation, and by so doing, we prevent our critics from interfering in our internal affairs, or carry on committing the same mistakes, tarnish our reputation and jeopardise our relations with friends and allies. Whether the interferences by Washington, London, Paris, Brussels or Geneva are motivated by ethical and moral values, personal interests, or even blackmail, we will still have limited options in the face of such foreign interference.

## The Way to Securing the Success of the National Reconciliation's Process

Hasan Moosa Shafaei

Once again our hopes are raised, shared by the general public and others, whether countries, institutions or organisations who are genuinely keen on Bahrain's stability and development. The feel good factor that a solution to the Bahraini crisis is within reach has been triggered by Crown Prince Sheikh Salman Bin Hamad Al Khalifa's latest serious engagement in the dialogue process, and by some leaked reports quoting numerous sources suggesting that a bargain for a solution is on the way.

This time around we hope that our wishes and prayers would be answered and that Bahrain would embark on a promising prospect of reform, change and stability.

Bahrain needs to emerge from its political crisis, firstly by ensuring the success of the national dialogue, and the establishment of a political system where everyone works towards consolidating democracy, and secondly, through reinvigorating the civil society and embracing developments that would reaffirm the basic principles of human rights and their actual respect on the ground.

While a dialogue is taking place between the different political parties, the situation on the streets still remains tense. Violence has not stopped but has in fact increased on the backdrop of news that some diffusion regarding the situation is about to take place.

In order to secure a safe and stable future for Bahrain, we should look for the following:

- A permanent solution to the political crisis. Transitional solutions would bring nothing more than transitional stability. The Bahraini people are tired of the continuous recurrence of the crisis during the last decades. This repetition in itself indicates that the problems themselves have not been radically resolved, perhaps because radical solutions require radical changes in the political structure. There are those around who fear such changes. This was the reason why gradual changes were favoured although they tend to lose momentum over time.

- A consensual sustainable solution. This means what would be agreed upon today between all concerned forces should not be changed tomorrow. It also means that this solution depends on the blessings of the popular majority

- otherwise any political agreements would be fragile and short lived. This in turn necessitates that any settlements should be based on justice and be well balanced in such a way that would make them look convincing, easy to defend and more likely to attract public satisfaction.

A Consensual solution as we have ascertained many times before depends on the creation of a political system that depend on three elements or basics:

- **Monarchy:** there is no way that a political system could be changed through one political party, whether by force or persuasion. The Monarchy is supposed to be the umbrella for both components of the community, the arbitrator and the adjuster of the political balance. This Monarchy could develop in the future to become a constitutional one, in accordance with the Constitution

- **Consensual:** Where all components of the community would agree on the scope of the changes and determine the regimes policies and direction.

- **Democratic:** Which conforms with the international human rights principles regarding justice, equality, accountability as well as the respect for diversity, public's opinion, freedom of expression and choice and the civil and political rights.

- The consensus among the three parties, The Shias, Sunnis and the Royal Family, is the basis for the solution. There is no one party that can abolish the others politically. Bahrain had tried that before, and some think that opportunities are still there to make the current dialogue a success; because all parties have reached the conclusion that neither the use of force, marginalisation, discrimination, nor taking to the streets, violence, tribalism, inflaming sectarianism is enough to tip the balance of power radically in favour of one party at the expense of the other.

All that is not enough, what needs to be done to emerge from the political crisis is:



Hasan Moosa Shafaei

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**1. Mutual concessions:** although Bahrain has not been stable for the past three years, it has for two years at least been frozen in some sort of a political stalemate. In spite of the presentation of some political schemes, the emergence of many calls for dialogue, and even the actual convening of some dialogue sessions, the eventual outcome had always been failure, and that was due to the fact that none of the parties concerned were prepared to give the necessary concessions that could secure success. Each party was waiting for the other to offer concessions so it could eventually get the Lion's share of the bargain. Unfortunately things do not work that way in politics. As long as the balance of power is maintained, there is no solution but the political one, which could only be reached via mutual concessions no matter how painful they might be. Indeed, each party can raise the ceiling of its demands as that is one of the negotiating tools. However, when dialogue begins, each party should know exactly what concessions to offer in order to allow the negotiators to reach consensual and agreed upon solutions.

Whoever insists on intransigence and refusal to compromise will bear the full responsibility of allowing the crisis to drag on. We do not believe that either Bahrain or the Bahraini society would want to continue living in such a state of stalemate that allows the energy and resources of both the country and the community to be drained by an acute political strife that would affect all aspects of life, deepen the cracks within society, weaken the status of the state, tarnish its reputation and make it, more than any time before, susceptible to foreign interferences, if not intervention. Who in their right mind would want this to go on?

**2. Confidence building:** this could only happen when the authority of decision-making is withdrawn from the streets, and handed back to the political elites. In fact the public element has been imposed on the political strife for a long time as a tool to force radical changes in the political structure, protect already existing gains, legalise specific decisions or trends or improve subsequent negotiating conditions.

It has become apparent that the tense street, which has been utilized in the political strife and was injected with bigotry and sectarian hatred, is now adding an extra burden on the dialogue. Therefore it is now the duty of all parties sitting around the negotiating table to curtail the presence of a street that refuses to accept the necessary concessions needed to allow the process of political reconciliation to succeed. This could be achieved through the immediate cessation of the sectarian rhetoric of hatred, instigation and provocation blowing from media outlets and mosques. We need to start a new rational discourse that understand the concerns of the other, encourages social co-existence and explains its benefits for both the state and society.

We must stress to the other that the necessary concessions required do not mean forfeiting their rights, but that they come within a framework of a balanced process aiming at bringing about benefits for everyone. Since the beginning of Bahrain's events, all social sectors and their political representatives realised that a new political system was on the way. In fact many political analysts and even some government figures have given some hints in that respect. That in turn raised some fears among followers of different sectarian segments, who began wondering whether the new system would benefit them or serve their needs, and provide security and stability to their families and children?

Both Sunni and Shia sectors have asked themselves the same questions. It was also expressed explicitly in the political rhetoric of both sides. This makes it important that the new discourse should stress that consensual agreement does not mean that one political side has won victory over the other, or that the balance is tipped in favour of one political or sectarian side. It also does not mean that basic citizens' rights were allowed to slip away.

It is regrettable that some politicians are resorting to using strong language whenever a political solution appears in the horizon, in order to sabotage it and lobby against it and discredit those behind it. By the same token the level of violence in the streets escalates to delay the success of any political dialogue and to keep the strife alive, may be for the purpose of exploiting the situation for future negotiation's gains.

It is the political and religious leadership's responsibility, if they are genuinely serious about the success of the national dialogue and reaching a national reconciliation, to act and react with restraint, and to refrain from the public inflammatory and provocative statements that serve no purpose but further increase the tension.

Many political leaders are finding themselves trapped by the same streets they have initially mobilized. They started by inciting the public, then ended up influenced and absorbed by the masses to the extent that they could not control themselves in a way that is conducive to the need of adhering to certain ethics and requirements that should govern national political conduct and practices at this critical juncture in the country's history.

On the other hand confidence building necessitates that the government should release the detainees especially women and children. Such a step would facilitate dialogue, reduce tensions and put an end to the cycle of actions and reactions.

It is our right to hope for a solution that would take Bahrain out of the bottle neck, restore the social harmony and pave the way towards a prosperous future.

## Towards Activating Human Rights Institutions in Bahrain

The creation of Human Rights Institutions is not particularly difficult. What is difficult is to be able to give these institutions essence and meaning to enable them to fulfil their aims and duties, and to persuade the public and the world at large to acknowledge their effectiveness.

Either as a result of international pressure or as a ploy to fool domestic public opinion, some countries went along with the idea of creating their own Human Rights' institutions to avoid further pressure. They were not genuinely seeking to improve their human rights situation through the establishment of effective institutions, as they continued to pursue the same repressive policies, but this time under the guise of adhering to human rights requirements. However, in the final analysis, ineffective human rights institutions could represent a burden on any country on the moral, political or security level, and would have a negative impact on the said country's image and standing in the world.

Major International Human Rights' entities look positively towards any steps taken by any country towards the institutionalisation of its human rights activities. They monitor the performance of the newly founded institutions to see how effectively they can protect human rights from abuse.

The International Human Rights Community sets certain strict standards, according to which, countries are evaluated and judged, and help is offered if deemed necessary. Failure to get the required response from both the State and its institutions will inevitably attract international criticism, pressure and calls for action.

### Activating Bahrain's Human Rights Institutions

During the last period Bahrain

took substantial steps towards meeting its international human rights obligations and commitments. Accordingly four relevant institutions have been established :

#### **1. The Special Investigation Unit in the public prosecution office Feb 2012:**

This unit specialises in investigating, in accordance with international standards, allegations of torture, murder and mistreatment allegedly committed by government officials. The unit was created in response to Bassiouni's recommendation that stipulated the creation of an independent and neutral mechanism under which government officials could be held accountable. Generally those officials are being accused of negligence, murder, torture or mistreatment of civilians.

#### **2. Ministry of Interior's Ombudsman: July 2013:**

An Institution established to investigate complaints or allegations presented by the public against members of security forces. Its duty is to take appropriate action if these allegations proved to be right.

#### **3. Commission for the rights of prisoners and detainees: April 2010:**

This commission specializes in monitoring prisons and centres to ensure the safety of detainees and make sure that they are not subjected to torture and /or degrading treatment.

#### **4. The National Institution for Human Rights April 2010:**

Its main aim is to consolidate and protect human rights in conformity with (Paris Principles). As such, its role includes, beside receiving and investigating grievances, the submission of recommendations aiming at the insurance of the compatibility of all legislations

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with the internationally adopted standards; in addition to the promotion of a human rights culture through conferences, seminars, workshops, publications, training and capacity building .

These four institutions represent the basic foundation for the infra structure of human rights in Bahrain. They are meant to address the main causes of International concern regarding the human rights situation there. They also represent the practical response to Bahrain's commitments towards the implementation of both Bassiouni's and the Human Rights Council's periodic review mechanism's recommendations.

Nevertheless these basic foundations remained hollow since they came to life. The main reason behind their shortcomings is attributed not to the absence of political resolve, but rather to the political crisis and sharp social divisions that hindered the natural progression of these institutions. In addition, these institutions have been constantly exposed to political polarization and manipulation to serve the interests of this or that political party.

Now that we anticipate a political solution and national reconciliation through dialogue, the decision makers attention should focus on bringing about radical changes to

the performance of these national institutions to enable them to serve the post-reconciliation era and contribute to social stability, as well as to lift the standard of their professionalism to the level that would then help Bahrain to regain its credibility and the confidence of the International Community.

What needs to be done to activate the National Human Rights Institutions?

**1** Comprehensive revision of the guidelines and rules governing these institutions to make sure that all of them comply with International Standards and relevant International Human Rights instruments i.e. Paris principles and Istanbul Protocol in the cases of the National Institution for Human Rights and the Special Investigation Unit respectively.

**2** Adopting a strict criteria regarding the recruitments and appointments within these institutions, replacing those who are not up to standard or lack integrity, neutrality or independence, and providing training whenever appropriate.

**3** Keeping the aforementioned institutions independent and far from political polarization. Practical steps should be taken to secure this independence and impose it at all times. Human Rights institutions

cannot be independent unless they fulfil the followings:

**a. Being transparent.**

The special investigation unit is required to reveal to the public the results of its findings including all information, documents, statements and evidence. This would reassure the ordinary citizen and consolidate his faith in the rule of law and the independence of the judiciary. The same applies also to the ombudsman office.

**b. These institutions should be pro-interactive** with local and international media and Human Rights entities. As such it would be more open and in tune with all aspects of public concern.

**4** It is not possible to activate national human rights institutions without having substantial co-operation with International Non Governmental Organizations e.g. Amnesty International, Human Rights Watch and the International Federation for Human Rights, in addition to the High Commission for Human rights and other international mechanisms responsible for human rights. These organizations could provide the much needed expertise and training. We need therefore to treat these institutions and organizations as sources of help rather than a focus of suspicion and hostility.

## Transitional justice not retribution:

### **If We have Learned Our Lesson, We should Let Bygones be Bygones**

When large crowds are engaged in some conflicts or disputes, not one particular group or person is to blame. In a civil strife no regime would be able to punish a large number of people. Therefore collective punishment is not the answer to the problem.

Loss of life and revenge will only inflame the situation and gaping wounds would remain for a long time. No solutions are left except to forgive everybody or limit the circle of punishment to those officials who have committed the atrocities.

All feuding parties in Bahrain have committed mistakes through words or actions, trespassed on a number of occasions, instilled hatred and violated human rights. If the law of the land is to be applied, thousands will end up imprisoned. Retrospective punishment is therefore unfeasible, at a time when Bahrain strives for a way out and aspires to a stable future.

Those who refuse to let bygones be bygones forget that their refusal would affect everybody, including themselves, if the same standards are applied. Bahrain needs to cultivate forgiveness because it is the only way to achieve reconciliation, stability and help to bring people together.

In times of strife and prevalent tension, abhorrent things could take place. That is why the principle of upholding the law is important in its entirety to retain security and stability;

but a strict painstaking accountability does not necessarily lead or contribute to the return to normality. Mistakes have been committed by different political parties. So it makes sense to forfeit common and minor misdemeanours and concentrate on asserting stability and security.

We hope that the community has embarked on a stage of nursing the wounds and of tolerance, forgiveness and departure from a harmful and painful past that had affected everyone.

Forgiveness does not cancel the need to activating the concept of transitional Justice. The essence of this justice is to take the democratic path, sever links with past mistakes and miseries and to hold the persons who committed them fully accountable. In some countries different approaches have been adopted, such as the establishment of a truth and reconciliation commission or the thorough documentation of errors and violations.

We hope that the society is entering a phase of forgiveness because we need to focus on security and stability.

In Bahrain we have had an accumulation of errors in the periods before reforms were instigated and after February 2011. We need to find agreeable solutions, find new ways that would not confine us as prisoners of the past. Our politicians failed to agree on a settlement regarding the victims of the pre-reforms era in

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spite of good intentions. Their failure was due to:-

(a) The Political polarization , Which led to the hijacking of the human rights file by politicians, where it has been addressed within a political perspective rather than a human rights one.

(b) A lack of confidence that had contributed to the failure of many initiatives, particularly as the political opposition was not merely seeking material compensation for the victims, but aiming at extracting political concessions through forcing the government hand rather than cooperating with it, at a time when the domestic political climate was least favourable.

(c) The exploitation of the torture issue to achieve political ends. Some hard-line political circles did not see any personal benefit from a successful conclusion to the issue – so they rejected all possible suggested solutions.

(d) The lack of courage and psychological readiness amongst the feuding parties to acknowledge mistakes and shoulder their part of the responsibility.

Now we are approaching a possible political breakthrough, the same scenario is being played out again. With the residues of the past still evident, compounded by the addition of new files of a greater number of victims, this issue would undoubtedly be one of the major talking points among the opposing political

parties, which means that it has to be resolved, otherwise the situation will continue to be tense, and would significantly affect the outcome of the dialogue and national reconciliation process.

What we are seeking is transitional justice not retribution.

We are looking for political and humanitarian solutions rather than political condemnation or the exploitation of the victim's issue.

We want to leave the past where it belongs, behind us, and look forward to a brighter future, learning from our mistakes in order to safeguard against their recurrence.

Bahrain is in need of a political way out, a diffusion of the tension on both the political and security fronts to enable the introduction of the concept of transitional justice.

The Government should always take the initiative, and the proponents of the application of the transitional justice should appreciate the existing political situation and acknowledge that justice should work both ways. The government is not the only party to shoulder all the blame. The opposition has its fair share too. What is needed is for all parties to rise above the wounds and the pain, and to act with maturity and in a responsible manner and to learn from the bitter experience of the past three years how to coexist, compromise and put the national interests above all.

# A Joint Solution to Both the Political and Human Rights Files

Any observer to the Bahraini scene would not fail to notice how its political and human rights files are so intertwined, not only in the minds of the local political stakeholders, but also as perceived by the international political circles and human rights organizations. The conclusion is that the two files are inextricably linked and reflect each other.

Under political stability and with the existence of a political process and ongoing reforms, it is important to emphasise the dire need for a complete separation between political and human rights issues particularly in relation to the activities of the local civil society organisations, on the one hand, and the political societies on the other. Without such distinction neither the work of human rights organisations nor that of the political societies would develop, as each has its own separate tools, targets, discourse and professionals. Those who want to take part in political activities they can do so through the relevant societies, while existing laws allow those who want to pursue human rights work to either join already existing institutions or apply for the establishment of new human rights organisations. We have been stressing this point well before our country has been rocked by its latest political crisis. This same view is also shared by almost all international human rights organizations.

The events that have taken place in Bahrain three years ago have blurred the dividing line between political and human rights issues in the eyes of both the local and international observers. The human rights issues have become part and parcel of the political ones and vice versa. Today we cannot isolate the activities and declared positions of the human rights organisations, including the High Commission for Human Rights, from the policies adopted by governments within

the international community towards Bahrain in general and not just towards its human rights file in particular.

That is why we notice that the political demands and those associated with human rights are intertwined. This was clearly illustrated by the fact that the political issues have featured substantially in both Bassiouni's report and the recommendations issued by the human rights council in June 2012, within the framework of the Universal Periodic Review. Furthermore, Bahraini officials tend to update the international human rights circles on the latest developments in the political arena because they are aware of how these developments affect the human rights situation. For example, a statement issued by the Bahraini Ministry of Foreign Affairs on the meeting that took place between the Minister and Navi Pillay in January 2014, indicated that the Minister updated the High Commissioner on the latest political and human rights developments including the Crown Prince's meeting with the parties participating in National Consensus Dialogue, and that he reviewed the new phase of the dialogue affirming that it would be characterized by credibility and conducted with a responsibility that puts the national interests above all other considerations.

On the other hand, political discussions between Bahrain and other states are not just confined to the political crisis, but they also touch on the human rights issues, and this is always reflected in the statements these States usually issue after meeting with Bahraini officials.

It is also noticeable that human rights have become a major issue in the political scene and as such they have their considerable impact on Bahrain itself:

- Bahrain's political relations within the international community have

suffered because of the human rights issues, so has its reputation and its media image.

- We have noticed that many countries coordinate their human rights policies and conduct them in a way as if they are political in nature. An example of that is the coordination between the US and the EU where certain countries adopt and others endorse initiatives and criticism aimed at Bahrain.
- There is a prevalent conviction among many countries and international human rights institutions that the problem in Bahrain is political in essence, and that the human rights violations were a consequence of the conflict and the political instability. That explains the reference to a political solution in most of the reports and statements issued by international circles.

To stress how pivotal the political issue is, Western countries tend to meet with international human rights organisations to coordinate and trade information and to determine how to deal with the Bahraini file.

So we conclude that the entanglement between the political and human rights files means that no solution to the political crisis can be reached, through the process of national dialogue, without confronting the most sensitive aspects of the human rights file. We believe that any progress in the national dialogue would benefit the human rights front, and that any setback in the process would have its negative impact on the human rights situation and on the international's community's responses. The world is watching Bahrain's human rights situation with political eyes, willing for the dialogue to succeed and the basic problem to be solved.